CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

July 19, 2000

REVISED RESOLUTION DUE TO LEGAL DESCRIPTION

Charles and Mary Starks
800 Lakewood Drive
Wichita, KS 67230

FILE COPY

RE: **CON2000-00005 – Conditional Use to permit a commercial communication tower. Generally located approximately 870 feet south of Kellogg and 579 feet west of 159th Street East.**

Dear Ladies and Gentlemen:

At its regular meeting on April 13, 2000, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the Commission was to APPROVE, the request subject to following conditions:

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

B. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.

C. The applicant shall receive the necessary approvals from the County Engineer for construction in or removal of the site from the floodway fringe.

D. Direct access to the site from Kellogg shall be temporary access, and alternative access to the site reasonably acceptable to the Director of Planning shall be provided by the applicant at such time that the City, County, or State determine that full access control along Kellogg is warranted.

E. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.

F. There shall be no lighting of or on the monopole.

G. The monopole shall not exceed 150 feet in height.

H. Any violation of the conditions of approval shall render the conditional use permit null and void.

We are requesting a letter from the applicant to withdrawing Case Number CU-566.

The action of the Planning Commission is FINAL for case number CON2000-00005, and was not accompanied by valid appeals or protest petitions. Enclosed is a ***revised signed copy*** of the above-referenced Conditional Use Resolution CON2000-00005. The revised copy contains a corrected legal description of the area approved for the commercial communication tower.

If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,

Scott Knebel
Senior Planner

SK/rs

cc: Divine Towers International, 2546 S. Leonie Street, Wichita, KS 67217
Ferris Consulting, c/o Greg Ferris, P. O. Box 573, Wichita, KS 67201
Robert W. Kaplan, 430 N. Market, Wichita, KS 67202
Billy L. Ledgerwood & Janelle I. Ledgerwood, 12 Flanigan Drive, Augusta, Kansas 67010
Minneha Township, c/o Bob Shrum, 39 Via Roma, Wichita, KS 67230
Ben Sciortino, District #V, County Commissioner, County Room 320

CONDITIONAL USE RESOLUTION NO. CON2000-00005
REVISED RESOLUTION DUE TO LEGAL DESCRIPTION

WHEREAS, Charles and Mary Starks (Owner/Applicant); Divine Towers International and Ferris Consulting c/o Greg Ferris (Agents) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to permit a commercial communication tower described as:

LEAST TRACT LEGAL DESCRIPTION
A tract of land generally located in the Northeast 1/4 Section 25, Township 27 South, Range 2 East, of the 6th Principal Meridian, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northeast corner of the Northeast 1/4 of Section 25, Township 27 South, Range 2 East, West on the North line of said Northeast 1/4, a distance of 570 feet; thence South, parallel with the East line of said Northeast 1/4, a distance of 870 feet, to the Point of Beginning. Thence South, parallel with the East line of said Northeast 1/4, a distance of 60 feet; thence West parallel with the North line of said Northeast 1/4 a distance of 60 feet; thence North parallel to the East line of said Northeast 1/4, a distance of 60 feet; thence East, parallel with the North line of said Northeast 1/4, a distance of 60 feet, to the Point of Beginning. Said tract contains 3,600 square feet more or less. Generally located approximately 870 feet south of Kellogg and 579 feet west of 159th Street East.

WHEREAS, proper notice as required by the Unified Zoning Code and by the policy of the Metropolitan Area Planning Commission (hereinafter referred to as MAPC) has been given; and

WHEREAS, the MAPC did, at the meeting of April 13, 2000, consider said application; and

WHEREAS, the MAPC has authority to permit a Conditional Use, subject to any special conditions deemed appropriate in order to assure full compliance with the criteria of the Unified Zoning Code.

NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a Conditional Use for a commercial communication tower described as:

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CON2000-00005

SCOTT KNEBEL-PLEASE REVIEW
AND PLACE IN CASE FILE

CW00-537 (First Published in The Daily Reporter, March 22, 2000)

OFFICIAL NOTICE

TO WHOM IT MAY CONCERN AND TO ALL PERSONS INTERESTED:

NOTICE IS HEREBY GIVEN that on April 13, 2000, the Wichita-Sedgwick County Metropolitan Area Planning Commission, in the Planning Department Conference Room, Tenth Floor, City Hall, 455 North Main Street, Wichita, Kansas, beginning at 1:30 p.m., will consider the following applications:

CON2000-00005 - Conditional Use to allow a 150' PCS wireless monopole capable of accommodating up to three providers with multiple panel antennas that will meet FAA/FCC requirements on property zoned "SF-20" Single Family Residential. A complete legal description is available for public inspection at the Metropolitan Area Planning Department, 10th Floor, City Hall, 455 North Main Street, Wichita, Kansas. Generally located south of Kellogg and west of 159th St. E.).

As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the MAPC, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the MAPC as by law provided.

WITNESS MY HAND this 22nd day of March, 2000.

Marvin S. Krout, Secretary
Wichita-Sedgwick County
Metropolitan Area Planning Commission
(M22)

AGENDA ITEM NO. 9

STAFF REPORT

MAPC, April 13, 2000

CASE NUMBER: CON2000-00005

APPLICANT/AGENT: Charles and Mary Starks (Owner/Applicant); Divine Towers International and Ferris Consulting c/o Greg Ferris (Agents)

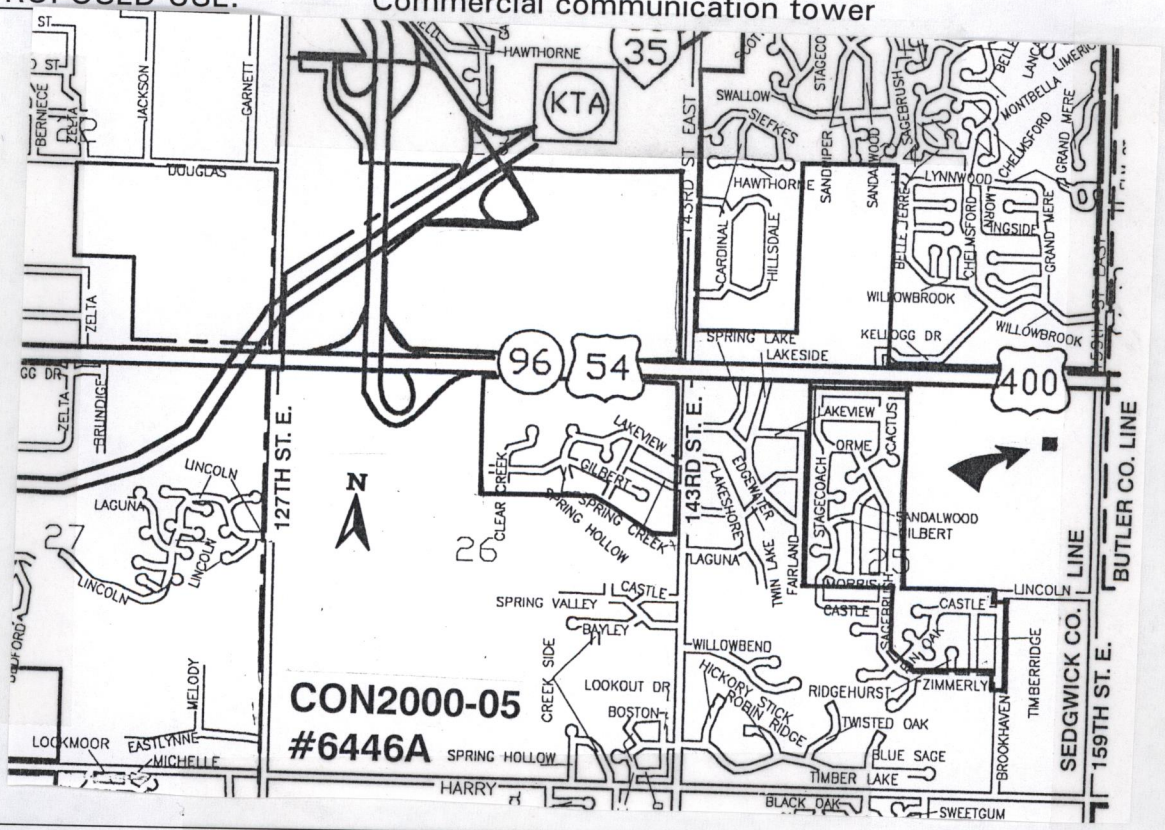
REQUEST: Conditional Use to permit a commercial communication tower

CURRENT ZONING: SF-20, Single-family Residential

SITE SIZE: 3,600 square feet

LOCATION: Approximately 870 feet south of Kellogg and 579 feet west of 159th Street East

PROPOSED USE: Commercial communication tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 150-foot commercial communications monopole for use by AT&T Wireless Services. The monopole will be sited on a 3,600 square foot area located approximately 700 feet south of Kellogg and 579 feet west of 159th Street East. Access to the site is to be from Kellogg. The applicant's site plan (attached) depicts a 60-foot by 60-foot compound enclosed by a chain link fence. Within the enclosure would be the monopole and an equipment shelter. The monopole would be constructed so as to be able to accommodate up to three carriers. The site is apparently within the floodway fringe of Fourmile Creek.

The location proposed for the commercial communication tower in this request is the third location proposed by the applicant in this particular quarter-section. The first proposed location was along Lincoln west of 159th Street East. The application for the first proposed location was withdrawn by the applicant due to planning staff's recommendation for denial and neighborhood opposition. The second proposed location was along 159th Street East south of Kellogg. The MAPC approved (12-0) a Conditional Use for the second proposed location on February 24, 2000; however, protest petitions from 38% of the neighboring property owners were received causing the applicant to develop a third proposed location. One of the four protestors and three additional property owners in the notification area have submitted a "Waiver of Notice and Consent to Relocation of Cell Tower Approved February 24, 2000 by the MAPC" (attached) in support of the third proposed location.

Most of the property surrounding the site is undeveloped. The nearest developed properties are commercial properties south of Kellogg on the east side of 159th Street East in Butler County. Undeveloped property platted for single family residential use is also located on the east side of 159th Street East in Butler County. The nearest property developed with residential uses is one single family residence located approximately 1,500 feet to the southwest on the east side of 159th Street East in Butler County. On the west side of 159th Street East in Sedgwick County, property to the north, south, and west of the site is zoned "SF-20" Single Family Residential and is used for agriculture.

The applicant indicates that this site is necessary for AT&T Wireless Services to provide continuous coverage east of the city along Kellogg and I-35. The closest existing towers are between 1.9 and 2.5 miles east of the site, and AT&T Wireless Services is co-locating on one those towers. Since this is a largely undeveloped area, there are not any buildings of sufficient height which might provide alternative support structures on which to locate antennas. The applicant states that the 150-foot height is needed to achieve coverage targets.

There currently is a commercial communication tower study ongoing by the city and county. The study is focusing on possible alternatives to the construction of new tower structures. Due to the undeveloped nature of the property in the vicinity of this

site, none of the study's alternatives to new towers is likely to be applicable in this case. The study also proposes design guidelines for new commercial communication towers, and staff's recommended conditions of approval regarding landscaping, glare reduction, and lighting are intended to bring the proposed new tower into general compliance with the proposed design guidelines.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-20"	Agriculture
SOUTH:	"SF-20"	Agriculture
EAST:	Butler Co.	Outdoor vehicle and equipment sales; warehousing; undeveloped single family residential
WEST:	"SF-20"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to Kellogg, a four-lane expressway with 1997 traffic volumes of approximately 24,000 vehicles per day. The proposed 2030 Transportation Plan estimates that traffic volumes on Kellogg will increase to 34,000 vehicles per day. The "field entrance" proposed for accessing the site likely will be a temporary access solution, and as additional development occurs in the quarter-section, future access to the site likely will be restricted along Kellogg through the Kellogg Access Management Corridor Master Plan.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. However, the proposed update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. Given the updated indications of appropriate future development, this site generally conforms to the updated Land Use Guide of the Comprehensive Plan. The Plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. Section III.D.6.g of the zoning code lists five conditions that commercial communications towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrate that an effort has been made to co-locate on an existing tower, and willingness to provide space for other communication towers.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

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

B. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
C. The applicant shall receive the necessary approvals from the County Engineer for construction in or removal of the site from the floodway fringe.
D. A landscape plan shall be submitted for approval by the Director of Planning which provides densely planted evergreen trees around the chain link enclosure to lessen the negative visual impact of the site.
E. Access to the site from Kellogg shall be temporary access, and alternative access to the site reasonably acceptable to the Director of Planning shall be provided by the applicant at such time that the City, County, or State determine that full access control along Kellogg is warranted.
F. The support structure shall be a "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
G. There shall be no lighting of or on the monopole.
H. The monopole shall not exceed 150 feet in height.
I. Any violation of the conditions of approval shall render the conditional use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the land adjacent to the site is currently used for agriculture and is zoned "SF-20" Single Family Residential. The nearest developed properties are commercial properties along Kellogg east of 159th Street East in Butler County. The character of the land is agricultural, with urban development approaching from the north, east, and west.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "SF-20" Single-family Residential. Commercial communication towers are uses that may be permitted, subject to conditions, in this district. The site could be developed with single family residences if a commercial communications tower is not constructed.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest developed properties are located along Kellogg on the east side of 159th Street East in Butler County. No evidence has been presented to date that the construction of a monopole will detrimentally affect nearby property to a greater degree than will the development of the property with commercial uses, which is indicated by the Comprehensive Plan as being the appropriate future development for the site. The only impact to be noted at the time this report was prepared is the visual impact of a monopole.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Low Density Residential" development. However, the proposed update to the Comprehensive Plan identifies this area as appropriate for "Commercial" development. Given the updated indications of appropriate future development, this site generally conforms to the updated Land Use Guide of the Comprehensive Plan. The Plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost.

5. Impact of the proposed development on community facilities: The "field entrance" proposed for accessing the site likely will be a temporary access solution, and as additional development occurs in the quarter-section, future access to the site likely will be restricted along Kellogg through the Kellogg Access Management Corridor Master Plan.

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F. There shall be no lighting of or on the monopole.

G. The monopole shall not exceed 150 feet in height.

H. Any violation of the conditions of approval shall render the conditional use permit null and void.

Adopted this 13th day of April, 2000. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION

Frank Garofalo

Frank Garofalo, Chair

ATTEST:

Marvin S. Krout

Marvin S. Krout, Secretary

AGENDA ITEM NO. 9

STAFF REPORT

MAPC, April 13, 2000

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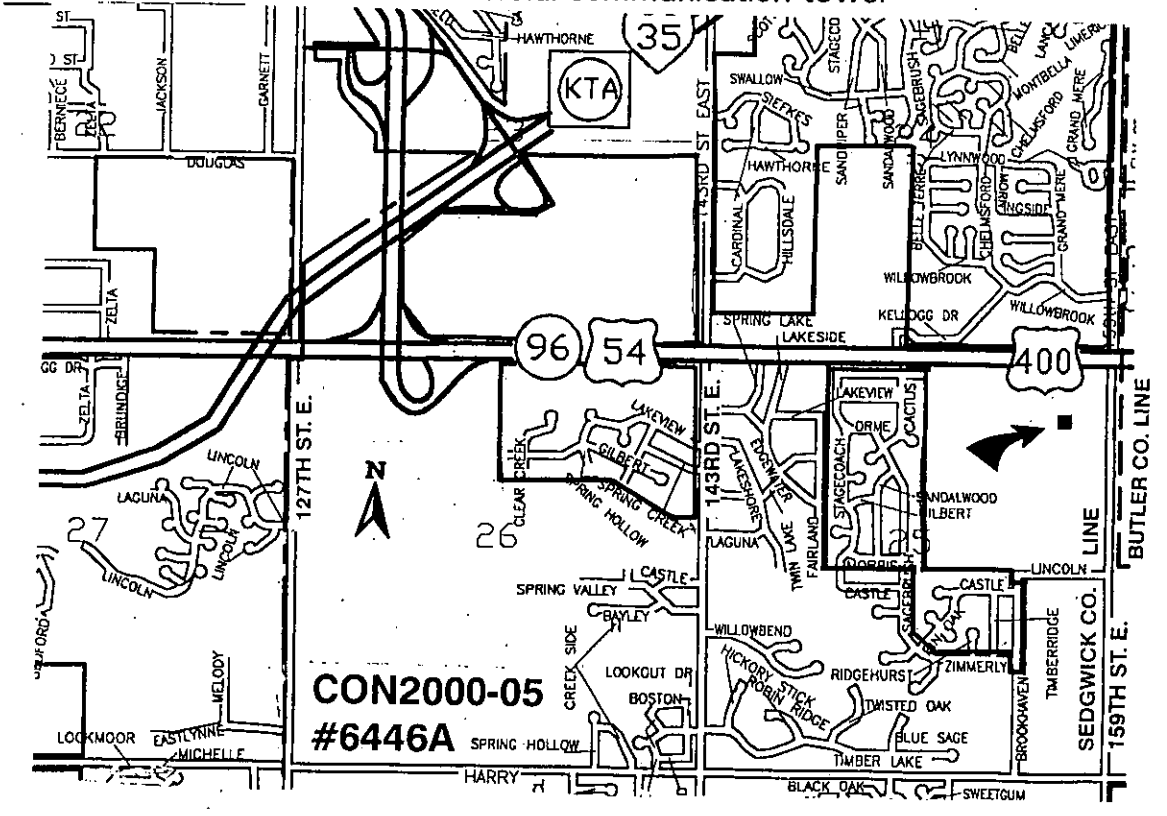
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H. The monopole shall not exceed 150 feet in height.
I. Any violation of the conditions of approval shall render the conditional use permit null and void.

This recommendation is based on the following findings:

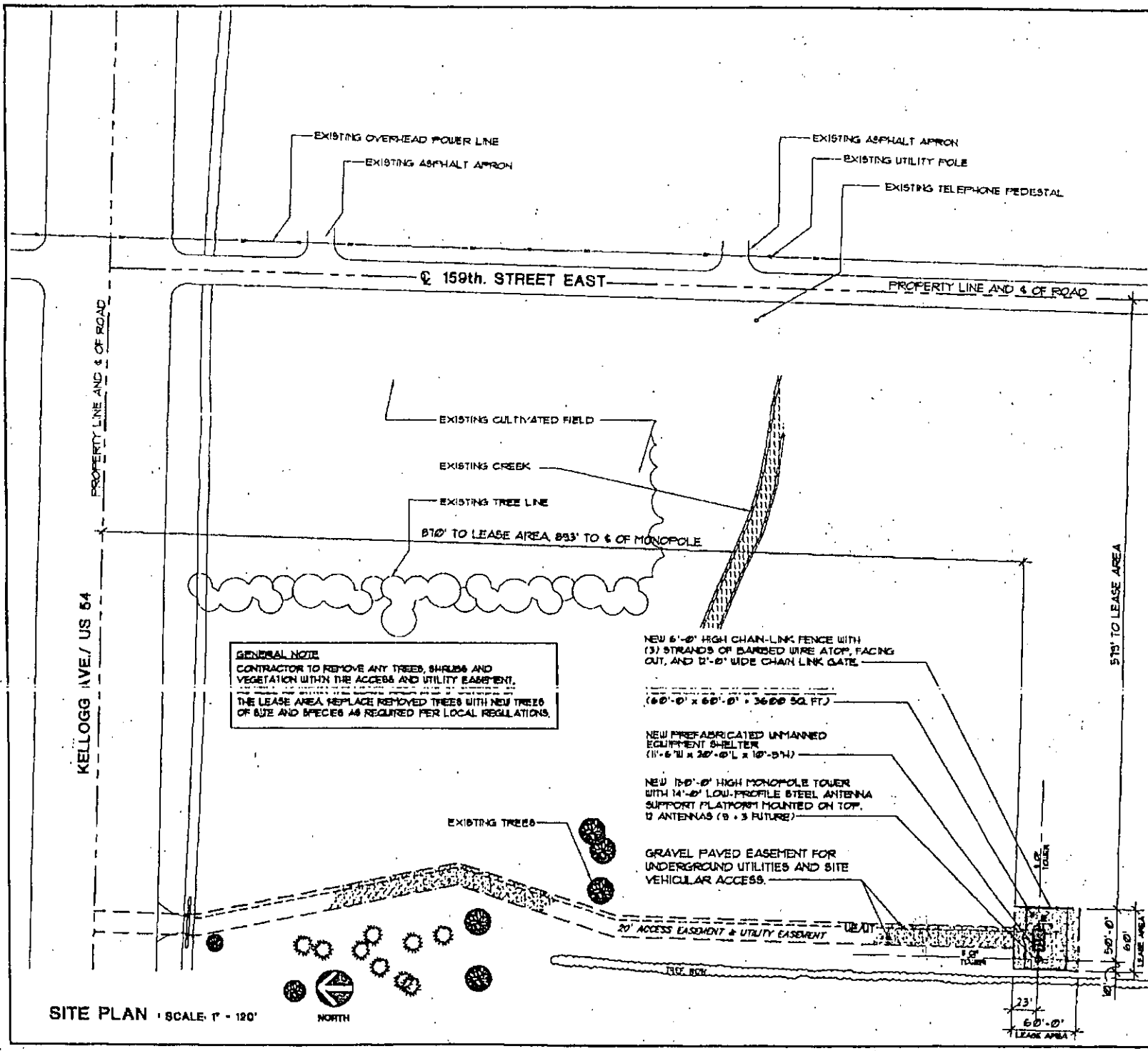
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AT&T Wireless Services

7277 164th AVENUE N.E.
REDMOND WA. 98052
(425) 580-6879
Fax (425) 580-6575

2546 S. LEONHARD STREET
WICHITA, KS 67217
(316) 945-4563
Fax (316) 945-4593

SITE WI-033-03
STARKS 2b

S.E. CORNER OF KELLOGG AVE. AND 159th STREET EAST
WICHITA
SEDGWICK COUNTY
KANSAS 67230

PAL TELECOM GROUP

PROJECT MANAGEMENT
ARCHITECTURE
ENGINEERING
CONSTRUCTION

PAL TELECOM GROUP, INC.

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PROJECT MANAGER

PREPARED BY: AJA

APPROVED BY: NTP

3-31-00	LEASE EXHIBIT

STREET NAME
LEASE EXHIBIT

SHEET NUMBER
LE-1

PAL PROJECT NUMBER

03/24/00 14:34 312 693 3241 POPOWICH ASSOC. 002