



# Communication to Planning Commission

Community & Economic Development  
Office of the Director

**To:** Planning Commission Members

**From:** Ray Milliner, Principal Planner

**Date:** December 9, 2009

**Re:** Case PLNPCM2009-01003

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On November 12, 2009, the Planning Director conducted an administrative hearing for a utility box located at 2713 Imperial Street. There was a significant amount of discussion at the meeting as to whether or not the proposal met the minimum zoning ordinance requirements for a box. As a result, the Planning Director forwarded this application on to the Planning Commission for a full conditional use review.

## Project Background

The applicant, Qwest Corporation, is the owner of an existing utility box located at 2713 Imperial Street. The box is located in the public right-of-way. The existing box replaced an older box on the site. It was not approved at the time of placement, and is now under review for conditional use approval.

Attached is the staff report from that meeting, along with minutes and public comments received since the original public hearing.

## Administrative Hearing Staff Report

### QWEST DSL UTILITY BOXES CONDITIONAL USE PLNPCM2009-01003

Public way near 2713 South Imperial Street  
Hearing date: November 12, 2009



Planning Division  
Department of Community &  
Economic Development

**Applicant:**

Qwest Corporation (Rob Vigil)

**Staff:**

Casey Stewart 535-6260  
casey.stewart@slcgov.com

**Tax ID:**

Public way adjacent to:  
16-21-456-002

**Current Zone:**

R-1/7,000 (Single Family Residential)

**Master Plan Designation:**

Sugar House Master Plan:  
Low Density Residential

**Council District:**

District 7 – Soren Simonsen

**Current Use:**

Park strip, public way

**Applicable Land Use Regulations:**

- Chapter 21A.40.160 Utility Boxes
- Chapter 21A.54 Conditional Uses

**Notification**

- Notice mailed October 28, 2009
- Sign posted November 2, 2009
- Posted to Planning Dept and Utah State Public Meeting websites October 28, 2009.

**Attachments:**

- A. Site drawings
- B. Photographs
- C. City Department Comments

**Request**

QWEST Corporation is requesting a conditional use for a recently installed ground-mounted utility box for upgraded DSL internet service

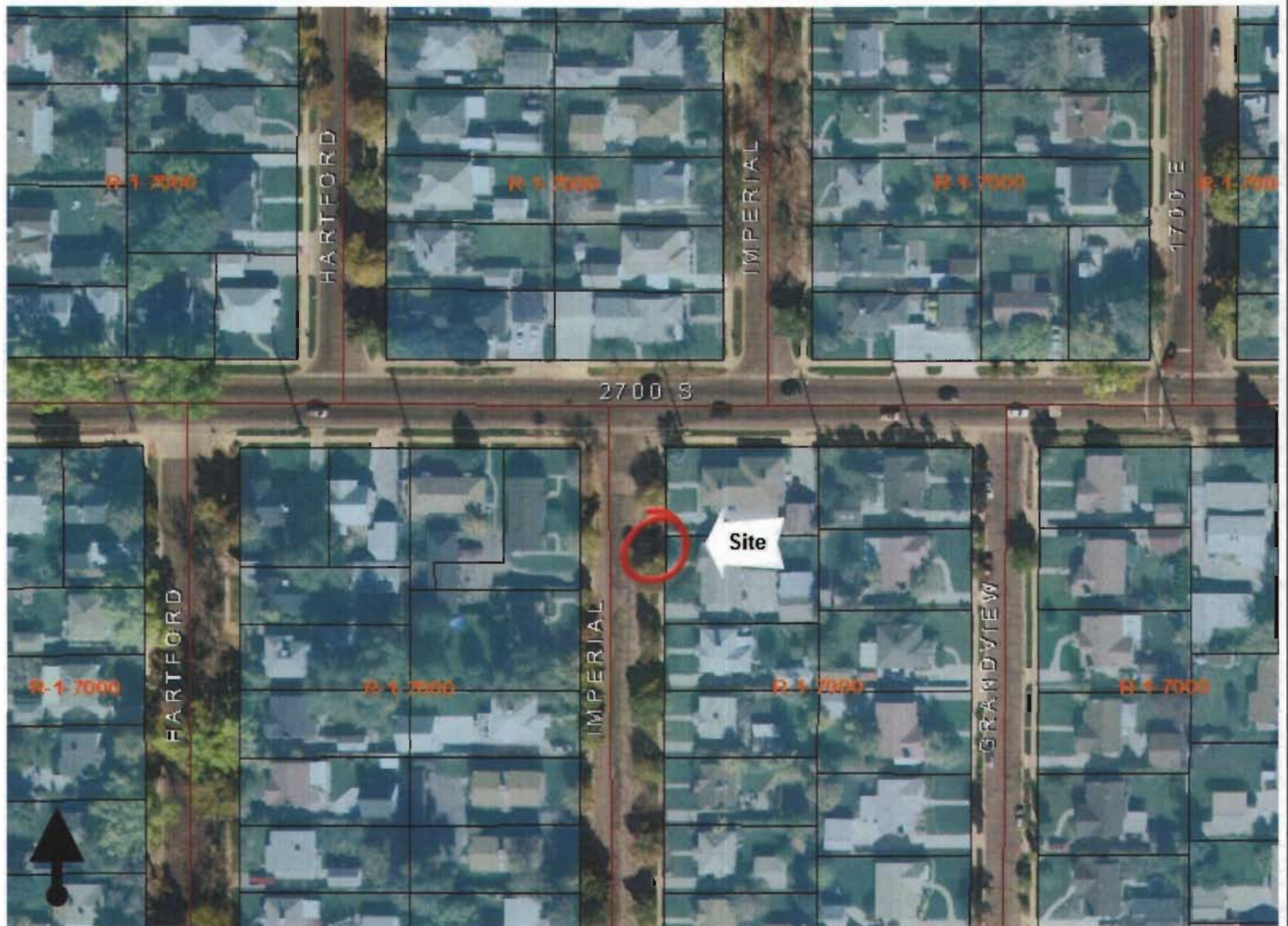
**Recommendation**

Staff has determined the request adequately achieves the applicable standards and recommends the Administrative Hearing Officer approve the conditional use subject to certain conditions listed below:

1. The applicant shall comply with the location requirements set forth by the Public Utilities Department and comply with visibility requirements of the Transportation Division outlined in their respective comments incorporated into the staff report. See *Attachment C of the staff report for the source of this condition;*

## VICINITY MAP

### Adjacent to 2713 South Imperial Street



## Background

### Project Description

The applicant requests approval of a conditional use to replace one existing ground mounted utility box with a larger utility box on public property in the Sugar House area. The proposed box is for the purpose of upgrading and expanding DSL internet service for the surrounding area. The project location is within the public way (in the park strip) along Imperial Street.

### Project Details

Equipment	Size/Tier	Height	Width	Depth
<i>Serving Area Interface (SAi) cabinet</i>	Large	55 inch	83 inch	19 inch

## Public Participation

## Community Council Meeting

The request and related application materials were provided to the Sugar House Community Council via e-mail on September 11, 2009. The 45-day deadline for community council comments expired October 26, 2009 and no objections, concerns, or other comments were received from the community council. At the time of this report no community council comments had been received.

## Public Comments

The property owners at 2713 and 2705 Imperial Streets have both stated that they prefer the existing location just north of the power pole. They claim that if the utility box is moved to comply with the 10 foot site triangle, then it will in fact make the situation worse for vehicles backing out of the driveway at 2705 Imperial.

## City Department Comments

Comments were solicited from the following City departments: Public Utilities, Engineering, Transportation, Fire, and Building Services. In general, the departments that provided comments had no objections to the conditional use but provided specific improvements or modifications required according to their respective area of development oversight. Those requirements are listed as conditions of approval and can be found in 'Attachment C' of this report.

## Analysis and Findings

If the Administrative Hearing Officer chooses to approve the conditional use petition, the applicant will then be able to move forward with the proposed project. If the Officer chooses to deny the petition, the applicant may request the matter be reviewed by the Planning Commission.

### Standards for Conditional Uses; Section 21A.54.080

A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. In order to identify and evaluate the detrimental effects and the need for and/or adequacy of mitigating conditions, the Administrative Hearing Officer shall review and consider the following:

1. **Master Plan and Code Compliance:** The proposed development is supported by the general policies of the City Wide, Community, and Small Area Master plan text and the future land use map policies governing the site;
  - a. The proposed development is one of the conditional uses specifically listed in this title; and
  - b. The proposed development is supported by the general purposes and intent of the zoning ordinance including the purpose statement of the zoning district.

**Analysis:** The Sugarhouse Master Plan identifies this area for low density residential development. The proposed use is to provide service to the residential area. The proposed use is to replace an existing utility box located within the park strip on public property, and will have little adverse impact on the surrounding area in general. The project will improve communication services for the surrounding neighborhood. Private/Public utility buildings and structures are listed as a conditional use in the R-1/7000 zone in section 21A.24.190 of the Salt Lake City Zoning Ordinance Table of Permitted and Conditional Uses. The purpose of the R-1/7000 (Single Family Residential Zoning District) is to provide for conventional single-family residential neighborhoods with lots no less than seven thousand square feet in size.

**Finding:** The project is one of the conditional uses listed in this title and further complies with the Sugar House master plan by supporting the low density residential use in the area.

2. **Use Compatibility:** The proposed use at the particular location is compatible with the character of the site, adjacent properties, surrounding neighborhoods, and other existing development. In determining compatibility, the Planning Commission may consider the following:

- a. Streets or other means of access to the proposed development are suitable and adequate to carry anticipated traffic and will not materially degrade the service level on the adjacent streets;
- b. The type of use and its location does not create unusual pedestrian or vehicle traffic patterns or volumes that would not be expected with the development of a permitted use. In determining unusual patterns, the Planning Commission shall consider:
  - i) The orientation of driveways and if they direct traffic to the major streets or local streets, and, if directed to the local streets, the impacts to the safety, purpose, and character of the local streets;
  - ii) Parking locations and size, and if parking plans encourage street side parking to the proposed use which impacts the adjacent land uses;
  - iii) Hours of peak land use when traffic to the proposed use would be greatest and that such times and peaks would not impact the ability of the surrounding uses to enjoy the use of their properties; and
  - iv) The hours of operation of the proposed use when compared with the hours of activity/operation of the surrounding uses and the potential of such hours of operation do not create noise, height, or other nuisances not acceptable to the enjoyment of existing surrounding uses or common to the surrounding uses.
- c. The internal circulation system of the proposed development is properly designed for motorized, non-motorized and pedestrian traffic, and mitigates impacts on adjacent properties;
- d. Existing or proposed utility and public services are adequate for the proposed development and are designed in a manner that will not have an adverse impact on adjacent land uses or resources; and
- e. Appropriate buffering such as landscaping, setbacks, and building location, is provided to protect adjacent land uses from light, noise and visual impacts.
- f. Detrimental concentration of existing non-conforming or conditional uses substantially similar to the use proposed. The analysis is based on an inventory of uses within a quarter mile radius of the subject property.

**Analysis:** Generally, utility boxes are located within the residential neighborhoods. The structures will provide necessary improvements to the services provided in the area. Because of the relative small sizes of the structures and with the recommended condition for visual screening from public view; they will have little visual effect on the surrounding uses. By complying with the recommended conditions of approval, they will be located in an area that does not impede traffic, or pedestrian circulation.

**Finding:** The project satisfies this standard. Staff finds that the proposed use is compatible with the residential neighborhood and in harmony with the general purposes and intent of this Title.

3. **Design Compatibility:** The proposed conditional use is compatible with:

- a. The character of the area with respect to: site design and location of parking lots, access ways, and delivery areas; impact on adjacent uses through loss of privacy, objectionable views of large parking or storage areas; or views and sounds of loading and unloading areas;
- b. Operating and delivery hours are compatible with adjacent land uses; and

- c. The proposed design is compatible with the intensity, size, and scale for the type of use, and with the surrounding uses.

**Analysis:** By complying with the recommended conditions of approval the structures will be located in the park strip of the public way and will not interfere with public vehicular traffic or pedestrian right-of-ways. Once the structures are installed, the only traffic generated will be from maintenance vehicles that visit the site for routine maintenance.

**Finding:** The project satisfies this standard. The proposed design and location of the structures are typical of those located in residential neighborhoods. Therefore, the proposal is compatible with surrounding adjacent uses in terms of operating hours, location and scale.

4. **Detriment to Persons or Property:** The proposed use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety, and general welfare of persons, nor be injurious to property and improvements in the community, existing surrounding uses, buildings, and structures. The applicant shall demonstrate that the proposed use:

- A. Does not lead to deterioration of the environment by emitting pollutants into the ground or air that cause detrimental effects to the property or to neighboring properties;
- B. Does not introduce hazards or potentials for damage to neighboring properties that cannot be mitigated; and
- C. Is in keeping with the type of existing uses surrounding the property, and that as proposed the development will improve the character of the area by encouraging reinvestment and upgrading of surrounding properties.

**Analysis:** No deterioration of the environment will occur as a result of this application. The structures do not emit any harmful or hazardous pollutants into the ground or air that will not be mitigated through the building permit process.

**Finding:** The project satisfies this standard. The project will not result in detriment to persons or property.

5. **Compliance with Other Applicable Regulations:** The proposed development complies with all other applicable codes and ordinances.

**Analysis:** Approval of this application is conditioned on compliance with all applicable City building permits and codes prior to installation.

**Finding:** Staff finds the proposed conditional use must comply with all other applicable codes and ordinances.

***Attachment A***  
Site/Project drawings

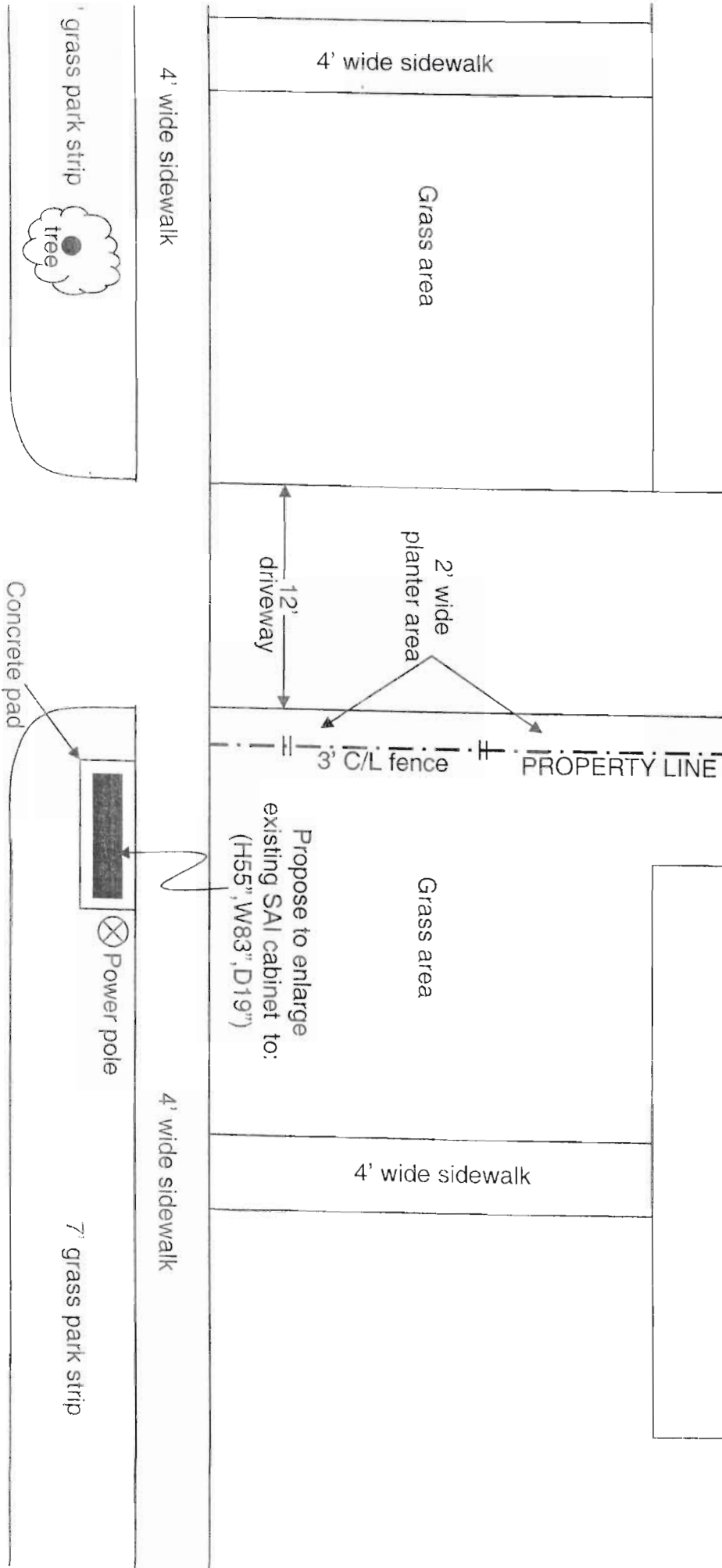
# Location Map – 2713 S. Imperial St. (for SAI 2711 S. Imperial St.)



**Site Detail – 2713 S. Imperial**  
(for SAI 2711 S. Imperial St.)

2705 S.

2713 S.



grass park strip



Concrete pad

Power pole

Imperial St.



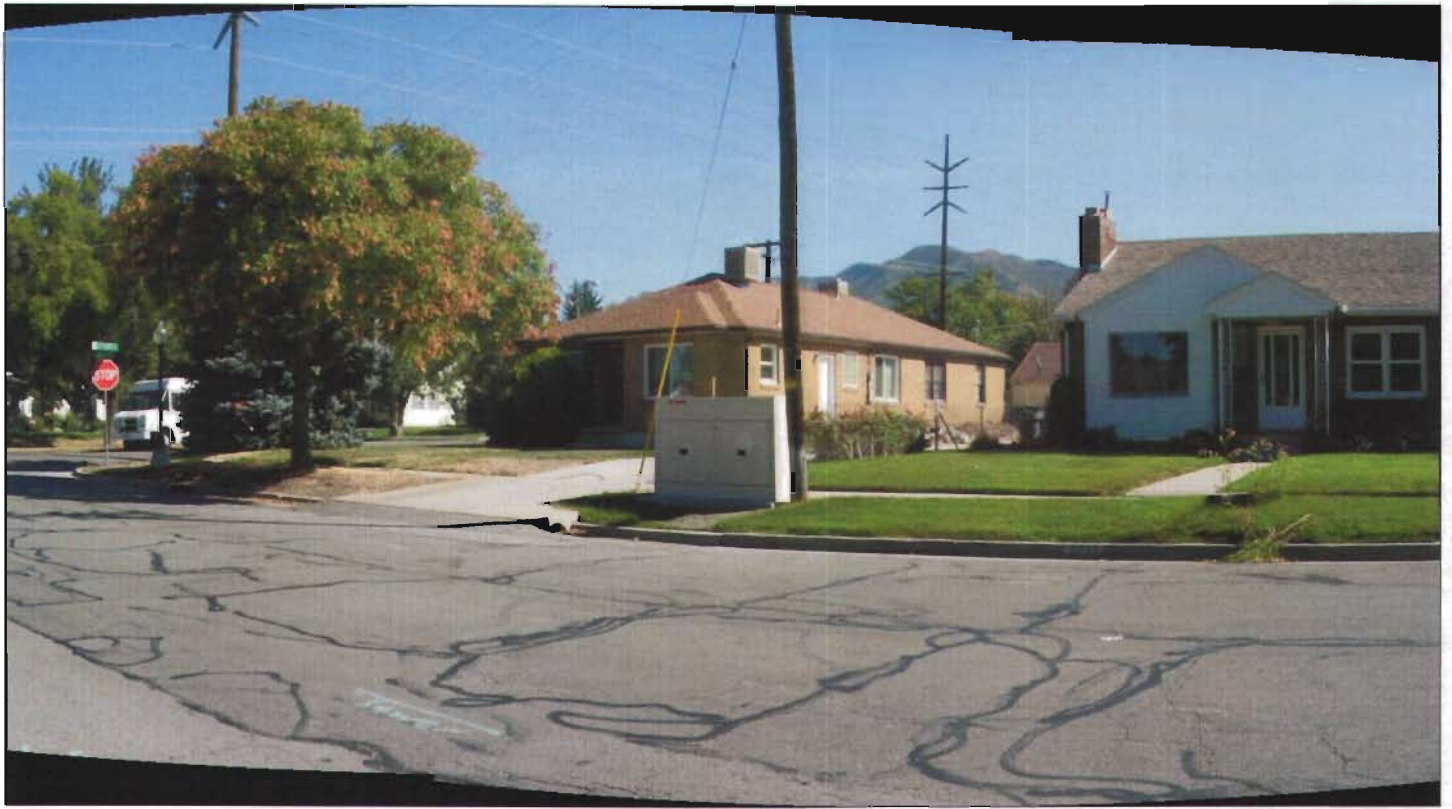
**DIGITAL PHOTOS – 2713 S. Imperial St.  
(for SAI 2711 S. Imperial St.)**

Proposed enlarged  
cabinet to replace existing  
(H55", W83", D19")

Existing SAI Cabinet to be enlarged

LOOKING SOUTHEASTERLY

Imperial St.



***Attachment C***  
City Department comments

- **Public Utilities (Justin Stoker):** “No water or sanitary sewer service laterals are located in the vicinity. A 6-inch cast iron water main is located about 12-ft from the property line in Imperial (under the curb and gutter). Any utility boxes should keep a minimum 6-ft clearance from the water main for safe and reasonable maintenance and operation of both utilities.”
- **Engineering (Randy Drummond):** “We have reviewed the request from Qwest for utility boxes for these locations, and found that there are no concerns.”
- **Transportation (Barry Walsh):** “The Cabinet either needs to be moved south to comply with the 10’ clearance from the driveway per the Clear Sight Zone requirement,” or a mirror acceptable to the Transportation division could be used to gain extra visibility.
- **Fire (Ted Itchon):** No comments
- **Building & Zoning (Alan Hardman):** “No zoning issues”

***Attachment D***  
Public Comments

## Milliner, Ray

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**From:** Scott Kisling [scott.kisling@comcast.net]  
**Sent:** Monday, November 30, 2009 11:18 AM  
**To:** Milliner, Ray  
**Cc:** Simonsen, Soren; Sugar House CC Chair; Short Judi & Wade  
**Subject:** PLNPCM2009-01003 DSL box at 2713 S. Imperial Street  
**Attachments:** 2713 S. Imperial St box.tiff

Dear Mr. Milliner,

I have attached a photo of the current utility box at this address. Please imagine this box (or one clustered with it) being 4 feet tall and 7 feet wide, as the petitioner is requesting. You think that perhaps this property owner's house value might be negatively impacted? I do, and probably more than the additional cost of burying the box or otherwise making it an Allowed Use under Paragraph D of the proposed Section 21A.40.160 of the Municipal Code.

These ugly and damage-prone boxes that are currently used for DSL to operate at greater distances from their central office and at higher frequencies. I would like to put pressure on companies that install them so they improve their technology so as to require fewer of them. They are usually located on the public right of way, though I doubt the City gets any revenue from them, though the City should as further enticement to improve the technology. When located on private property the property owner is compensated. Homeowners in proximity of the boxes are unfairly singled out when the market imposes a lower value on their property because of the nearby boxes. This is essentially an forced private subsidy of a corporation.

Many years ago the Sugar House Community Council, and others, successfully pushed the Planning Commission to become more restrictive on mobile phone antennas, requiring the antennas to be designed to lessen their visual impact by both better placement and colorization. Unfortunately, as Commissioners have changed, so has that attention. We once again have very visible and poorly integrated mobile phone antennas, often on buildings such as the Redman Building, that exemplified good antenna integration in the past.

We need to consider what we are doing to the desirability and value of our neighborhoods in the course of our race for improved connectivity.

Thanks for listening.

Scott

2409 Lynwood Drive



**Paterson, Joel**

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**From:** Martin Barraclough [martinb@xmission.com]  
**Sent:** Thursday, November 12, 2009 4:34 PM  
**To:** Paterson, Joel; Stewart, Casey  
**Subject:** Qwest Utility Box on Imperial

As a trustee on the Sugar House community council, I am writing to express my concern regarding the recent placement of a large utility box at 2718 Imperial St. The box was placed by Qwest in a park strip right in front of the home at this location.

While I understand that the park strips are city property, the homeowner is expected to maintain the property. This box is large, extremely unsightly and sits directly in view from the homeowners front living room windows. When Qwest does work at the box a truck sits parked in front of the house for hours at a time. This may make it convenient for Qwest, but it ruins the aesthetics of this nice neighborhood street. It is my understanding that the box was placed without proper permission and I am requesting that Qwest be instructed to remove the box and to relocate it to a more satisfactory site as soon as possible.

Sincerely  
Sally Barraclough (801) 466-6186  
Wilford Area Trustee  
Sugar House Community Council

Imperial St. (plus cm 2009-01003)

Stewart, Casey

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**From:** Laura Bitner [laurabitner02@hotmail.com]  
**Sent:** Thursday, November 12, 2009 2:44 PM  
**To:** Stewart, Casey; Paterson, Joel  
**Subject:** Qwest Box Concerns

Casey and Joel,

I just wanted to voice some concerns about the qwest box (on Imperial Street and near 2700 S.) next to our house to be included in the report tonight at the meeting. I believe the box is a safety hazard for anyone pulling in and out of our driveway because the box blocks our line of sight and can conceal cars as well as pedestrians. I have witnessed many close calls due to the sight obstruction of the box. Also, there is a qwest vehicle parked in front of that box every single day working on it and so we always have a truck parked right in front of our house and it contributes to the safety hazard as well as being an annoyance. It is also huge and very unsightly and takes away from the aesthetical qualities of the neighborhood. Please let me know if you have any questions. Thanks

Andrew and Laura King

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Hotmail: Trusted email with Microsoft's powerful SPAM protection. [Sign up now.](#)

## Stewart, Casey

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**From:** CASEY STEWART [stewartcasey@msn.com]  
**Sent:** Friday, November 06, 2009 9:26 AM  
**To:** Stewart, Casey  
**Subject:** FW: Qwest box

**Categories:** Other

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**From:** pulverizers@comcast.net  
**To:** stewartcasey@msn.com  
**Subject:** Qwest box  
**Date:** Fri, 6 Nov 2009 04:45:21 -0700

Casey; Please feel free to add or change this in any way that you think necessary.

We feel this box is oversized and does not belong on this property. At this time, only half of the box is being used. The other box we had was a much better size to have in our front yard. We propose a better location for this oversized box. The property purchased by Qwest directly north of us at 2705 Imperial Street was probably suppose to have this large box placed there, off the street. (it is on 27<sup>th</sup> South next to the drive way of the duplex) It would be on private property and not on the city parking. Qwest placed 2 new small boxes there instead. Qwest should use the property at 2705 Chadwick as an example. Qwest placed all their boxes on private property on Chadwick Street. This would solve the transportation problem, also.

If this box stays, we request that Qwest place concrete from the south end of their box to the end of the park strip. This part of the parking is useless and becomes a litter area for Qwest workers. We are constantly cleaning up tape, clips, wire, cigarette butts and other debris and are tired of it. The box was in for 1 week and we got graffiti on it. The lawn is always dead because of the workers using the box all day.

We are still wondering how Qwest got permission to install this oversized box at 2713 Imperial Street in the first place? Our address was never on the sheet of paper that was sent around to attend the meeting. Qwest purchased the piece of property next door for \$6,000 dollars and we think they may have made a mistake when placing the box on this property.

We do not want the box moved over at all. We just had a new tree planted and our neighbors say they can see fine when they pull out of their driveway.

If this box stays, we feel some compensation would be appropriate. We have heard of Qwest giving adjustments on their bills to their customers to make them happy. This would be appropriate in this case.

Thanks for your help Casey.

Phil and Jill Pulver  
2713 Imperial Street  
SLC, UT 84106

***Attachment E***

Minutes from November 12, 2009 Administrative Hearing

# SALT LAKE CITY PLANNING DIVISION

## ADMINISTRATIVE HEARING

**Minutes of the Meeting**  
**Thursday, November 12, 2009**  
**5:00 p.m.**  
**City & County Building**  
**451 South State Street, Room 126**

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This Administrative Hearing for the Salt Lake City Planning Division was held on Thursday, Nov. 12, 2009 in Room 126 of the City and County Building, 451 South State Street. Planning Staff present were: Kevin LoPiccolo, Hearing Officer; Casey Stewart, Principal Planner; Angela Hasenberg, Senior Secretary.

**5:53:17 PM PLNPCM2009-01003, Qwest Corporation DSL Conditional Use** – Qwest Corporation, represented by Ralph Vigil, requests conditional use approval for the replacement of a previous utility box in the *public right-of-way* adjacent to 2713 South Imperial Street. The box would face Imperial Street and be approximately 4 ½ feet tall and 7 feet wide. The property is located in City Council District 7, represented by Soren Simonsen.

Mr. LoPiccolo noted letters received from Phil and Jill Pulver located at 2713 Imperial Street, they voiced their concern regarding the placement of the utility box, and the second letter was from Andrew and Laura King, no address given, they were also located on 2700 South. A third email from Sally Berclaw, from the Wilford Area Trust, stated she was a Trustee, and had a concern regarding the placement of the utility box on Imperial St. Mr. LoPiccolo stated the letters were now part of the public record.

Staff representative Casey Stewart provided information regarding the petition. Kevin LoPiccolo asked if the utility box was already in place.

Mr. Vigil stated the box was already in place and there was a breakdown in the communication with Qwest, who had secured an easement around the corner on the King's property, the Kings acquired the property the easement was given, Qwest received a conditional use permit and received approval to place their DSL cabinets, the resulting action was a misinterpretation that they had approval to upgrade an existing box, to add capacity to it and thereby increasing the number of houses they could provide service to. Once Qwest found out what was going on, they then applied for the correct permit and since the work had already begun, finished it knowing that it still needed to go through the correct channels and that there was no guarantee in placing the box. They understand that if they are not granted approval that the original would be set back in place.

Mr. Carlson stated this was an example of a bad placement of a utility box. The Pulver's were under the impression that the box was going to be moved and placed under a power pole because of sight lines for the driveway. He felt it was a mistake in either regard

Mr. Stewart stated that placing the utility box on the other side was actually a requirement of the City Transportation Division to keep it out of the clear sight zone. Since then, the transportation department realized there was a box there previously, and had considered other options they would be open to an installation of a back out mirror for the people who would be impacted.

Mr. LoPiccolo noted what made this unique was that the box was already placed. Administratively, the hearing officer was not entitled to make a recommendation either way, He stated that he would not approve or deny this petition. The Planning Commission should be the deciding body on this and the Transportation Division needed to clarify what would be acceptable.

**6:03:49 PM Motion**

**This item was forwarded to the Planning Commission.**

**6:03:49 PM** The Hearing Officer closed the Meeting

*The meeting adjourned at 6:03 p.m.*

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Angela Hasenberg, Senior Secretary