WICHITA – SEDGWICK COUNTY

W-SC

METROPOLITAN AREA PLANNING DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

FILE COPY

July 12, 1999

Carriage Park Center Associates, L.P.
%Transamerican Mangement Co.
%Tony Utter
Two Brittany Place
1938 N. Woodlawn
Ste 450
Wichita, KS 67208

RE: BZA 16-99 – Variance to reduce the required height compatiblity setback on property generally located north of Central and east of Carriage Parkway.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on June 22, 1999, this resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Dale Miller

Dale Miller
Board of Zoning Appeals

DM/rs

BZA RESOLUTION NO. 16-99

WHEREAS, Carriage Park Center Associates (owner) and Cellular One (applicant), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to reduce the required height compatibility setback on property zoned "GC" General Commercial and legally described as follows:

> That part of Lot 3, Block 2, Central Avenue Plaza Addition, an Addition to Wichita, Kansas, Sedgwick County, Kansas described as commencing at the Southwest corner of said Lot 3; thence East along the South line of said Lot 3, 125 feet on a bearing of S 89 degrees 53'54"E; thence North at a right angle to said South line, 68.37 feet, said point being the Southeast corner of existing building; thence Northwesterly along said building, 3.47 feet on a bearing of N 85 degrees 32'33"W for a point of beginning; thence continuing Northwesterly along said building, 68 feet on a bearing of N 85 degrees 32'33"W; thence Southwesterly at a right angle to said building, 25 feet; thence Southeasterly parallel to said building, 68 feet; thence Northeasterly, 25 feet to beginning. Generally located north of Central and east of Carriage Parkway.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of June 22, 1999, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant. It is the opinion of staff that this property is unique inasmuch as this site is one of the few in the Central and Oliver area that is sufficently buffered by non-residential uses and vegation, and set back sufficiently from dwelling units and major streets, to be suitable as a tower location.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to reduce the required height compatibility setback on property zoned "GC" General Commercial and legally described as follows:

That part of Lot 3, Block 2, Central Avenue Plaza Addition, an Addition to Wichita, Kansas, Sedgwick County, Kansas described as commencing at the Southwest corner of said Lot 3; thence East along the South line of said Lot 3, 125 feet on a bearing of S 89 degrees 53'54"E; thence North at a right angle to said South line, 68.37 feet, said point being the Southeast corner of existing building; thence Northwesterly along said building, 3.47 feet on a bearing of N 85 degrees 32'33"W for a point of beginning; thence continuing Northwesterly along said building, 68 feet on a bearing of N 85 degrees 32'33"W; thence Southwesterly at a right angle to said building, 25 feet; thence Southeasterly parallel to said building, 68 feet; thence Northeasterly, 25 feet to beginning. Generally located north of Central and east of Carriage Parkway.

subject to the following conditions:

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The 120 foot tall tower shall be installed in substantial conformance with the site plan submitted with this variance request and consistent with other applicable provisions contained in the Community Unit Plan or its amendments. The applicant shall request an additional variance to increase the height of the tower beyond 120 feet.

2. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any or the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 22ND day of June, 1999.

C. Bickley Foster

C. Bickley Foster, President

ATTEST:

Dale Miller

Dale Miller, Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
June 22, 1999

SECRETARY'S REPORT

CASE NUMBER:	BZA 16-99
OWNER/APPLICANT:	Carriage Park Center Associates (owner) and Cellular One (applicant)
AGENT:	Baughman Company
REQUEST:	Variance to reduce the required height compatibility setback
CURRENT ZONING:	MAPC approved for "GC" General Commercial
SITE SIZE:	1,700 square feet
LOCATION:	North of Central and east of Carriage Parkway



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant is required to file a variance request with the Board of Zoning Appeals, to reduce the height compatibility requirement for a 120 foot tower. The application area is located north of Central and east of Carriage Parkway in the Carriage Park Plaza shopping center. The code requires the applicant to provide a setback distance of 305 feet from the adjacent "SF-6"zoning district located to the east, which is a drainage ditch. They are providing 120 feet of setback. There are residential units located east of the drainage ditch, approximately 350 feet from the proposed tower location.

The applicant proposes to amend Parcel 3 of the Central Avenue Plaza CUP (DP-126) to allow, as a permitted use, a 120 foot communication tower and to rezone 1,700 square feet from "LC" Limited Commercial to "GC" General Commercial. Parcel 3 of this CUP is currently limited to general office and retail uses. Carriage Park Plaza has developed along a north-south axis, with two major sets of buildings facing each other, across Carriage Parkway. The tower would be located on the south end of the east row of buildings. This façade has one opening, a door, and 18 parking spaces.

The applicant has submitted a site plan, which shows two 12 by 20 foot buildings, each of which could be used by two separate carriers, and another 8 foot by 12 foot pad site for a third potential carrier. The 120-foot "monopole type" tower would be located in the middle of the site. The applicant's agent has stated there will be an eight-foot tall chain link fence constructed, which would enclose the area between the buildings. The communication tower will be constructed over eight existing parking spaces. Based on the original construction plans there will be sufficient parking still provided on Parcel 3 (26 extra spaces), even with the loss of these eight spaces. Since parking standards are not specifically listed for communication towers, the Superintendent of Central Inspection will need to interpret which parking standard shall apply.

The Unified Zoning Code permits communication towers in the "GC" General Commercial and more intensive districts "by-right." However, the Zoning Code requires the applicant to provide the following information:

(1) there is no available space on existing or approved towers or other structures which can be utilized to meet the applicant's communication needs;

(2) there is no other physically and/or fiscally feasible opportunity to rebuild an existing tower or other such structure on which the communication equipment may be located, or to modify an approved tower or other structure. A rebuilding opportunity will be considered fiscally feasible if the cost of rebuilding an existing tower is no more than the cost of building a new tower on a new site;

(3) the owner of the tower shall agree in writing at the time of the issuance of a building permit the following;

(a) that the tower is designed to accommodate at least three communication companies and that reasonable accommodations will be made to lease space on the tower to other communication companies so as to avoid having a proliferation of towers which are not fully utilized, and

(b) the owner of the land and the tower will make available in the future the opportunity for another party to pay the cost to rebuild the tower to support additional communication equipment where physically and fiscally feasible.

Planning staff retained the services of a third party consultant to review requests for towers. Their report is attached. The consultant's conclusion was this site is reasonably necessary for Cellular One service. The MAPC approved their request, subject to conditions. Those conditions are attached, including the requirement to install a foundation and tower base with the ability to support a 200 foot tower.

There are commercial and office developments located to the south, north and west on property zoned "LC." East of the application area is a drainage dedication, Ash Briar Residential Development and the Plaza Office Park. The nearest residential property in Ashbriar is 350 feet from the proposed tower.

ADJACENT ZONING AND LAND USE:

NORTH:	"LC"	Retail shopping center
SOUTH:	"LC"	Office Building
EAST:	"SF-6" and "GO"	Condominiums and Plaza Office Park
WEST:	"LC"	Retail shopping center

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as this site is one of the few in the Central and Oliver area that is sufficently buffered by non-residential uses and vegation, and set back sufficiently from dwelling units and major streets, to be suitable as a tower location.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as it is approximately 350 feet to the nearest residential uses. There is a drainage ditch located in between the application area and the residential uses. The remaining three sides are non-residential uses and part of the Carriage Parkway Plaza shopping center.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as this wireless carrier, as well as other carriers, have been looking for sites on which to locate antennas to improve service in this general location. To date they have not been successful because of lack of suitable locations and neighborhood opposition.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as effective wireless phone service is viewed as a needed public service.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch the site is sufficiently buffered by commercial buildings on the north and south, and residenital uses are far enough away to meet the intent of the setback requirement.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The site shall be installed in substantial conformance with the site plan submitted with this variance request and consistent with other applciable provisions contained in the Community Unit Plan or its amendments.

2. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any or the foregoing conditions.

MAPC Conditions of Approval

1. The site shall be developed in general conformance with the approved site plan, with an eight-foot tall wood fence constructed around the perimeter of the site. The 68 foot by 25 foot area shall only be used for a communication tower and related equipment.

2. All requirements of Section III.D.6.g of the Unified Zoning Code shall be met.

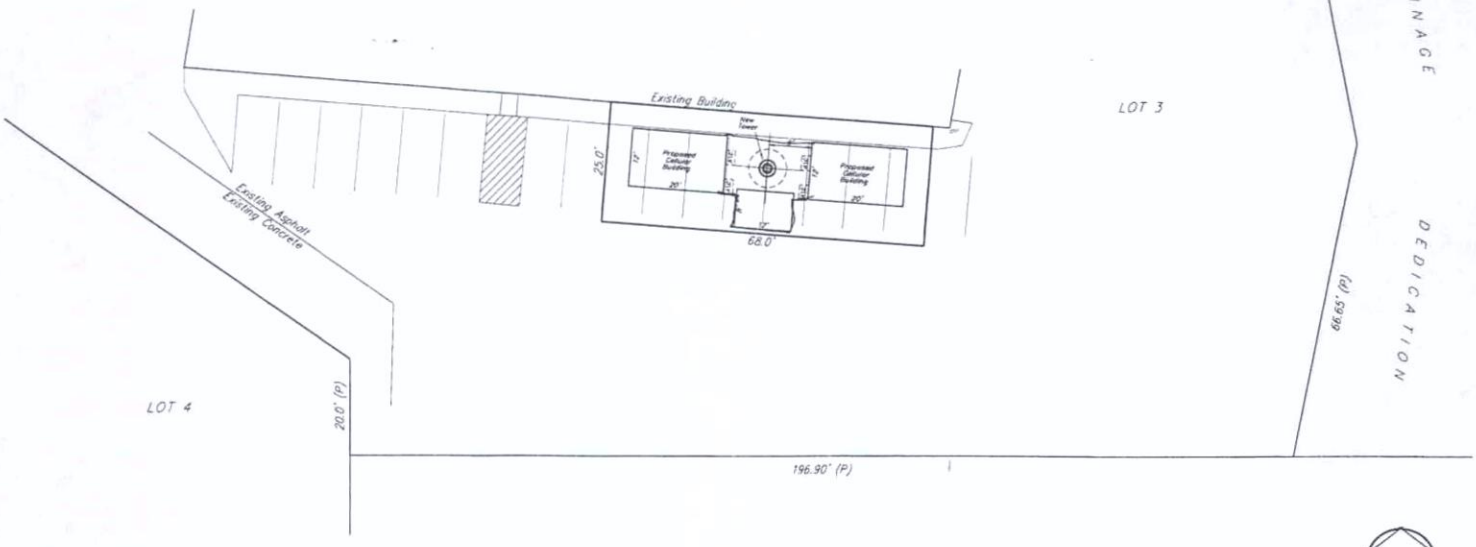
3. The applicant shall file an administrative adjustment to increase the permitted commercial square footage permitted on Parcel 3 to 79,376.

4. The applicant shall file a variance request to reduce the compatibility height requirement from 305 to 120 feet for a 120 foot tall communication tower.

5. The tower shall be a monopole type tower and not exceed 120 feet in height with the footings constructed in order to provide for the possible future expansion of the tower to 200 feet.

Cellular One

Carriage Park Center Tower Site



LEGAL DESCRIPTION FOR C.U.P. AMENDMENT

Lot 3, Block 2, Central Avenue Plaza Addition, Wichita, Sedgwick County, Kansas (containing 5.98 acres, more or less)

LEGAL DESCRIPTION FOR ZONE CHANGE

That part of Lot 3, Block 2, Central Avenue Plaza Addition, Wichita, Sedgwick County, Kansas described as commencing at the SW corner of said Lot 3; thence east along the south line of said Lot 3, 125.00 feet on a bearing of S89°53'54"E; thence north at a right angle to said south line, 68.37 feet, said point being the southeast corner of existing building; thence northwesterly along said building, 3.47 feet on a bearing of N85°32'33"W for a point of beginning; thence continuing northwesterly along said building, 68.00 feet on a bearing of N85°32'33"W; thence southwesterly at a right angle to said building, 25.00 feet; thence southeasterly parallel to said building, 68.00 feet; thence northeasterly, 25.00 feet to beginning (containing 1,700 square feet, or 0.04 acres, more or less)

Cellular One Site #215

BAUGHMAN COMPANY P.A.
ENGINEERING, SURVEYING, & PLANNING