

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-0139R

RESOLUTION GRANTING A SPECIAL USE PERMIT TO NSIGHTTEL, LLC, D/B/A CELLCOM, FOR A 345 FOOT TELECOMMUNICATIONS TOWER IN AN R-1 DISTRICT AT APPROXIMATELY 1500 EAST ORANGE STREET.

CITY PROPOSAL:

RESOLVED, that:

(a) The city council grants the request for a special use permit submitted by James Cheshire, representing Nsighttel Wireless, LLC, d/b/a Cellcom, for wireless communications facility including a 345 foot tall monopole, 75 foot by 75 foot fenced compound, and 15 foot by 28 foot communications equipment building on property owned by WDIO-TV, LLC, at approximately 1500 East Orange Street and legally described as Lots 1, 2 and 3 of Block 19 of Duluth Heights First Division; and

(b) Pursuant to Section 50-32 and Section 50-35(ff) of the Duluth City Code, 1959, as amended, and in effect on the date of this application (June 25, 2010), such request was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing; and

(c) The city planning commission, at their regular meeting on March 8, 2011, considered the petition's effect on the comprehensive plan and property values in the neighborhood and voted to recommend approval of the petition for a wireless communications facility, with conditions; and

(d) The approval was made because of the city planning commission finding that appropriate safeguards will exist to protect the comprehensive plan and to conserve and to protect property values in the neighborhood if conditions are observed (FN 10-068).

FURTHER RESOLVED, that the city council of the city of Duluth approves a special use permit for a wireless communications facility including a 345 foot tall monopole, 75 foot by 75 foot fenced compound and 15 foot by 28 foot communications equipment building subject to the following conditions:

(a) That the project be constructed and maintained according to the documents titled "Tower Hill BTAC119-02-08 Construction Drawings 345 Self Support October 2010" prepared by Edge Consulting Engineers, received October 25, 2010, and shown on Public Document No. \_\_\_\_\_;

(b) Any future co-location or modification of the facility will require compliance with all current applicable rules;

(c) That the applicant secure all permits required by federal, state, county or city laws and regulations (including, but not limited to, building permits);

(d) Applicant submit a copy of the structural analysis indicating capacity for the existing and future antennas, including a geotechnical report and calculations for the foundation capacity;

(e) The owner signs an agreement to petition for street improvement to allow the city to assess in the event of future public improvements.

Approved as to form:

  
Attorney

PC:plng SR:eu 3/10/2011

STATEMENT OF PURPOSE: This resolution grants a special use permit to Nsighttel Wireless, LCC, d/b/a Cellcom, for construction of wireless communications facility including a 345 foot tall monopole 75 foot by 75 foot fenced compound and 15 foot by 28 foot communications equipment building at approximately 1500 East Orange Street. This application was made under the previous version of Chapter 50 and reviewed using those criteria.

The applicant is proposing a wireless communications tower in this location "to serve as a network hub site which will be Cellcom's main base of operation for entry into this market." The applicant has provided coverage maps to show the areas that will be covered by the new tower (attached). The applicant has provided simulations that show how the proposed tower will look from surrounding locations (attached).

On March 8, 2011, the city planning commission held a public hearing on the proposal and voted to recommend that the city council approve the telecommunications facility as requested, with conditions.

Request filed: June 25, 2010

Action deadline: N/A Applicant waived 15.99 requirements.

Applicant:

James Cheshire

Wireless Planning, LLC

PO Box 70

McNaughton, Wisconsin 54543

715-892-4223

jimcheshire@wirelessplanning.com



**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	10-068	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Special Use Permit-Wireless Tele. Facility	<b>Planning Commission Date</b>	March 8, 2011	
<b>Deadline for Action</b>	<b>Application Date</b>	June 25, 2010	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	NA-Applicant Waived	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Approximately 1500 East Orange Street			
<b>Applicant</b>	Nsighttel Wireless, LLC d/b/a Cellcom	<b>Contact</b>		
<b>Agent</b>	Jim Cheshire	<b>Contact</b>	jimcheshire@wirelessplanning.com	
<b>Legal Description</b>	Lots 1, 2, and 3 of Block 19 of the Duluth Heights			
<b>Neighbor Letter Date</b>	Feb 11, 2011	<b>Number of Neighbor Letters Sent</b>	2	

**Proposal**

Applicant submitted an application on June 25, 2010 (before the UDC was adopted) for a Special Use Permit for a "345 foot self-supporting telecommunications tower and 15' x 28' equipment building within a 75' x 75' fenced compound". The applicant has stated in the project summary that "the objective of this proposed tower is to serve as a network hub site" which will be Cellcom's main base of operation for entry into this market". It is important to note that this application needs to meet the standards that were in place when the application was submitted and accepted, not the current UDC standards. However, if/when the project is further developed or upgraded, it will then need to comply with the UDC. At the time of the application, the property was zoned S, Suburban; now it is RR-1.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	RR-1	Vacant	Traditional Neighborhood
<b>North</b>	RR-1	Vacant	Traditional Neighborhood
<b>South</b>	RR-1	Vacant/Cell Tower	Traditional Neighborhood
<b>East</b>	R-1	Vacant/Cell Tower	Traditional Neighborhood
<b>West</b>	RR-1	Vacant	Preservation

**Summary of Code Requirements (reference section with a brief description):**

UDC Section 50-11.2, Complete applications for permits and other approvals pursuant to this Chapter that have been accepted as complete and are pending approval on November 19, 2010, may, at the applicant's option, be reviewed wholly under the terms of the previous chapters of the city code. If approved, these projects may be carried out in accordance with the development standards in effect at the time of application. Any re-application for an expired permit shall meet the standards in effect at the time of re-application. The applicant may not choose to have some parts of the previous chapters and other parts of the current Chapter apply to the project

Article IV - Special Uses, Section 50-32 and, specifically, Section 50-35 (ff) Personal wireless communications towers. Antenna poles in excess of 50' and other structures require a special use permit. Special use permit requirements for siting cell towers the following; using existing tall structures (where they exist), locating towers in commercial and manufacturing zones, encouraging multi-tenant towers, and designing towers "to blend into the proposed site so as to minimize its visual impact on the surrounding area, where feasible."

Application for a special use permit requires a public hearing with the Planning Commission. The Planning Commission makes a recommendation to City Council. City Council either approves or denies the request.

III F I

## Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Governing Principles: #6 Reinforce the place-specific.

The site is primarily in the "Traditional Neighborhood" future land use, but it is also directly adjacent to the "Preservation" future land use.

## Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1. This application has been under staff review for several months. The applicant did waive the 15.99 statute. On January 20, 2011, the site received a "De minimis exemption" to disturb 1,000 square feet of type 6 wetland to construct a road access to the project site.
2. No comments were received from residents, other city departments, other utilities, or governmental agencies. The City's telecommunications consultant provided some guidance on reviewing this application.
3. Ordinance Review, Special Use Permit, Personal Wireless Communication Tower  
Sec 50-32.1 "All applicants for special use permits shall submit to the City Clerk the following information....(f) other information as required in this Article or deemed necessary by the Planning Commission Secretary".  
Sec 50-35 (ff) 5 "The construction of new towers shall, where possible, be avoided when there are existing high buildings or other structures in the area that can reasonably be used to house the telecommunications facilities".  
Sec 50-35 (ff) 6 "Whenever possible, new towers shall be built in zones for manufacturing or commercial uses as opposed to zones for residential use".  
Sec 50-35 (ff) 7 "New towers shall, where possible, be constructed to accommodate multiple telecommunications users and thus minimize the proliferation of the towers, if such multiple use capacity can be attained using reasonable height limitations". The applicant is proposing the current site and size in order to send/receive signals from other sites, which necessitate the height of 345 feet. Please note that the drawings (sheet A-1) show where future antennas for Cellcom or other carriers could possibly be located in the event that the applicant wishes to modify their facility with a future Special Use Permit.  
Sec 50-35 (ff) 8 "New towers shall, where reasonably possible, be designed to blend into the proposed site so as to minimize its visual impact on the surrounding area". This facility is being constructed below the FFA 350 feet lighting requirements, and the applicant will not paint the tower. The applicant has pointed out that there are several other facilities in the area (three guyed towers at 470, 645, and 700 feet).  
Sec 50-35 (ff) 9 "Telecommunications facilities and equipment used in conjunction with the tower shall not create unacceptable noise levels for the surrounding area".  
Sec 50-35 (ff) 10 "New towers shall comply with all applicable laws, including but not limited to, the state building code and federal communications and aeronautics statutes, rules and regulations".

## Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Recommend to the City Council that the Special Use Permit be approved subject to the following:

1. That the project be constructed and maintained according to the documents titled "Tower Hill BTAC119-02-08 Construction Drawings 345 Self Support October 2010" prepared by Edge Consulting Engineers, received October 25, 2010. Any future co-location or modification of the facility will require compliance with all current applicable rules.
2. That the applicant secure all permits required by Federal, State, County or City laws and regulations (including, but not limited to, building permits).
3. Applicant submit a copy of the structural analysis indicating capacity for the existing and future antennas, including a geotechnical report and calculations for the foundation capacity.
4. The owner signs an "Agreement to Petition for Street Improvement" to allow the City to assess in the event of future public improvements.

III F 2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)







**PHOTO SIMULATION NOTES:**

-THESE PHOTO SIMULATIONS ARE AN INTERPRETATION OF THE GENERAL APPEARANCE OF THE PROPOSED INSTALLATION. EACH PHOTO SIMULATION IS BASED ON THE SCALING CRITERIA OR ASSUMPTIONS IDENTIFIED

-ACTUAL PHOTOGRAPH OF AN EXISTING TOWER OF SIMILAR HEIGHT AT A SIMILAR DISTANCE HAS BEEN INCLUDED FOR COMPARISON.

-THE FINAL TOWER DESIGN AND DIMENSIONS WERE NOT AVAILABLE AT THE TIME THE PHOTO SIMULATION WAS PREPARED. THEREFORE A TYPICAL TOWER OF SIMILAR SIZE WAS UTILIZED FOR SIMULATION PURPOSES

-AN EXISTING TOWER IN THE PHOTOGRAPH WAS USED FOR SCALING AND IS ASSUMED TO BE APPROXIMATELY 470' IN HEIGHT

-THE HORIZON LINE AT THE PROPOSED TOWER BASE IS NOT VISIBLE; A HORIZON LINE HAS BEEN ESTIMATED AT THE TOWER BASE FOR THE PHOTO SIMULATIONS

-ARTISTIC INTERPRETATIONS UTILIZED TO ESTIMATE THE APPROXIMATE TOWER SIZE AND APPEARANCE

-PHOTO SIMULATIONS GENERATED USING A SIMILAR TOWER OF SIMILAR HEIGHT AT A SIMILAR DISTANCE; ARTISTIC INTERPRETATIONS UTILIZED TO ESTIMATE THE APPROXIMATE TOWER SIZE AND APPEARANCE

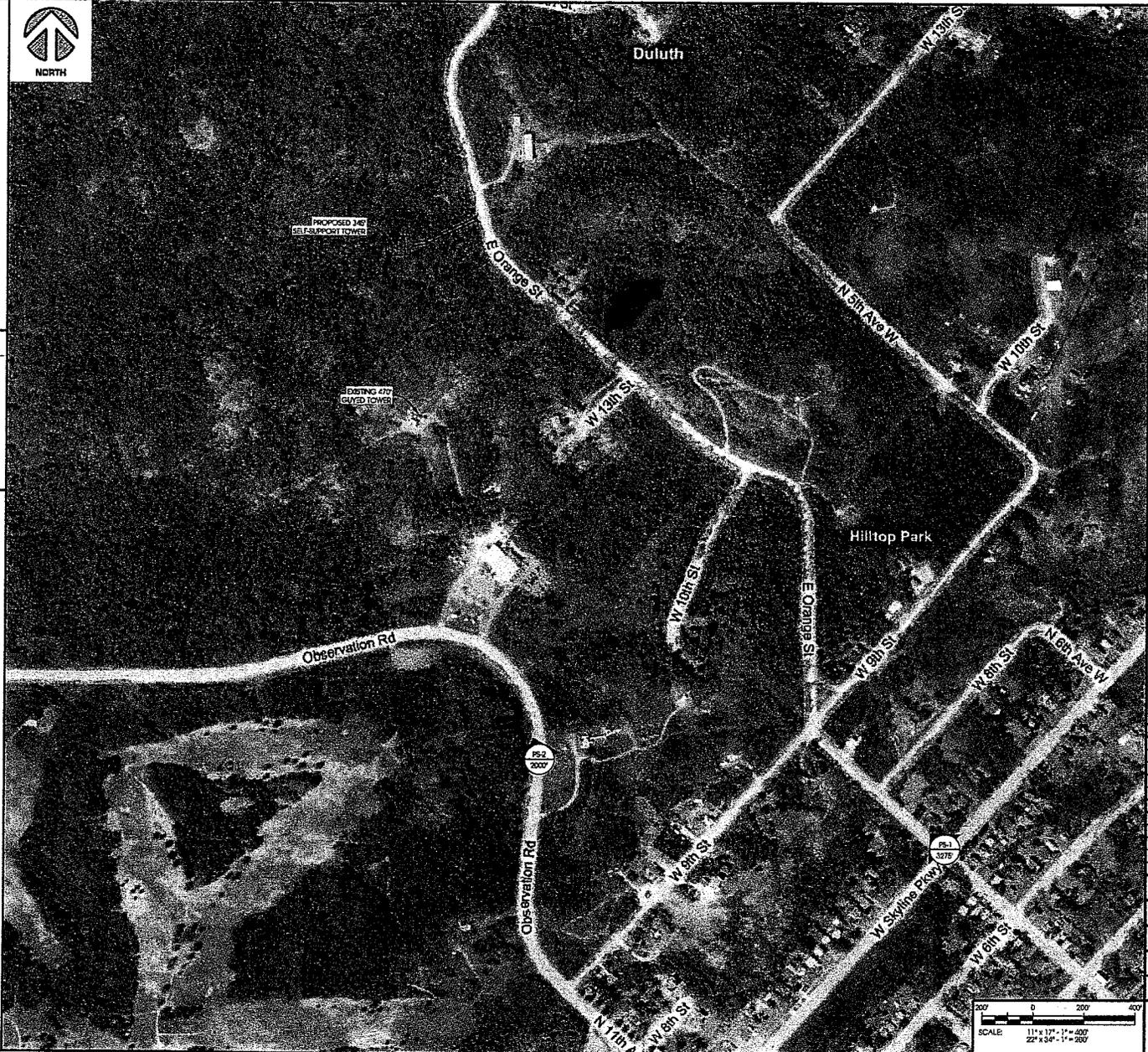
**PHOTO LOCATION DESCRIPTION:**

**PHOTO SIM 1**

- TAKEN FROM W. SKYLINE PARKWAY AND 8TH STREET  
 APPROXIMATE ELEVATION OF PHOTOGRAPH LOCATION  
 - GROUND ELEVATION: 1077', TOWER GROUND ELEVATION: 1256'  
 - DISTANCE TO TOWER: 3275'

**PHOTO SIM 2**

- TAKEN FROM OBSERVATION ROAD  
 APPROXIMATE ELEVATION OF PHOTOGRAPH LOCATION  
 - GROUND ELEVATION: 1189', TOWER GROUND ELEVATION: 1256'  
 - DISTANCE TO TOWER: 2000'



**Edge**  
 Consulting Engineers, Inc.  
 605 Hobart Street  
 Duluth, MN 55812  
 605.244.1500  
 605.244.1509 fax  
 www.edgeconsulting.com

**PHOTO SIMULATION  
 TOWER HILL (BTAC119-02-08)  
 DULUTH, MN**

SHEET TITLE	TITLE DATE
	PHOTO SIMULATION - 06/21/12
REVISIONS	
DRAWN BY:	JAM
CHECKED BY:	BDC/KCE
PLLOT DATE:	04/15/13
PROJECT NUMBER:	2379
FILE NAME:	AS-1.dwg
SHEET NUMBER:	<b>AS-1</b>

III F 6

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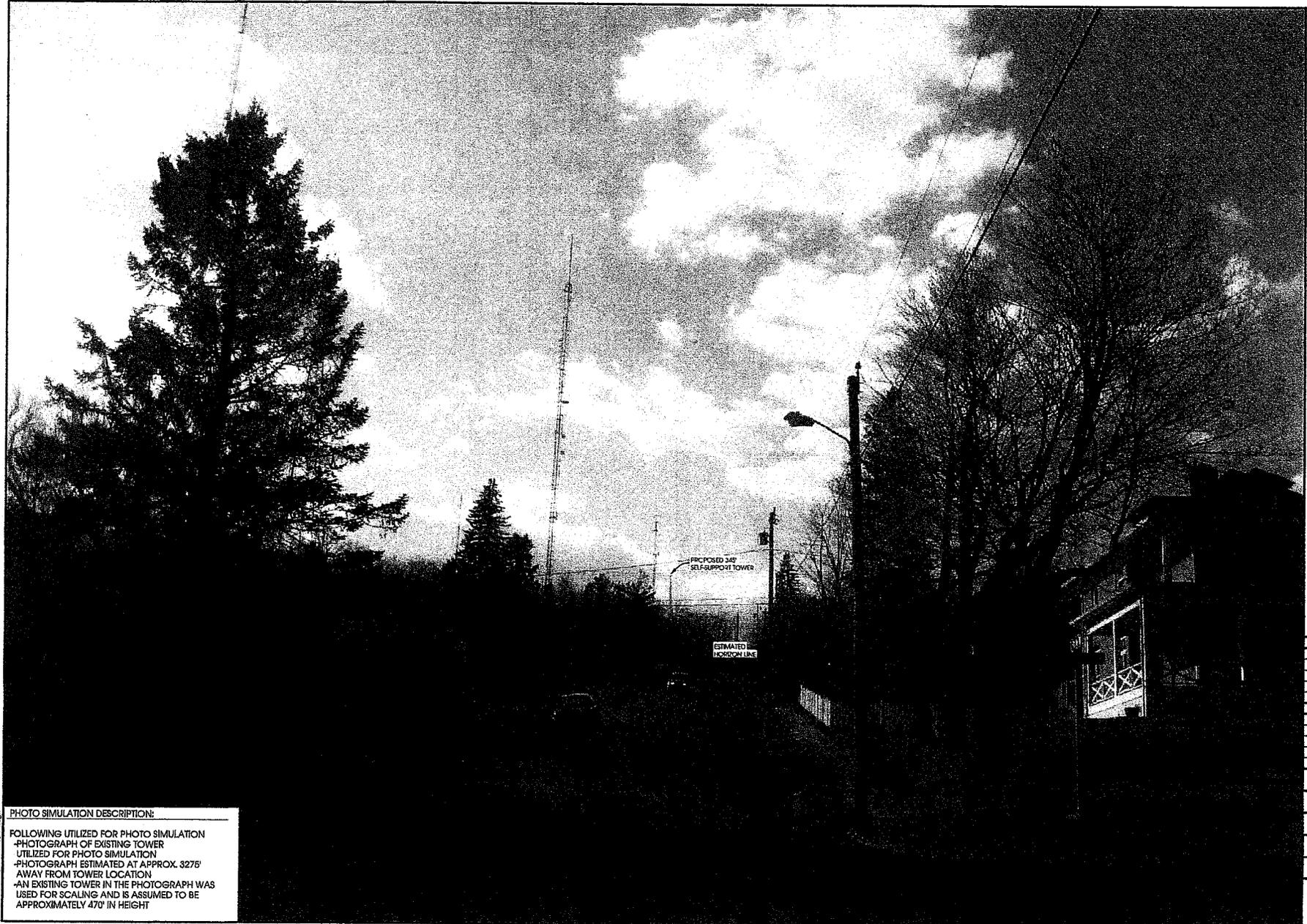


PHOTO SIMULATION DESCRIPTION:

- FOLLOWING UTILIZED FOR PHOTO SIMULATION
- PHOTOGRAPH OF EXISTING TOWER
- UTILIZED FOR PHOTO SIMULATION
- PHOTOGRAPH ESTIMATED AT APPROX. 3275' AWAY FROM TOWER LOCATION
- AN EXISTING TOWER IN THE PHOTOGRAPH WAS USED FOR SCALING AND IS ASSUMED TO BE APPROXIMATELY 470' IN HEIGHT

**Edge**  
 Consulting Engineers, Inc.  
 404 Water Street  
 Duluth, MN 55812  
 218.825.1111  
 www.edgeconsulting.com

**PHOTO SIMULATION**  
**TOWER HILL (BTAC119-02-08)**  
**DULUTH, MN**

SHEET TITLE	DATE DATE
	PHOTO SIMULATION - 02/21/10
REVISIONS	
DRAWN BY	
CHECKED BY	
DATE	
PLOT DATE	6/1/2010
PROJECT NUMBER	
FILE NAME	
PLANT	
SHEET NUMBER	
<b>PS-1</b>	