

Item #1:
Ordinance Approving Special Use Permit For T-Mobile

VILLAGE OF LONG GROVE

ORDINANCE NO. 2011-O- __

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AUTHORIZE THE
INSTALLATION OF T-MOBILE PERSONAL WIRELESS SERVICE FACILITIES ON
THE NORTH SIDE OF ILLINOIS ROUTE 22 NEAR HAMPTON DRIVE**

Adopted by the
President and Board of Trustees
of
the Village of Long Grove
this __ day of _____, 2011

Published in pamphlet form by direction
and authority of the Village of Long Grove,
Lake County, Illinois
this __ day of _____, 2011

VILLAGE OF LONG GROVE
ORDINANCE NO. 2011-O-___

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO AUTHORIZE THE
INSTALLATION OF T-MOBILE PERSONAL WIRELESS SERVICE FACILITIES ON
THE NORTH SIDE OF ILLINOIS ROUTE 22 NEAR HAMPTON DRIVE

WHEREAS, Commonwealth Edison ("**Owner**") is the record owner of a zoning lot in the Village of Long Grove, Lake County, Illinois being that certain right-of-way property located northerly of Illinois Route 22 and southerly of Port Clinton Road (PIN 15-17-300-015) ("**Subject Property**"), which Subject Property is depicted in Exhibit A attached hereto and made a part hereof; and

WHEREAS, there are currently located on the Subject Property several electrical transmission towers; and

WHEREAS, the southeasternmost of the towers is a 141-foot tall electrical transmission tower identified as Commonwealth Edison Transmission Tower #176 (the "**Tower**"); and

WHEREAS, T-Mobile Central, LLC ("**Applicant**") has proposed to: (i) locate personal wireless services antennas and an antenna platform on the Tower ("**Antennas**"), (ii) construct a concrete pad and install related accessory equipment, equipment cabinets, a fence, and/or other screening structures ("**Equipment**"), and (iii) construct a access drive and turn-around area ("**Driveway**") on the Subject Property (collectively, "**Antenna Facilities**"); and

WHEREAS, the Applicant has or will enter into a lease with the Owner to permit the installation of the Antenna Facilities on the Subject Property; and

WHEREAS, the Subject Property is zoned R1 & R2 PUD District under the Village of Long Grove Zoning Ordinance ("**Zoning Ordinance**"); and

WHEREAS, Section 5-3-6 of the Zoning Ordinance authorizes personal wireless services antennas in the R1 & R2 District only pursuant to a special use permit and subject to the special procedures and standards contained in Section 5-9-6 of the Zoning Ordinance; and

WHEREAS, Subsection 5-9-6(B)(3) of the Zoning Ordinance encourages the location of personal wireless services antennas on existing structures; and

WHEREAS, Subsection 5-9-6(B)(1) of the Zoning Ordinance provides that personal wireless services facilities shall not be located within 500 feet from the nearest outside wall of any single-family dwelling in existence prior to the commencement of construction of such personal wireless services facilities ("**Separation Requirement**"); and

WHEREAS, the Applicant proposes to locate the Antenna Facilities on the Tower, which is approximately 339 feet away from the nearest single-family dwelling; and

WHEREAS, Section 5-9-6(C) authorizes the Village to waive or reduce the burden of the Separation Requirement if the Village concludes that the goals of the Zoning Ordinance are better served thereby; and

WHEREAS, Subsection 5-9-6(B)(2)(a) provides that, unless authorized and approved as a special use, personal wireless service antenna support structures on a tower may not extend to a height of more than 125 feet ("**Height Requirement**"); and

WHEREAS, the Applicant has proposed to locate the Antenna Facilities on the Tower, which is approximately 141 feet tall, and the Antennas are proposed to extend to a height in excess of 125 feet; and

WHEREAS, Section 5-9-6(C) authorizes the Village to waive or reduce the burden of the Height Requirement if the Village concludes that the goals of the Zoning Ordinance are better served thereby; and

WHEREAS, the Applicant has applied to the Village for a special use permit pursuant to Section 5-11-17 of the Zoning Ordinance and requested relief under Section 5-9-6(C) of the Zoning Ordinance from the Height Requirement and Separation Requirement; and

WHEREAS, pursuant to notice duly published in the *Daily Herald*, the Plan Commission conducted a public hearing on June 7, 2011 regarding the Antenna Facilities and the relief requested by the Applicant from the Height Requirement and the Separation Requirement; and

WHEREAS, at the public hearing, the Applicant presented evidence and provided testimony to the Plan Commission regarding the Antenna Facilities, including written evidence and testimony that the Tower is located less than 500 feet from three different single-family dwellings, which dwellings were built after the erection of the Tower; and

WHEREAS, at the conclusion of the public hearing, the Plan Commission voted not to recommend the granting of the relief requested by the Applicant; and

WHEREAS, the President and Board of Trustees have considered the materials submitted by the Applicant, the evidence presented at the public hearing, the recommendations of the Plan Commission and, being fully advised in the premises, have determined that it is in the best interests of the Village and its residents to grant the Applicant a special use permit to allow the construction and maintenance of the Antenna Facilities on the Subject Property, subject to the terms and conditions of this Ordinance as hereinafter set forth;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, COUNTY OF LAKE, STATE OF ILLINOIS,
as follows:

SECTION ONE. **Recitals.** The foregoing recitals are hereby incorporated into and made a part of this Ordinance as if fully set forth herein.

SECTION TWO. **Findings.** The President and the Board of Trustees find as follows:

(a) According to the testimony submitted by the Applicant, the Applicant intends to construct and maintain the Antenna Facilities on the Subject Property.

(b) The evidence presented demonstrates that, subject to the conditions hereinafter set forth, the Antenna Facilities proposed to be constructed and maintenance on the Subject Property:

1. Are necessary for the public convenience;

2. Are designed, located, and proposed to be operated to protect the public health, safety, and welfare; and
3. Have not been shown to cause substantial injury to the value of other property in the neighborhood of the Subject Property.

(c) The goals of the Zoning Ordinance, including Subsection 5-9-6(B)(3), which encourages the location of personal wireless services facilities on existing structures, will be best served by reducing the burden of the Separation Requirement on the Applicant and allowing the Applicant to construct and maintain the Antenna Facilities on the Subject Property, subject to the conditions hereinafter set forth.

(d) The goals of the Zoning Ordinance, including Subsection 5-9-6(B)(3), which encourages the location of personal wireless services facilities on existing structures, will be best served by reducing the burden of the Height Requirement on the Applicant and allowing the Applicant to co-locate the Antennas on the Tower, subject to the conditions hereinafter set forth.

(e) The evidence presented demonstrates that the Applicant's proposal satisfies the requirements for granting a special use permit for the construction and maintenance of the Antenna Facilities on the Subject Property, subject to the terms and conditions hereinafter set forth.

SECTION THREE. Grant of Special Use Permit and Other Relief for Antenna Facilities. Pursuant to Sections 5-3-6, 5-9-6(B), and 5-9-6(C) of the Zoning Ordinance, and subject to the limitations therein and the conditions set forth in this Ordinance, the Village hereby (i) grants a special use permit to the Applicant to permit the Applicant to construct and maintain the Antenna Facilities on the Subject Property, (ii) reduces the Separation Requirement for the Antenna Facilities consistent with the conditions of Section Four of this Ordinance, and (iii) increases the Height Requirement for the Antenna Facilities consistent with the conditions of Section Four of this Ordinance.

SECTION FOUR. Conditions on Approval. The special use and other relief granted pursuant to Section Three of this Ordinance permitting the construction and maintenance of the Antenna Facilities on the Subject Property shall be, and is hereby, conditioned upon and limited by the following conditions, the violation of any of which shall, in the reasonable discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the special use permit without further notice or hearing:

- A. **Lease Agreement.** Prior to issuance of any permits or approvals for undertaking any work related to the construction or installation of the Antenna Facilities on the Subject Property, the Applicant shall: (i) enter into a lease, license or other occupancy agreement for the location of the Antenna Facilities on the Subject Property (as may be supplemented and amended from time to time, the "***Lease***") under such terms and conditions that will be sufficient to permit the Applicant to construct, maintain, and operate the Antenna Facilities on the Subject Property in accordance with this Ordinance and other applicable codes, ordinances, and regulations; (ii) deliver to the Village a copy of the executed Lease or memorandum thereof (subject to redactions of economic terms and such other redactions, if any, as approved by the Village Attorney); and (iii) deliver to the Village evidence that Applicant delivered to the Owner, prior to the execution of the Lease, a copy of this Ordinance. [If Applicant advises the Village that the Owner will not enter into the Lease without proof that any such permits or other approvals of the Village have been issued, then the Village Manager is authorized to issue a letter to Owner confirming the availability of such permits and approvals upon receipt of a copy of the Lease and such other materials as are specifically required under this Ordinance.]
- B. **Compliance with Plans.** The Applicant shall construct the Antenna Facilities in conformity in all material respects with the plans entitled "T-Mobile Com Ed Half Day Road, CH73-375A," prepared by Fullerton Engineering Consultants, consisting of six sheets numbered T-1, Z-1 through Z-5, and dated November 17, 2008 with latest revision date of July 27, 2011 (the "***Plans***"), a copy of which Plans are attached to this Ordinance as Exhibit B. Notwithstanding the foregoing requirement for conformity, minor changes from the Plans (and any other plans or specifications referenced herein) may be permitted from time to time without amendment to this Ordinance upon written authorization (not to be unreasonably withheld) of the Village Manager to address field conditions, compliance with regulatory requirements and the conditions of this Ordinance and technological and equipment changes.
- C. **Engineering Study.** Prior to the issuance of any permit for the construction of the Antenna Facilities on the Subject Property, the Applicant shall submit an engineering report for the Tower, which report shall demonstrate that the Antenna Facilities satisfy the applicable Village standards for safety and load bearing capabilities of the Tower.

- D. Site Improvements and Maintenance. The Applicant shall make a one-time payment of \$5,000.00 ("**Invasive Species Management Fee**") to the Village to cover the cost of necessary removal of invasive plant species from the Subject Property and surrounding properties. The Applicant shall additionally make a one-time payment of \$10,000.00 ("**Path Maintenance Fee**") to the Village to cover the cost of necessary repairs to the pedestrian path located to the east of Hampton Drive between Illinois Route 22 and Port Clinton Road. The Applicant has acknowledged and agreed that the Invasive Species Management Fee and the Path Maintenance Fee are reasonably related to the construction and/or appearance of the Antenna Facilities on the Subject Property. Payment of the Invasive Species Management Fee and the Path Maintenance Fee shall be due and delivered to the Village if and when the Village either (i) issues the building permit for the construction or installation of the Antenna Facilities requested by Applicant, or (ii) extends the initial term of the special use and other approvals granted in this Ordinance at Applicant's request pursuant to Sections 5-15-11(J) and 5-11-17(H) of the Zoning Code; whichever is earlier. Said fees shall not be refundable after any such permit or extension (as applicable) is issued.
- E. Licenses and Permits. Prior to commencing any work on the Subject Property in connection with the Antenna Facilities, the Applicant shall be required to obtain all necessary licenses, permits, and approvals from the Village and any other governmental agency having jurisdiction over the Antenna Facilities. The Applicant shall maintain all such licenses, permits, and approvals and shall provide copies of such licenses, permits, and approvals to the Village, and evidence of renewal or extension thereof, when requested by the Village Manager. All work relating to the installation and maintenance of the Antenna Facilities shall be performed in accordance with all applicable laws, codes, ordinances, and regulations, including the terms and provisions of this Ordinance.
- F. Equipment and Driveway. The Equipment must be enclosed by fencing and screened by landscaping in conformity with the Plans attached as Exhibit B. The Equipment and Driveway must be used exclusively for the operation and maintenance of the Tower and Antenna Facilities, and no public dedication is intended hereby.
- G. Term; Review. The special use permit and other approvals granted in this Ordinance shall be limited to either the term of the Lease for the Antenna Facilities on the Subject Property (including any extension or renewal thereof), but in no event for more than 25 years after the passage of this Ordinance (the "**Term**"). Further, the special use permit and other approvals granted in this Ordinance shall be subject to review by the Board of Trustees, at ten year intervals, to determine whether changed circumstances require the termination or modification of such special use permit and other approvals. For purposes of the immediately preceding sentence, "changed circumstances" shall mean any significant renovation, demolition, or reconstruction of the Tower or the Antenna Facilities, or any substantial change from the Plans not otherwise approved by the Village.

- H. Abandonment and Removal. If the Antenna is not operated for a continuous period of 12 months or more, regardless of any intent to re-commence use or not to abandon, then such Antenna shall be deemed to be abandoned and the special use permit and other approvals therefor will immediately terminate. Under such circumstance, the Applicant shall be required to remove the Antenna and Equipment from the Subject Property within 90 days after notice to the Applicant from the Village that such removal is required.
- I. Fees and Costs. The Applicant shall be responsible for paying all applicable fees relating to the granting of the approvals set forth herein in accordance with the Zoning Ordinance. In addition, the Applicant shall reimburse the Village for all of its costs (including without limitation reasonable engineering, planning, and legal expenses) incurred in connection with the review, consideration, approval, implementation, or enforcement of this Ordinance. Any amount not paid within 30 days after delivery of a demand in writing for such payment shall, along with interest and the costs of collection, become a lien upon the Antenna Facilities, and the Village shall have the right to foreclose such lien in the name of the Village in the manner provided by law. The Applicant has already made a deposit for such fees with the Village, and any funds not expended from said deposit (as it may be supplemented from time to time) shall be returned to the Applicant following the payment of the fees described in Paragraph D above.
- J. Binding Effect; Transferees. The rights and obligations set forth in this Ordinance shall be binding on the Applicant, any and all of the Applicant's heirs, successors, and assigns of all or any portion of the leasehold or other property interest created by the Lease upon the Subject Property. To the extent that a successor becomes bound to the obligation created herein pursuant to a transferee assumption agreement acceptable to the Village, and such successor demonstrates to the Village that it has the financial viability to meet the obligations herein, the Applicant shall be released from its obligations under this Ordinance to the extent of the transferee's assumption of such liability. The failure of the Applicant to provide the Village with an enforceable transferee assumption agreement as herein provided shall result in the Applicant remaining fully liable for all of its obligations under this Ordinance but shall not relieve the transferee of its liability for all such obligations as a successor to Applicant.
- K. Utility Facility. The Tower is part of the facilities of a public utility regulated by State and/or Federal authorities and nothing contained in this Ordinance is intended to impose any zoning or other restrictions on the electrical transmission or distribution activities of the Owner or any subsequent public utility owner or operator of the Tower. Neither the Owner nor any subsequent public utility owner or operator of the Tower shall be responsible to perform any of the obligations of the Applicant hereunder, except to the extent bound pursuant to a transferee assumption agreement pursuant to Section 5.J of this Ordinance.

SECTION SIX. Termination or Repeal; Site Restoration. If this Ordinance is terminated or repealed, then within 90 days after such termination or repeal the Applicant shall be responsible for (a) removing the Antenna Facilities from the Subject Property, and (b)

restoring the Subject Property (i.e., the vegetated ground) to its condition prior to the Applicant's installation of the Antenna Facilities.

SECTION SEVEN: Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law; provided, however, that this Ordinance shall be of no force or effect unless and until the Applicant has caused a duly authorized person to execute and thereafter file with the Village the unconditional agreement and consent in the form attached hereto as Exhibit C and by this reference incorporated herein and made a part hereof; provided further that, if the Applicant does not so file its unconditional agreement and consent within 60 days following the passage of this Ordinance, the Village Board may, in its discretion and without public notice or hearing, deem such failure as a withdrawal of the application, and repeal this Ordinance and thereby revoke the special use permit and other approvals granted in this Ordinance. Upon this Ordinance having full force and effect, the Village Clerk shall cause it to be recorded in the Office of the Lake County, Illinois Recorder of Deeds.

PASSED this ___ day of _____, 2011.

AYES: ()

NAYS: ()

ABSENT: ()

APPROVED this ___ day of _____, 2011.

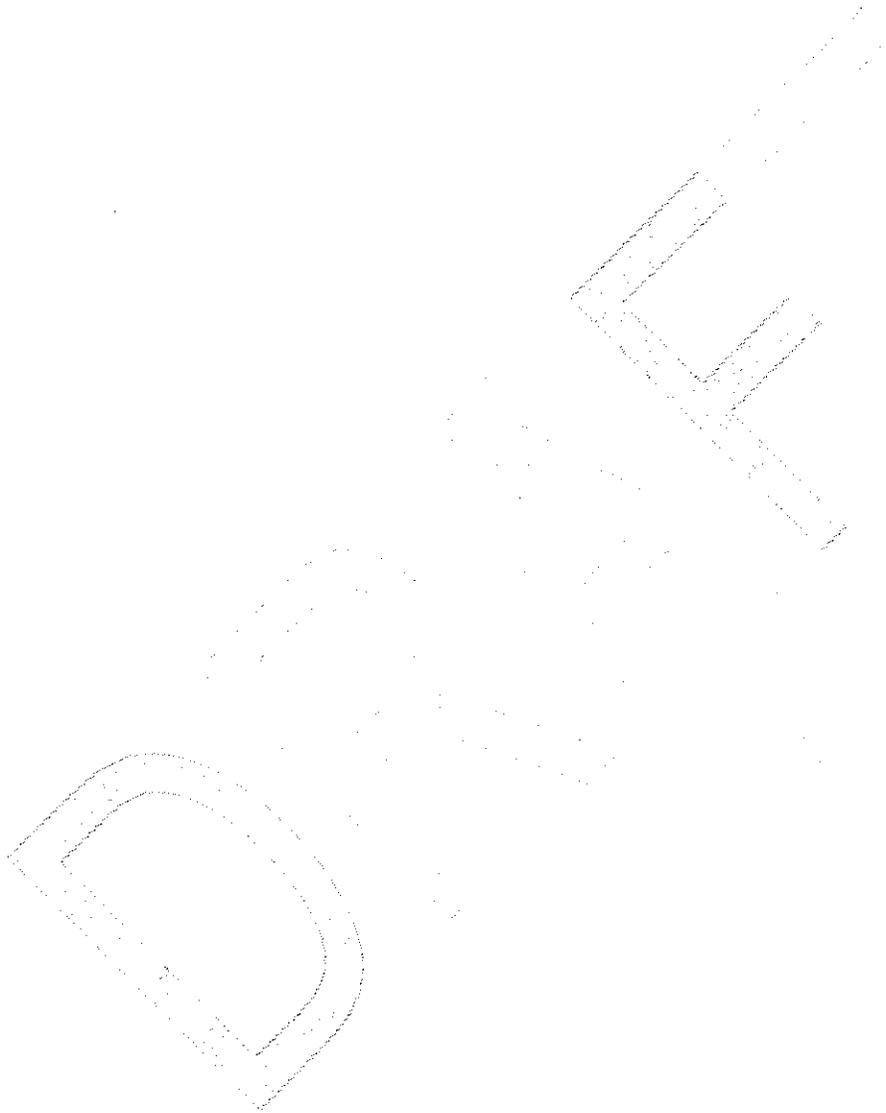
Village President

ATTEST:

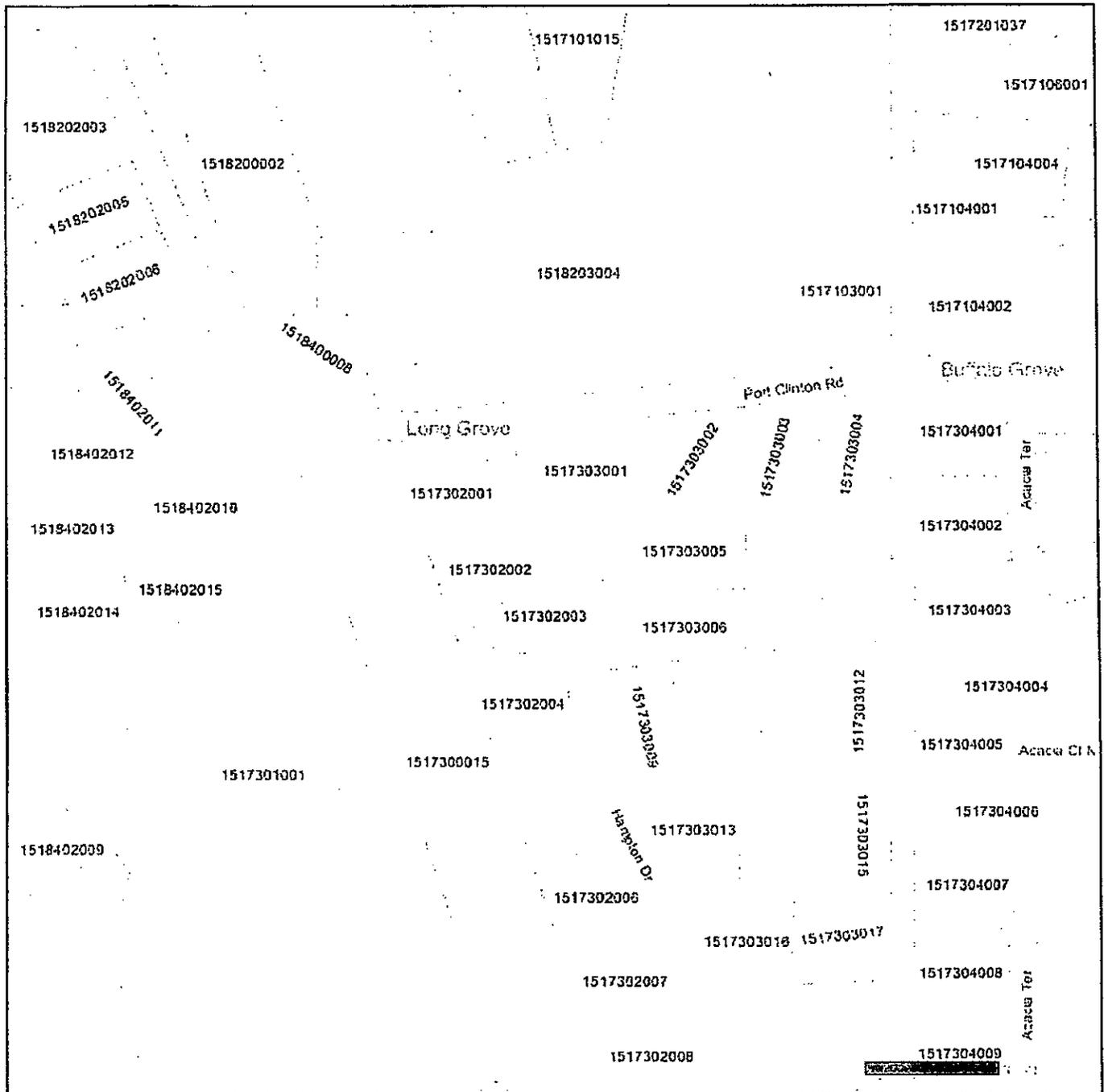
Village Clerk

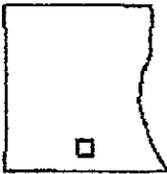
EXHIBIT A

DEPICTION OF THE SUBJECT PROPERTY



Lake County Tax Parcel Map





Lake County
Geographic Information System

Lake County Department of
Information Technology
18 N County St
Waukegan IL 60085

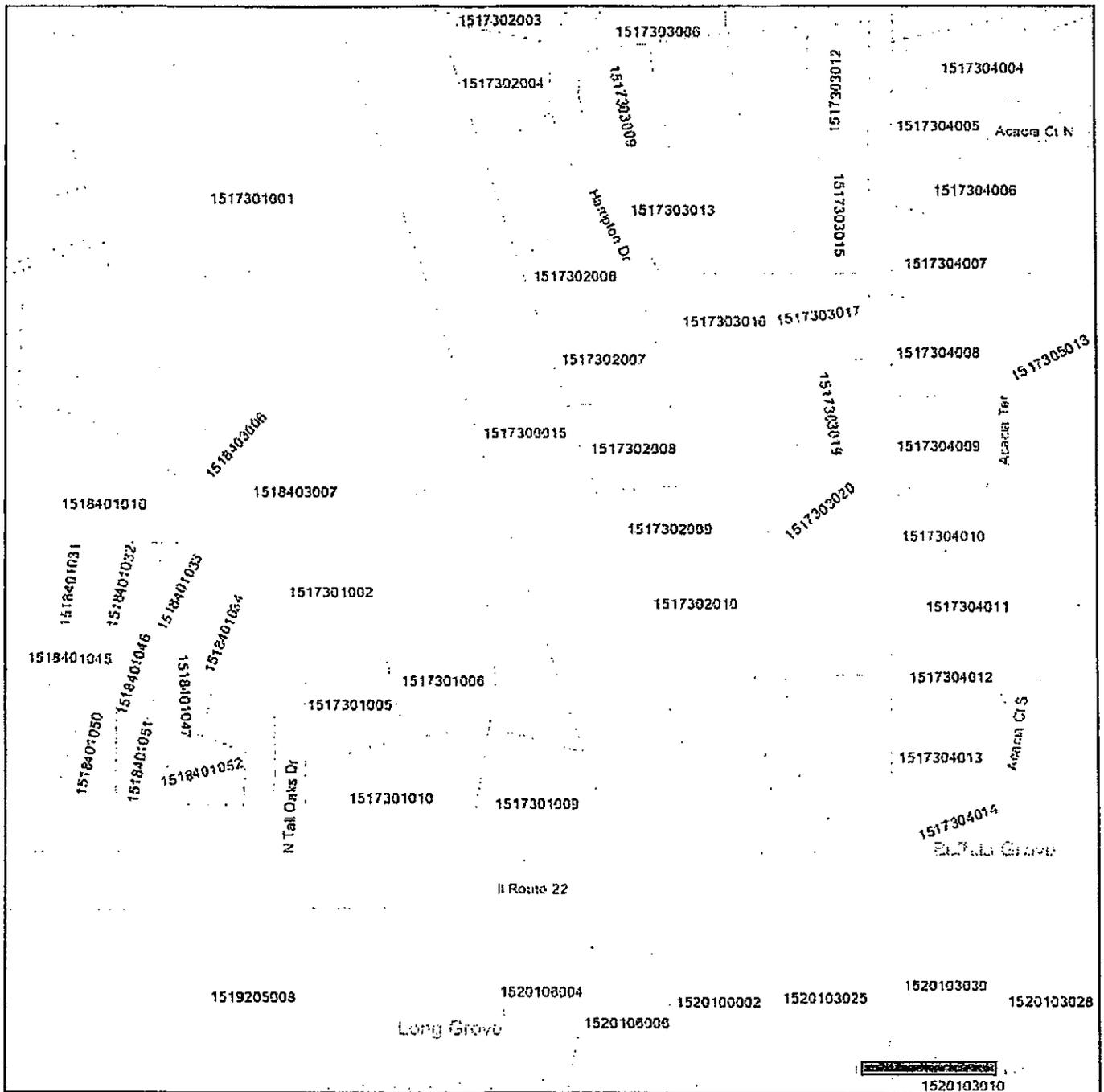
Map Printed on 8/16/2011



- Major Roads
- Railroads
- Major Water
- Parcels
- Municipalities

Disclaimer: This map is for general information purposes only. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.

Lake County Tax Parcel Map

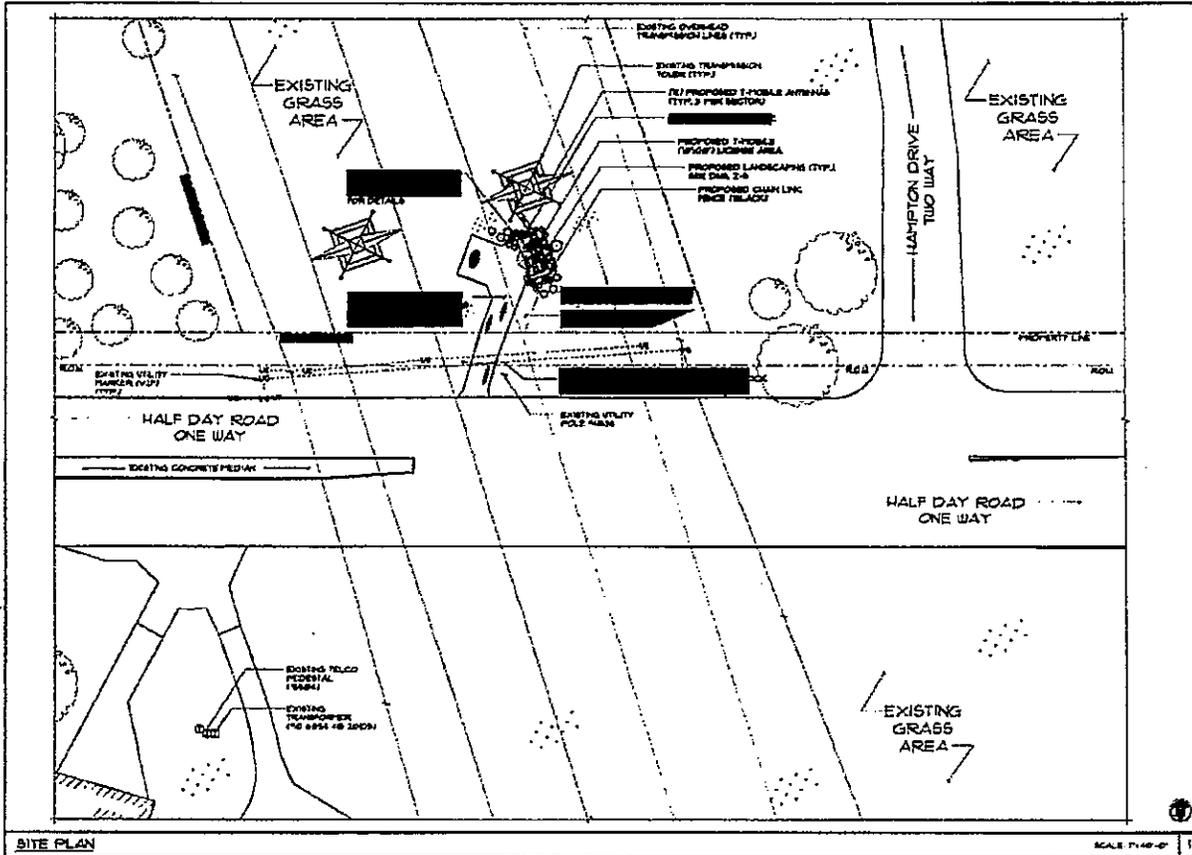


	<p>Lake County Geographic Information System</p> <p>Lake County Department of Information Technology 18 N County St Waukegan IL 60085</p> <p>Map Printed on 8/16/2011</p>		<ul style="list-style-type: none"> Major Roads Railroads Major Water Parcels Municipalities
<p>Disclaimer: This map is for general information purposes only. A Registered Land Surveyor should be consulted to determine the precise location of property boundaries on the ground. This map does not constitute a regulatory determination and is not a base for engineering design. This map is intended to be viewed and printed in color.</p>			

EXHIBIT B

PLANS





T-Mobile

8888 West 89th Street
 Suite 100, Overland Park, KS 66204
 Phone: (913) 441-2400
 Fax: (913) 441-4901

For a complete list of T-Mobile
 service areas, visit us at
 www.t-mobile.com

DESIGN

Advanced Engineering Concepts
 1100 W. 110th St. #100
 Overland Park, KS 66204
 Tel: (913) 751-8800
 Fax: (913) 751-8800

REVISIONS

NO.	DATE	DESCRIPTION	BY
1		ISSUED FOR PERMITTING	AL
2		ISSUED FOR PERMITTING	AL
3		ISSUED FOR PERMITTING	AL
4		ISSUED FOR PERMITTING	AL
5		ISSUED FOR PERMITTING	AL

DATE: 8/28/05

SITE NAME:
 COM-ED
HALF DAY ROAD

SITE NUMBER:
 CH15-315A

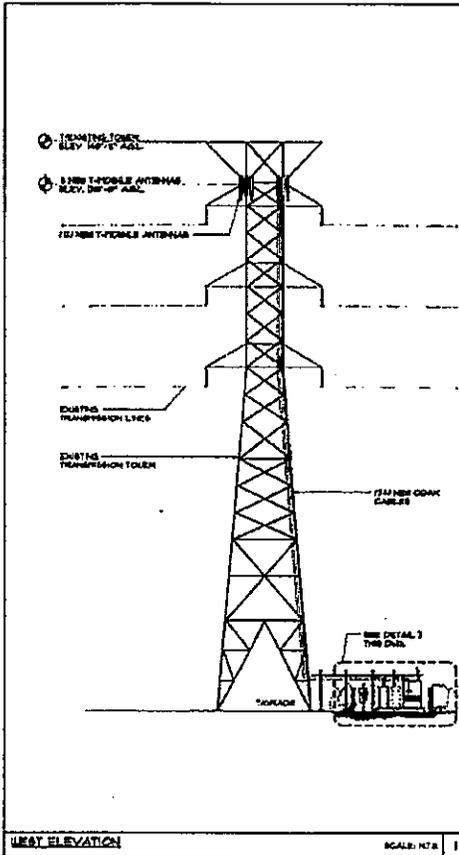
SITE ADDRESS:
 ROUTE 22
 LONG GROVE, L. 66041

SHEET TITLE:
 SITE PLAN

SHEET NUMBER:
 Z-2

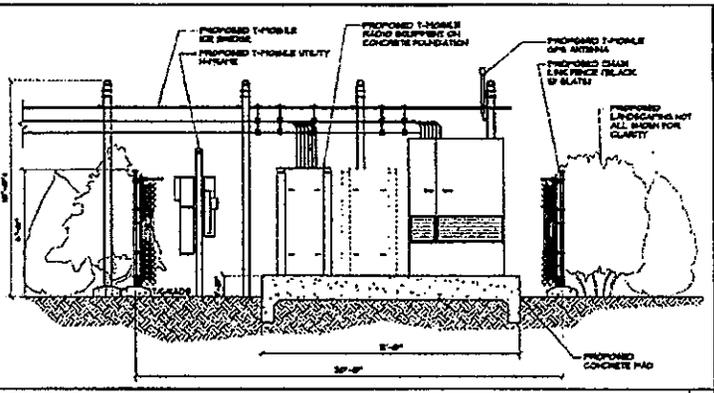
SITE PLAN

SCALE: 1/4" = 1'-0"



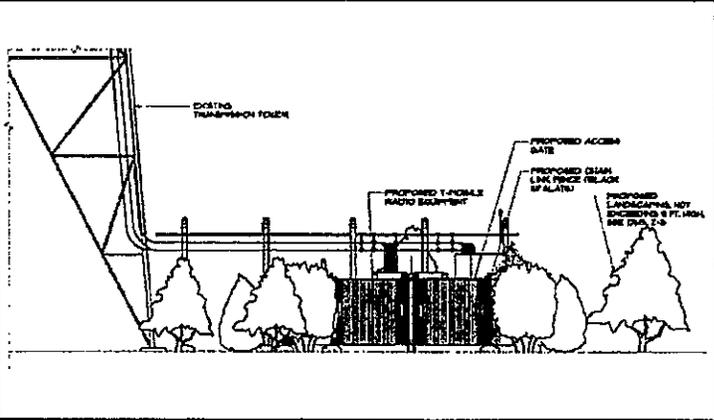
WEST ELEVATION

SCALE: N.T.S. 1



ENLARGED ELEVATION

SCALE: N.T.S. 2



SITE ELEVATION

SCALE: N.T.S. 3

T-Mobile

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 Suite 1000, Overland Park, KS 66207
 Office: (773) 444-8800
 Fax: (773) 444-9811

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CONCRETE

Professional Engineering Consultant
 1100 W. 15th Street, Suite 200
 Overland Park, KS 66209
 TEL: (913) 231-0100
 FAX: (913) 231-0100

REVISIONS			
NO.	DATE	DESCRIPTION	BY
1	01/15/08	ISSUED FOR PERMIT	JK
2	01/15/08	REVISED PER COMMENTS	JK
3	01/15/08	REVISED PER COMMENTS	JK
4	01/15/08	REVISED PER COMMENTS	JK

DATE BOARDS	

SITE NAME
COY-ED
 HALF DAY ROAD
 SITE NUMBER
CH13-315A

SITE ADDRESS
 ROUTE 22
 LONG GROVE, E. 66411

SHEET TITLE
SITE ELEVATIONS

SHEET NUMBER
Z-4

EXHIBIT C

UNCONDITIONAL AGREEMENT AND CONSENT

Pursuant to Section Seven of Long Grove Ordinance No. 2011-O-___, and to induce the Village of Long Grove to grant the approvals provided for in such Ordinance, the undersigned acknowledges for itself and its successors and assigns in interest to the Subject Property and Antenna Facilities that the undersigned:

1. has read and understands all of the terms and provisions of said Ordinance No. 2011-O-___;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the Zoning Code, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the Antenna Facilities or use of the Subject Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right;
5. agrees to and does hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of these parties in connection with the Village's adoption of the Ordinance granting the approvals to the Applicant pursuant to the Ordinance; and
6. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant.

T-MOBILE CENTRAL, LLC

By: _____

Its: _____