



**PLANNING & DEVELOPMENT SERVICES**  
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**DECISION ON CONDITIONAL USE PERMIT  
FILE NO. Z17-250CUP2**

**I. SUMMARY OF REQUEST AND RECOMMENDATIONS:**

**DESCRIPTION OF PROPOSAL:** The applicant, Verizon, on behalf of the property owner, has requested approval of an Administrative Conditional Use Permit (Type II) from the City Planning and Development Director to replace an existing 70-foot wireless communication tower with stealth technology (monopine) and associated ground equipment with fencing and landscaping on site in a commercial zone.

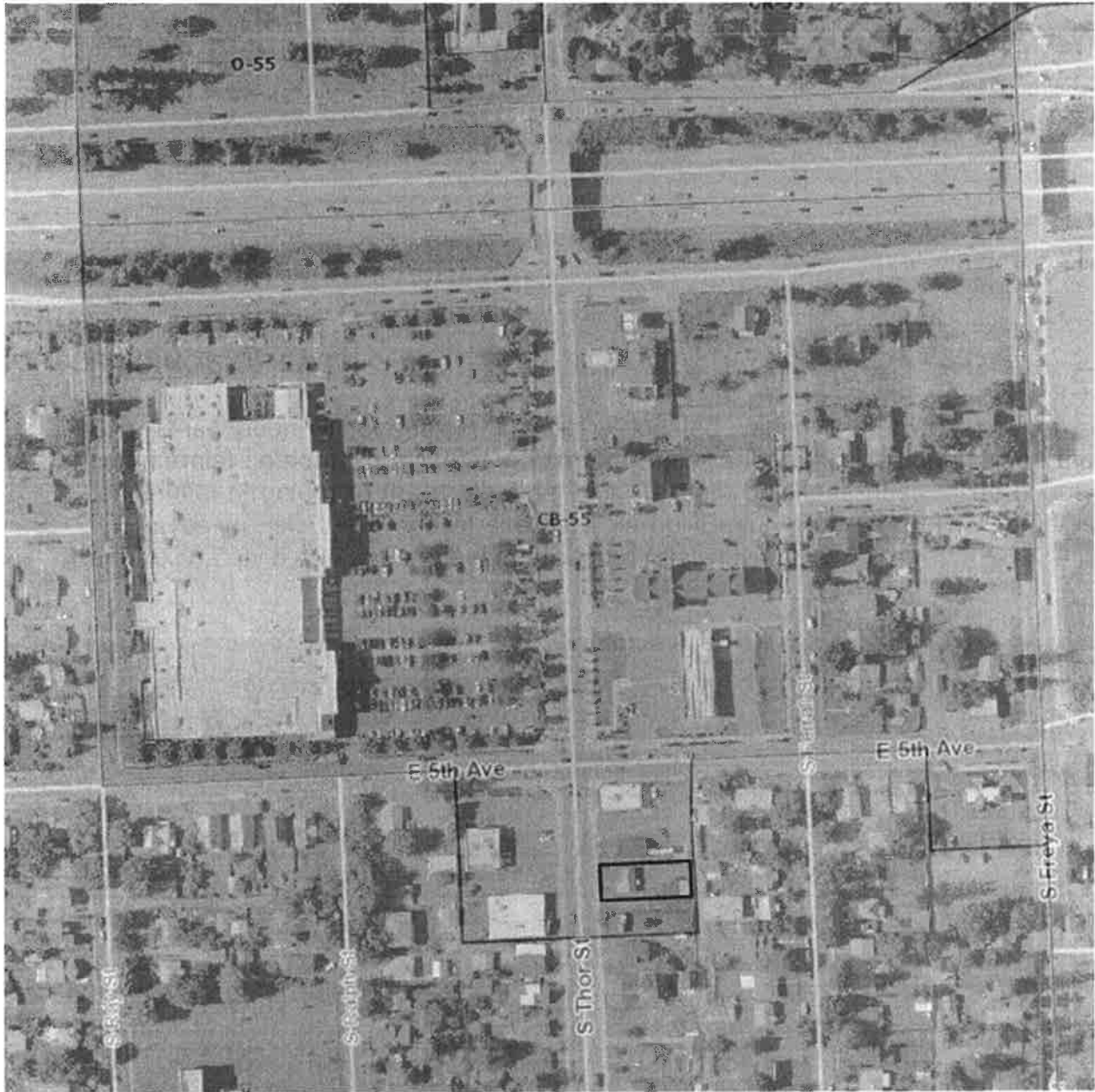
Staff approves this application with conditions.

**II. GENERAL INFORMATION:**

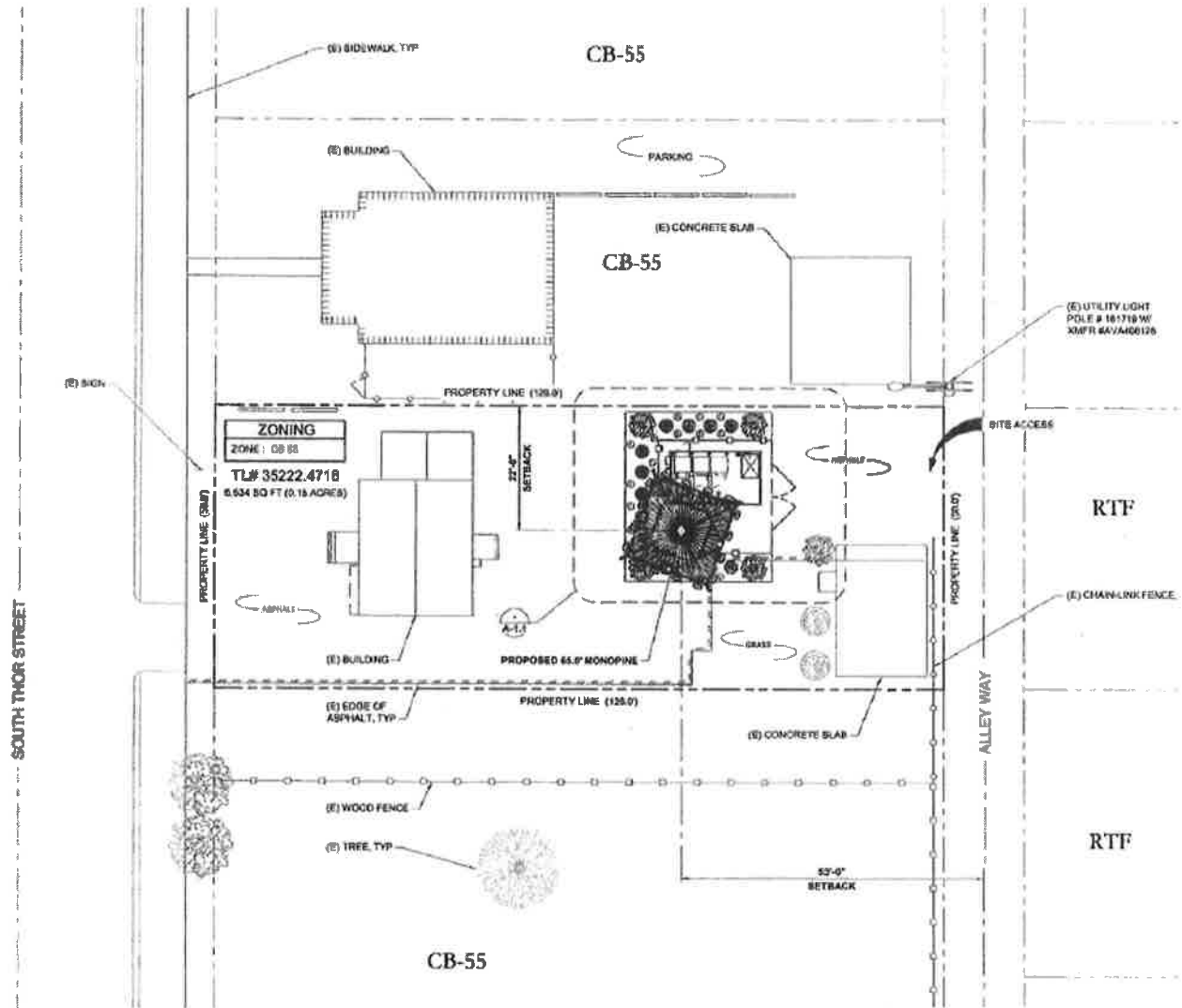
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|-------------------------------|--|
| A. Applicant:                 | Verizon<br>c/o ProLand L.L.C. (Derek Budig)<br>Spokane, WA 99203                               |
| B. Agent:                     | Same as Applicant  |
| C. Property Owner:            | Lu-Chen Living Trust<br>5714 S. Glendora Dr.<br>Spokane, WA 99223                              |
| D. Location of Proposal:      | 515 South Thor Street<br>Spokane, WA 99223   |
| E. Existing Zoning:           | "CB-55" (Community Business – 55' Height Limit)  |
| E. Land Use Plan Designation: | General Commercial   |
| F. SEPA Status:               | DNS – May 30, 2017   |
| G. Enabling Zoning:           | SMC 17G.060.170 – Decision Criteria and<br>SMC 17C.355A – Wireless Communication<br>Facilities |
| H. Decision Date:             | June 9, 2017   |
| I. Staff Contact:             | Dave Compton   |

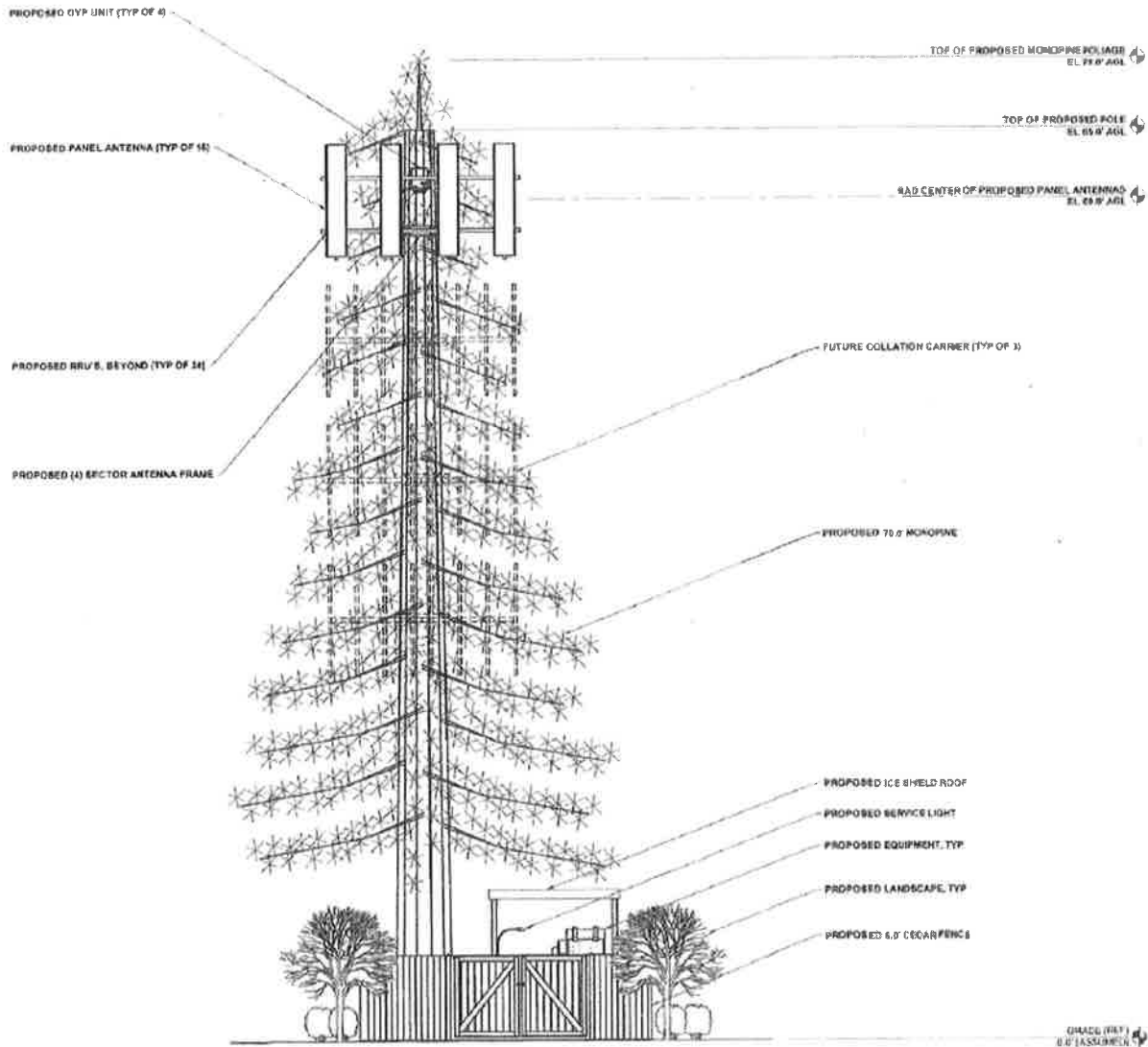
III. **FINDINGS OF FACT:**

- A. Site Description: The subject parcel is located within the lower end of a commercial corridor Thor Street which is a major arterial. This property and the residential structure to the north side of it are both business uses. The county tax assessor lists the proposal site as a Barber-Beauty-Spa use. The parcel is approximately 6,400 square feet in area and relatively flat.



- B. Project Description: The applicant has submitted an application to erect a 70-foot stealth (monopine) wireless communication tower within a fenced and landscaped area. The leased area this proposal will be in is approximately 1,050 square feet and be in the rear area of the property between the house and alley. Type II Conditional Use Permit from the Planning and Development Director is required due to it being within 51 – 150 feet of a residential area.





- C. Surrounding Zoning: Community Business (CB) abuts the proposal on all boundaries except to the East across an alley that is Residential Two-Family (RTF).
- D. Zoning History: The subject property has been zoned Community Business – 55 since June 2005 with the adoption of the current commercial development regulations. Prior to that it was designated CC2 (Center and Corridor 2) zoning.
- E. Adjacent Land Use: The adjacent land use follows the same boundary as the above mentioned zoning categories within the proposal site area, that being General Commercial and Residential 10-20.

F. Applicable Zoning Regulations: SMC 17C.120, Commercial Zones; SMC 17C.355A; Wireless Communication Facilities and SMC 17G.060.170; Decision Criteria.

G. Procedural Requirements:

- Application was submitted on March 28, 2017;
- Applicant was notified in writing on May 4, 2017 of technically complete status of the application,
- Notice of Application was mailed to adjacent property owners and occupants within 400 feet of the proposal and a sign posted on the subject property on May 11, 2017 which began the 15-day public comment period;
- SEPA Determination of Non-significance issued on May 30, 2017.

#### IV. DEPARTMENT REPORTS:

Notice of this proposal was sent to City departments and outside agencies for their review and comments. Their comments are included with the file and are made part of this application by reference.

#### V. CONCLUSIONS

SMC 17G.060.170 Decision Criteria

A. Criteria.

The intent of the below listed decision criteria procedure is to determine the conditions under which a use may be permitted. Type II or III applications are subject to specific review during which conditions may be imposed to assure compatibility of the use with other uses permitted in the surrounding area. A Type II or Type III Conditional Use Permit may be granted only if the following facts and conditions are found to exist:

1. *The proposal is allowed under the provisions of the land use codes.*

Wireless Communication Facilities are either permitted outright or require a Type II or Type III Conditional Use Permit (CUP) based on location and type of facility. For this proposal to be allowed in this commercially zoned location a Type II Conditional Use Permit (CUP) is required if it was between 51 to 150 feet from a residential zone, did not exceed seventy (70') feet in height, and deployed stealth technology. Development standards found in Spokane Municipal Code (SMC) 17C.355A – Wireless Communication Facilities must be adhered to and completed prior to the issuance of a certificate of occupancy from the Building Department. The application meets all requirements listed under the above mentioned SMC section.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property.*

The applicant lists the following Comprehensive Plan goals and policies by element and expresses how they are applicable to this proposal:

The proposed structure is consistent with the comprehensive plan designation and goals, objectives and policies for the property, specifically in Chapter 5 Capital Facilities and Utilities, Sections; CFU 3.4 Natural and Man-Made Disasters, CFU 5.7 Telecommunication Structures and CFU 5.14 Private Utilities, Chapter 7 Economic Development, section ED 6.4 Communication Facilities and Networks, Chapter 8 Urban Design and Historic Preservation, Section DP 3.17 Telecommunication Facilities.

The proposed structure meets Chapter 5 Capital Facilities and Utilities, Section CFU 3.4 Natural and Man-Made Disasters states in that the proposed public service in the event of a power outage caused by natural or man-made disaster will have a backup generator in place. Section CFU 5.7 Telecommunication Structures states the use of existing structures to support telecommunication facilities should be used first before new or stand-alone facilities are constructed. An existing structure is not located within a 1/2 mile radius of the proposed facility, therefore a new telecommunication facility is proposed. The proposed structure will accommodate for future co-location and will be built using stealth technology to minimize any adverse impact to the surrounding area. Section CFU 5.14 Private Utilities states the Growth Management Act (GMA) requires a utilities element including the proposed electrical and telecommunication lines to be inventoried with the utilities coordinator. All utility requirements will be met at the time of building permit. Chapter 7 Economic Development, Section ED 6.4 Communication Facilities and Networks states the proposed structure should support the expansion and development of communication facilities required by industries that use high technology. The proposed facility will improve and expand the existing communication network to local business and residences in the immediate area while encouraging growth in the economy. Chapter 8 Urban Design and Historic Preservation states the proposed structure should have minimal visual impact. The structure is a minimum of 1/2 mile from an existing telecommunication facility and is placed in the most efficient and effective location as possible. The facility will have the ability for future co-location and will use stealth technology, landscaping, and screening techniques to minimize impact.

Staff notes the following goals and policies that pertain to this application; (1) CFU 3.4 - Natural and Man-Made Disasters and (2) CFU 5.7 - Telecommunication Structures. Both are found in the Capital Facilities and Utilities chapter. These focus on one: being able to provide communications necessary for first responders by having backup generators on site in the event of a power outage cause by natural or man-made disasters and two: by controlling the visual impact of such facilities by insuring the efficiency of their placement and minimizing the number of such sites through measures such as co-location on existing facilities. The applicant notes they will engineer this tower to accommodate 3 additional carriers in the future at 50', 40' and 30'. (3) ED 6.4 – Communications Facilities and Networks in that this new tower will aid in allowing the latest technology to be made available to local residents, educational facilities, and businesses that encourage growth in the economic sector that use or rely on it. (4) There is also further discussion found in the Urban Design and Historic Preservation Element in Chapter 8. There DP 3.17 – Telecommunication Facilities discusses controlling the visual impact of such facilities by insuring the efficiency their placement and minimizing the number of such sites through such measures as co-location on existing facilities. This goal was previously mentioned in CFU 5.7 above. (5) Lastly staff notes there is discussion in Chapter 4 – Transportation. Though there is not a specific goal or policy in this chapter, it covers a broad range of topics such as wireless communication in general reducing the need for many people to travel by auto or other means to various destinations to conduct business or other day to day activities. This in turn reduces the number of people on the roadways and helps lower congestion.

3. *The proposal meets the concurrency requirements of SMC Chapter 17D.010.*

All applicable city departments and agencies had the opportunity to review this proposal with no one denying concurrency, however the Traffic Department gave the following requirements: The alley adjacent to this site is unimproved. If the alley is going to be used for access, it must be improved to the closest paved street (5<sup>th</sup> Ave). This improvement will need to be designed by a civil engineer for the whole alley, with construction required from 5<sup>th</sup> Ave to the south property line. If the alley is not going to be used for access, as shown on the plan submittal, it will need to be blocked with landscaping or fencing. This will be listed as a condition of approval.

The applicant submitted a SEPA Environmental Checklist and it was reviewed for compliance by all departments and agencies. A Determination of Non-significance (DNS) was issued on May 30, 2017. The applicant gives comment within the CUP application that there will not be any impacts on any city services. Tthe site will be unmanned and only require electrical power from Avista and water for irrigation from the property owner who receives it from the city.

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including*

*but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features.*

The site area is suitable for development according to all city departments and agencies that commented. This site is free from critical areas according to available data. The proposal does not conflict substantially with adjacent land uses, is readily accessible to adequate transportation, utility, and service systems. All development will be required to meet any commercial and applicable development standards as directed in the SMC 17C.355 – Wireless Communication Facilities. This proposal must also comply with any and all county, state, or federal regulations applicable to it currently or in the future. Conditions of approval will be listed at the end of this staff report. These and additional recommendations from agencies are located in the file of record. No known historical or cultural features are known to exist within the site area. The Spokane Tribe of Indians did make comment and their recommendation is listed as a condition of approval. Please reference the applicant's response to this (#4) on the CUP application.

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.*

There were comments received from two (2) individuals during the public comment period. One addressed concerns of decreased property values in the neighborhood, visual impacts, economic impacts on neighboring businesses, etc. Both individuals commented on the potential radiation emissions with one mainly concerned about it because they operate a maternity care facility in the building (converted house) next door. All of the above are not relevant impacts as addressed against our decision criteria in the SMC. Most pointed is the fact that federal regulations preempts state and local government from regulation of the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC's regulations. Please reference the applicant's response to this (#5) on the CUP application. No other comments were received from the public during this process.

#### B. Time Limitation.

*A CUP (type II or type III) application automatically expires and becomes void if the applicant fails to apply for a building permit within **three** years of the effective date of the CUP.*



STAFF CONCLUSION: The staff recommends approval of the requested Type II Conditional Use Permit.

**VI: Recommendations**

The staff recommends approval of the proposal subject to the following conditions:

1. The applicant shall adhere to all development standards outlined in Spokane Municipal Code (SMC) 17C.355A – Wireless Communication Facilities (setbacks, screening, lighting, landscaping and the continued maintenance of such).
2. The alley adjacent to this site is unimproved. If the alley is going to be used for access, it must be improved to the closest paved street (5<sup>th</sup> Ave). This improvement will need to be designed by a civil engineer for the whole alley, with construction required from 5<sup>th</sup> Ave to the south property line. If the alley is not going to be used for access, as shown on the plan submittal, it will need to be blocked with landscaping or fencing.
3. Any wireless communication facility that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the Planning and Development Director. Discontinued facilities shall be completely removed within six months and the site restored to its pre-existing condition.
4. All surface drainage must be disposed of on-site in accordance with the Spokane Regional Stormwater Manual.
5. Notify a tribal archaeologist if any evidence of Native American importance is found during any excavation activity. Pursuant to RCW 27.53.060 it's unlawful to destroy any historic or prehistoric archaeological resources.
6. The applicant shall adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County Washington State, and any Federal agency.

**NOTICE OF RIGHT TO APPEAL**

Appeals or requests for reconsideration of decisions by the Planning and Development Director are governed by Spokane Municipal Code 17G.060.210 - Appeals. Decisions of the Planning and Development Director regarding Type I or II applications are final unless appealed to the City of Spokane Hearing Examiner. All appeals must be filed with Planning and Development within fourteen (14) calendar days of the date of the decision. All requests for reconsideration must be filed with Planning and Development within seven (7) days of the date of the decision. The date of the decision is June 9, 2017. **THE DATE OF THE LAST DAY TO APPEAL IS THE 23rd DAY OF JUNE 2017 AT 5:00 P.M.** In addition to paying the appeal fee to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing any required transcripts.

  
Lisa D. Key, Director  
Planning and Development

By: Dave Compton, Assistant Planner  
Planning and Development

June 9, 2017