CITY OF WICHITA

**Wichita-Sedgwick County Metropolitan Area Planning Department**

November 9, 2000

Arthur and Catherine R. Leger
8301 E. 47th Street South
Wichita, KS 67037

**RE: CON2000-00030 – Sedgwick County Conditional Use for a 190 foot high commercial communication tower for Cricket Communications in "RR" Rural Residential zoning. Generally located ½ mile south of 47th Street South on the east side of Rock Road, Derby, KS.**

Dear Mr. and Mrs. Leger:

At its regular meeting on August 31, 2000, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE subject to the following conditions:

A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 75 feet from the south property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.

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

C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan that complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.

D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.

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. The monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.

G. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.

H. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 150 feet.

I. The site shall be developed in compliance with all federal, state, and local rules and regulations.

J. Any violation of the conditions of approval shall render the Conditional Use null and void.

This action was not accompanied by valid appeals or protest petitions, therefore, the action of the Planning Commission is FINAL. Enclosed is a signed copy of the above-referenced Conditional Use Resolution. If you have any questions concerning this case, please contact our office at 268-4421.

Sincerely,

Scott Knebel
Senior Planner

SK/rs

cc: Ferris Consulting, %Greg Ferris, P.O. Box 573, Wichita, KS 67201
Derby Planning Commission, 611 N. Mulberry, Derby, KS 67037
Cricket Communications, Inc., %Robert C. Giguiere, 6655 S. Lewis Ave., Suite 350, Tulsa, OK 74136
Horizon Telecommunication, Inc., %Robert J. Appino, 10307 Pacific Center County, San Diego, CA 92121
22 OG/CC, 57837 Coffeyville Street, Suite 251, McConnell AFB, KS 67221-3504
Glen Wiltse, Director Sedgwick County Code Enforcement, Mail Stop County
County Commissioner District V, Ben Sciortino, Mail Stop County Room #320

**WHEREAS**, Arthur and Catherine R. Leger (Owner); Horizon Telecommunication and Cricket Communications Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent), 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 allow 190 foot high commercial communication tower on 10,000 square feet zoned "RR" Rural Residential described as:

LEASE AREA DESCRIPTION:
A proposed lease area lying in and being part of the South Half (S/2) of the Northwest Quarter (NW/4) of Section Twenty (20), Township Twenty-eight (28) South, Range Two (2) East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said NW/4; Thence N00 degrees 25'58"W, along the West line of said NW/4, a distance of 24.72 feet; Thence N89 degrees 34'02"E a distance of 523.12 feet to the point of beginning;Thence 00 degrees 25'58"W, parallel with said West line, a distance of 100.00 feet; Thence N89 degrees 34'02"E a distance of 100.00 feet; Thence S00 degrees 25'58"E, parallel with said West line, a distance of 100.00 feet; Thence S89 degrees 34'02"W a distance of 100.00 feet to the point of beginning. Containing 10,000 square feet or 0.230 acres, more or less. Generally located approximately ½ mile south of 47th Street South and approximately 500 feet east of Rock Road.

**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 August 31, 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 to allow 190 foot high commercial communication tower on 10,000 square feet zoned "RR" Rural Residential described as:

LEASE AREA DESCRIPTION:
A proposed lease area lying in and being part of the South Half (S/2) of the Northwest Quarter (NW/4) of Section Twenty (20), Township Twenty-eight (28) South, Range Two (2) East of the 6th P.M., Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said NW/4; Thence N00 degrees 25'58"W, along the West line of said NW/4, a distance of 24.72 feet; Thence N89 degrees 34'02"E a distance of 523.12 feet to the point of beginning;Thence 00 degrees 25'58"W, parallel with said West line, a distance of 100.00 feet; Thence N89 degrees 34'02"E a distance

Adopted this 31st day of August, 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, Chair MAPC

ATTEST:

Marvin S. Krout, Secretary

AGENDA ITEM NO. ____

# STAFF REPORT

Derby, August 17, 2000
MAPC, August 31, 2000

CASE NUMBER: CON2000-00030

APPLICANT/AGENT: Arthur and Catherine R. Leger (Owner); Horizon Telecommunication and Cricket Communications Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

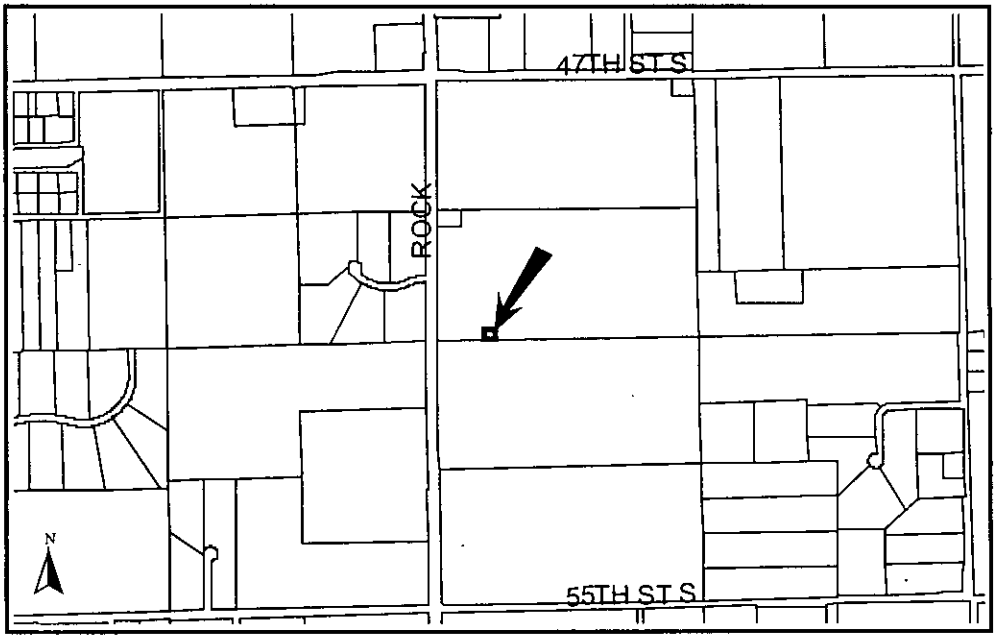
REQUEST: Conditional Use for a commercial communication tower

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 10,000 square feet

LOCATION: Approximately ½ mile south of 47th Street South and approximately 500 feet east of Rock Road

PROPOSED USE: 190 foot high commercial communication tower



**BACKGROUND**: The applicant is seeking a Conditional Use to permit the construction of a 190 foot high commercial communication tower for use by Cricket Communications, Inc. The proposed site is zoned "RR" Rural Residential. The Unified Zoning Code permits commercial communication towers in the "RR" Rural Residential district with a Conditional Use.

The proposed tower would be sited on a 10,000 square foot area located approximately ½ mile south of 47th Street South and approximately 500 feet east of Rock Road. Access to the site would be from Rock Road via a 20 foot wide access and utility easement. The applicant's site plan (attached) depicts a 100-foot by 100-foot compound. The site plan depicts an electrical transmission line running east to west approximately 75 feet south of the proposed tower. A hedge row is shown along the south property line that buffers the proposed tower from the adjoining property to the south. Since the site plan does not indicate the nature or location of all improvements to the site, planning staff recommends a condition of approval requiring final approval of a more detailed site plan by the Planning Director before the Conditional Use becomes effective.

The character of the surrounding area is rural, with the nearest residence being a farm-related single-family residence located approximately ¼ mile to the northwest. The property surrounding the site in all directions is zoned either "RR" Rural Residential or "SF-20" Single Family Residential and is used for agriculture.

Due to the site's location under the approach to McConnell Air Force Base, planning staff contacted the administration at McConnell, who indicated that the proposed site will not affect the Air Force's local operations; however, the site will affect the altitude of a circling maneuver used by smaller aircraft landing at the base during cross-country flights. Therefore, the staff at McConnell indicated that they would like to review the request further and provide additional feedback prior to the MAPC hearing. The staff at McConnell also indicated that the site should be reviewed by the Federal Aviation Administration. If required by the FAA, the tower would be constructed with a flashing red aircraft warning light. Also, the site is located within Area C of the Wichita-Sedgwick County Airport Hazard Zoning Map, which requires a permit exemption for structures (such as the proposed 190 foot high tower) that exceed 150 feet in height.

The applicant indicates that the proposed commercial communication tower is part of a planned initial build-out of a cellular phone system for Sedgwick and Butler counties by Cricket Communications, Inc (see attached "Horizon Site Plan"). The applicant's justification for the request (attached) indicates that this site is necessary for Cricket Communications, Inc. to provide cellular phone coverage for the McConnell Air Force Base area as well as the roads surrounding the base. At the request of planning staff, the applicant reviewed the alternatives of locating the proposed tower further to the north and west as well as utilizing an existing tower near Pawnee and Greenwich in

conjunction with a shorter tower located further north and west. The applicant's response (attached) indicates that the alternatives proposed by planning staff would cause dropped calls as a user traveled from Derby or Rose Hill towards Wichita.

As proposed, the 190 foot high commercial communication tower is located 75 feet north of the adjoining property to the south. Such a location does not comply with the compatibility height standard of the Unified Zoning Code which requires a 190 foot high structure to be located no closer than 515 feet from property zoned "TF-3" or more restrictive. At the time this staff report was prepared, the Wichita City Council and Sedgwick County Commission were scheduled to consider a "Wireless Communication Master Plan" and associated amendments to the Unified Zoning Code on August 22 and 23, 2000. The proposed amendments include a revision to the compatibility height standard that would require a 190 foot structure to be located no closer than 190 feet from property zoned "TF-3" or more restrictive. Therefore, the application does not conform to either the current or the proposed compatibility height standard, and either a variance (under the current standard) or a zoning adjustment (under the proposed standard) would be required to be approved before a Conditional Use for the tower located as proposed can become effective.

**CASE HISTORY:** The site is unplatted.

**ADJACENT ZONING AND LAND USE:**

| | | |
|---|---|---|
| NORTH: | "RR & SF-20" | Agriculture |
| SOUTH: | "RR" | Agriculture |
| EAST: | "RR" | Agriculture |
| WEST: | "RR & SF-20" | Agriculture |

**PUBLIC SERVICES:** No municipally supplied public services are required. The site has access to Rock Road, a four-lane arterial with 1997 traffic volumes of approximately 15,000 vehicles per day. The 2030 Transportation Plan estimates that traffic volumes on Rock Road will increase to approximately 25,000 vehicles per day.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Rural" development. 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 Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.

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

A. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit an application for a variance or a zoning adjustment, as applicable, to permit a tower setback distance of 75 feet from the north property line. The Conditional Use shall not become effective unless the variance or zoning adjustment is granted.
B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
C. Within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable, the applicant shall submit a site plan that complying with the MAPC's Site Plan Guidelines for approval by the Planning Director. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
D. A landscape plan shall be submitted for approval by the Planning Director that provides densely planted evergreen trees around the enclosure.
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. The monopole shall not exceed 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least five wireless service providers.
G. An Airport Hazard Zoning Permit for Area C shall be acquired by the applicant prior to commencing construction of the monopole.
H. If required by the FAA, the monopole shall be constructed with a flashing red aircraft warning light. No strobe lights shall be used unless approved by a variance. There shall be no lighting of or on the monopole if it is not required by the FAA.
I. Prior to the issuance of a building permit, the applicant shall demonstrate to the zoning administrator that antennas for the deployment a cellular phone system by Cricket Communications, Inc. are required at the approved site at a height of 190 feet.
J. The site shall be developed in compliance with all federal, state, and local rules and regulations.
K. Any violation of the conditions of approval shall render the Conditional Use null and void.

This recommendation is based on the following findings:

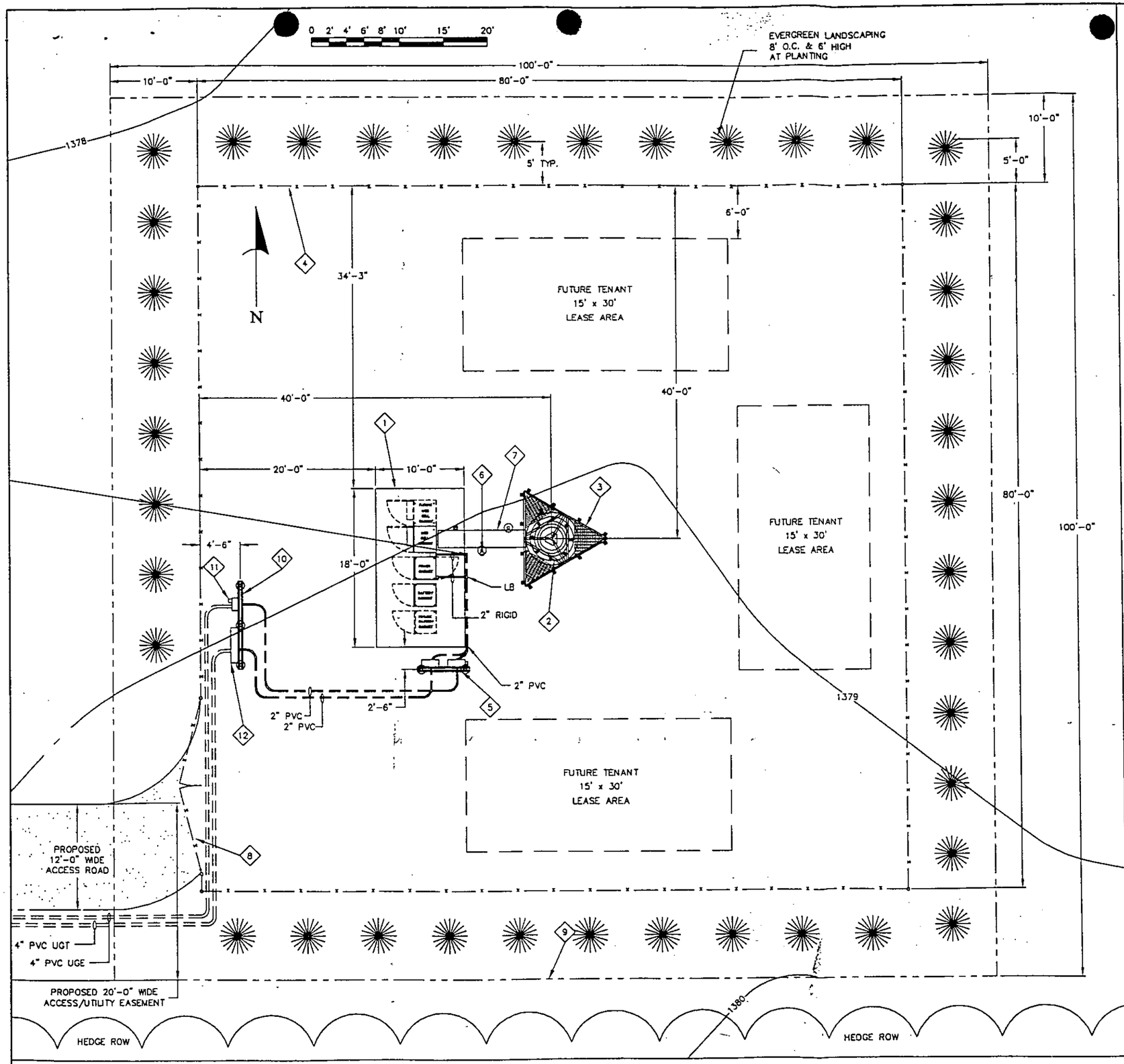
1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural, with the nearest residence being a farm-related single-family residence located approximately ¼ mile to the northwest. The property surrounding the site in all directions is zoned either "RR" Rural Residential or "SF-20" Single Family Residential and is used for agriculture.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential. Commercial communication towers are permitted with a Conditional Use in the "RR" Rural Residential district.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest property developed with non-agricultural uses is single-family residence on located approximately ¼ mile to the northwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower.

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 "Rural" development. 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 Unified Zoning Code lists five conditions that commercial communication towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrating that an effort has been made to co-locate on an existing tower, and willingness to provide space for two other wireless communication providers on the tower.

5. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.



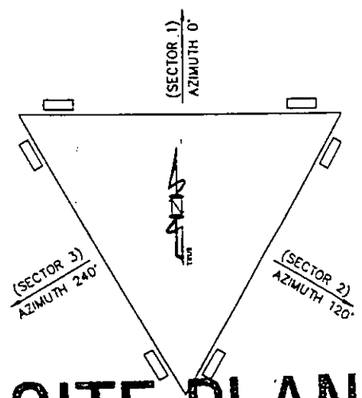

ARCHITECTURAL SITE PLAN

1. OUTDOOR RADIO EQUIPMENT MOUNTED ON 10' X 18' CONCRETE SLAB
2. PROPOSED 137' MONOPOLE
3. ANNTENNA PLATFORM ASSEMBLY
4. PRPOSED CHAIN-LINK FENCE WITH 3 STRANDS OF BARBED WIRE ON TOP
5. PROPOSED CRICKET PPC RACK
6. G.P.S. ANTENNA
7. 24" COAX ICE BRIDGE
8. PROPOSED 20' WIDE CHAIN LINK GATE WITH 3 STRANDS OF BARBED WIRE ON TOP
9. LEASE PARCEL LINE, SEE SURVEY FOR EXACT LOCATION
10. PROPOSED MULTI-TENANT UTILITY BACKBOARD
11. 4 SOCKET METER CABINET W/DISCONNECTS
12. LOCAL TELCO UTILITY CABINET

KEYED NOTES

GENERAL NOTES

- REFER TO SURVEY FOR MORE SITE INFORMATION
- REFER TO SHEET A-2 AND A-3 FOR SITE / CONSTRUCTION DETAILS
- CONTRACTOR TO REFER TO EQUIPMENT CABINET SHOP DRAWINGS FOR MORE INFORMATION




# SITE PLAN

APPROVED 11-7-00 BY SK
CON2000-00030 Copy 1 of 2
ANTENNA ALIGNMENT

NOTE: REFER TO CRICKET SPECIFICATIONS FOR COLOR CODING.


Dynatek
TELECOMMUNICATIONS SERVICES
5170 Belmont Avenue
Youngstown, Ohio 44505
Phone: 800-838-3224
Fax: (330) 759-8471


DAVID C. BAUD
LICENSED
4309
11/3/00
KANSAS
PROFESSIONAL ARCHITECT

DYNATEK PROJECT NO: 1502

SITE NAME: ARTS

SITE NUMBER: ICT-029 KS-07

SITE ADDRESS: 1/2 MILE S. OF 47TH ST. S. ON ROCK ROAD DERBY, KS 67037

DESIGN TYPE: RAW-LAND

DRAWING TITLE: ARCHITECTURAL SITE PLAN

HORIZON TELECOMMUNICATIONS, INC.

| | |
|---|---|
| SCALE: NOT TO SCALE | DRAWN BY: D.R. |
| DATE: OCT 3, 2000 | CHECKED BY: D.C.B. |
| REVISED DATE: NOV. 3, 2000 | SHEET OF |

DRAWING NO. A-1 REV. NO. 5