

Pursuant to Utah County Ordinance No. 2000-08,
the following decision of the Utah County Board of Adjustment is recorded relative to the subject property.

ENT 50408;2004 PG 1 of 4
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2004 May 03 9:31 am FEE 0.00 BY SM
RECORDED FOR UTAH COUNTY PLANNING

ACTION BY BOARD OF ADJUSTMENT

Appeal No. 1392

Applicant: AT&T WIRELESS

SPECIAL EXCEPTION

When the Board of Adjustment acts under its power to hear and decide requests for special exceptions, the Board shall comply with all the rules and standards of the Utah County Zoning Ordinance as found in Section 7-21.

The request of **AT&T WIRELESS** for a special exception to construct a 100-foot-tall cellular telephone transmission tower located at 1221 N 2400 W, Utah County, in the Provo City area is **GRANTED** based on the following motion:

That the request of AT&T Wireless Inc., represented by Mr. Carter, for a special exception to construct a 100-foot-tall cellular telephone transmission tower located at 1221 N 2400 W, in the RA-5 zone be granted, based on the following findings and conditions:

Findings: All standards of the zoning ordinance pertaining to the transmitter and tower will be met by this proposal if the conditions stated below are met [sections of zoning ordinance listing the standards are in brackets]:

- a. The application form submitted is a standard form that was completed as needed in every section [section 7-21-A *U.C.Z.O.*].
- b. Section 5-2-G-1 of the zoning ordinance specifically empowers the Board of Adjustment to approve the requested special exception for height [section 7-21-B *U.C.Z.O.*]
- c. The transmitter's design (if mitigated as proposed in the conditions of approval) and its location away from houses appear to be adequate so that there will not be a hazard relative to seismic activity and other issues of public health, safety, and welfare [section 7-21-C-1 *U.C.Z.O.*].
- d. If the facility is constructed and operated as proposed, and in accordance with the conditions stated below, it will be consistent with the purposes and intent of the zoning ordinance listed in section 1-2 of said ordinance [section 7-21-C-2 *U.C.Z.O.*].
- e. The features of the proposed application, including: (i) the distance from housing

subdivisions; (ii) the location in a farming area; (iii) the setting in an area which contains other public facilities (power lines, road); and (iv) the function of the proposed use (cell phone network is part of the public facilities infrastructure of the community); are such that the proposed use is found to be:

* consistent with the characteristics and purposes of the subject RA-5 Zone stated in section 5-2-A of the zoning ordinance and the adopted general plan [section 7-21-C-3 *U.C.Z.O.*],

* compatible with the public interest and the characteristics of the surrounding neighborhood [section 7-21-C-4 *U.C.Z.O.*], and

* not detrimental to the property values of surrounding parcels of land [section 7-21-C-5 *U.C.Z.O.*].

- f. If (1) the leased compound/tower location is moved so that the tower base is no closer than the amount required by section 3-18 of the zoning ordinance (e.g. approximately 41 feet from the Stargat property line), the proposal will comply with all of the requirements of chapters 3 and 5 of the zoning ordinance [section 7-21-C-6 *U.C.Z.O.*].
- g. The proposed use will not require additional expenditures for public facilities or emergency services; existing facilities are adequate to accommodate the proposed use [section 7-21-C-7 *U.C.Z.O.*].
- h. The application, plans and supplementary material, when the conditions of approval are met, will adequately meet the appellant's burden of proof [section 7-21-D *U.C.Z.O.*].

Conditions: The Board of Adjustment is authorized to attach conditions of approval to assure compatibility and the feasibility of the provision of services, both at the present and in the future [7-21-E *U.C. Z.O.*]; the conditions stated below are found to be necessary to accomplish such mitigation. The conditions attached to this approval are:

1. That the plans submitted for building permit for the 100-foot monopole tower will have a design which is stronger than standard for all places except half-way up the tower, and be designed in a manner if an above-design seismic event, wind, or other event topples the tower, it will bend in half, thereby reducing the fall zone to half.
2. That the location of the tower will be moved so that the base of the tower will be no closer to the Stargat property line (north property line) than 41 feet [the amount required by section 3-18 UCZO f or large structures].
3. That a building permit for the tower and transmitter structures will be obtained before the construction of the tower, and that the transmitter will not be placed into use until a business license is obtained.
4. That if the layout, structure, or use of the transmitter and tower changes, a new Board of Adjustment approval and permit will be obtained.

Note 1: UCZO means the Utah County Zoning Ordinance
Note 2: UCA 1953 means the Utah Code Annotated 1953, as amended

IF PERMIT NOT OBTAINED WITHIN ONE (1) YEAR, THIS APPROVAL IS VOID

The decision of the Utah County Board of Adjustment may be appealed to the Fourth District Court within 30 days from the date this Action Report is filed with the Utah County Recorder.

Vote Record:	AYE	NAY	ABSTAINED
Randy Christiansen, Chair	X		
Lyle Hillier, Vice Chair	X		
James Brady, Member	X		

I, Shirley R. Englund, certify the voting record shown above to be true and correct, and a copy of this Action Report was recorded and filed in the Utah County Community Development Department on the 2 day of May, 2004.

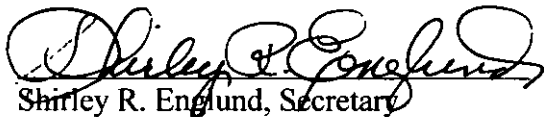

Shirley R. Englund, Secretary
UTAH COUNTY BOARD OF ADJUSTMENT

EXHIBIT "A"

COM AT PT ON E LINE SEC 33, T6S, R2E, SLM; SD PT IS ON FENCE LINE & LIES N 105.6
3 FT & E .74 FT FR E 1/4 COR SD SEC 33; S 89 DEG 19' W 1324.85 FT; N 54' W 274.6
7 FT; N 89 DEG 19' E 1327.21 FT TO PT ON E LINE SD SEC 33; ALONG SD E LINE S 24.
5' E 274.67 FT TO BEG. AREA 8.36 ACRES.

* * * Search Completed * * *