



Wichita-Sedgwick County Metropolitan Area Planning Department

August 13, 2018

Ferris Consulting
Attn: Greg Ferris
P.O. Box 573
Wichita, KS 67201

Gregory M. McHenry Trust
2200 South Hillside Avenue
Wichita, KS 67211

APC Towers, LLC
Attn: Michael Short
8601 Six Forks Road
Raleigh, NC 27615

RE: CON2018-00023 - City request to approve a Conditional Use Permit to allow a 100-foot tall wireless communication facility (tower) on property located on the east side of Hillside Avenue and north of Pawnee Avenue. (2200 South Hillside Avenue)

Dear Applicants:

At its regular meeting on **June 21, 2018**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request in accordance with the attached resolution.

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

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: WCC III, James Clendenin, Mail Stop 1-13
Maddy Campbell, CSR III, Mail Stop 1-135
MABCD

CONDITIONAL USE RESOLUTION NO. CON2018-00023

WHEREAS, Gregory M. McHenry Trust and Marshall C. McHenry Trust (Owners), by and through Ferris Consulting – Greg Ferris (agent and applicant), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for placement of a 100-foot tall wireless communication facility (tower) on property zoned SF-5 Single-Family Residential District, on property located on the east side of Hillside Avenue and north of Pawnee Avenue, at 2200 South Hillside Avenue, and legally described as:

A portion of the Gregory M McHenry tract described in Book 2615, Page 2115 as recorded in the Register of Deed Office for Sedgwick County, Kansas, being in the Southwest 1/4 of Section 35, Township 27 South, Range I East, Sixth P.M. in said County and being more particularly described as follows:

COMMENCING at a 1" pipe found marking the Northwest corner of said Gregory M. McHenry tract and on the Easterly right-of-way line of South Hillside Street; Thence S 54°56'59" E a distance of 572.88 feet to a set 5/8" rebar and the POINT OF BEGINNING; Thence N 89°06'51 " E a distance of 50.00 feet to a set 5/8" rebar; Thence S 00°53'09" E a distance of 50.00 feet to a set 5/8" rebar; Thence S 89°06'51 " W a distance of 50.00 feet to a set 5/8" rebar; Thence N 00°53'09" W a distance of 50.00 feet to a set 5/8" rebar and the POINT OF BEGINNING. Containing 2,500.00 square feet (0.06 acres) of land more or less.

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 June 21, 2018, 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 100-foot tall wireless communication facility (tower) on property zoned SF-5 Single-Family Residential District, on property located on the east side of Hillside Avenue and north of Pawnee Avenue, at 2200 South Hillside Avenue, and legally described as:

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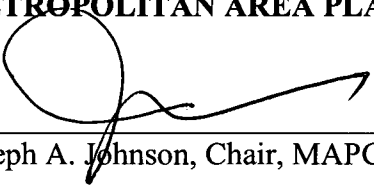
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Subject to the following conditions:

1. The applicant shall obtain all permits necessary to construct the Wireless Communication Facility, and the Wireless Communication Facility shall be erected within one year of approval of the Conditional Use by the MAPC or Governing Body, as applicable.
2. 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.
3. The support structure shall be no taller than 100 feet in height, plus an additional five (5) feet for lightning suppression equipment.
4. The equipment compound shall be screened with a six (6) foot tall solid screening fence.
5. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use and prior to the issuance of the Conditional Use Resolution.
6. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
7. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

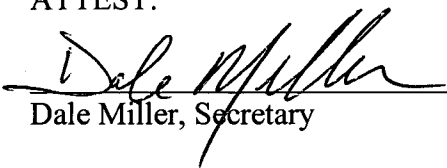
Adopted this 21st Day of JUNE, 2018

METROPOLITAN AREA PLANNING COMMISSION



Joseph A. Johnson, Chair, MAPC

ATTEST:



Dale Miller, Secretary

BACKGROUND: The applicant is requesting a Conditional Use to allow the placement of a 100-foot tall cell tower for T-Mobile on property located on the east side of Hillside Avenue and north of Pawnee Avenue on property zoned SF-5 Single Family Residential (SF-5). This location is outside the area authorized for administrative approval of wireless communication facilities; therefore, the Unified Zoning Code requires a Conditional Use for a wireless communication in the SF-5 District at the proposed location.

The parcel for this tower is a leased portion of the 7.11-acre tract of land owned by the applicant, which is primarily Hillside Nursery, which has operated at this location of approximately 75 years. The leased area for the wireless communication tower is a 50-foot by 50-foot tract in the southeast portion of the overall property, as shown on the attached site plan drawing. Access to the tower site will be via a leased access drive following the existing drive accesses within the overall nursery complex.

An existing storage building is located south of the tower site, which provides full screening to the south. Existing trees and the placement of other landscaping materials marketed by the nursery also surround the tower location.

As noted, the applicant has provided a site plan for this location that shows the location of the proposed 100-foot tower being within the 50-foot by 50-foot fenced compound, which is the lease area on this lot. A six-foot, wooden privacy fence will be used around the compound. Access to the lease site will be from a drive entrance onto Hillside Avenue to the east. This will be a monopole structure of a neutral color, much like other towers within the community.

The character of the surrounding area is mostly residential. The parent parcel is surrounded by the Elmwood, Elmwood Park, and Elmwood Park 2nd Additions, and the lots adjoining the land are developed with single family residences. The properties on the west side of Hillside are mostly single family residences, with a church north of Kinkaid Avenue. The most significant non-residential use is the Hillside Nursery, which as noted earlier, has been at this location for approximately 75 years.

CASE HISTORY: The property is unplatted. There are no other zoning actions on record for this property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-Family Residences
SOUTH:	SF-5	Single-Family Residences
EAST:	SF-5	Single-Family Residences
WEST:	SF-5	Single-Family Residences

PUBLIC SERVICES: The proposed wireless communication facility will not require any municipal services; however, all municipal facilities are available to the property. Hillside Avenue is a fully developed arterial street with curbs and gutters and turning lanes as needed.

CONFORMANCE TO PLANS/POLICIES: The “Community Investments Plan 2015-2035” depicts this location as being generally “commercial”. This particular use would not be out of character with the spirit and intent of the plan’s acceptable uses for this location. This location is also within the designated “established central area” of the City of Wichita.

The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. The proposed cell tower meets the general intent of the plan and the Conditional Use as

recommended meets the spirit and intent of supporting expansion of coverage for this industry within the community.

The combined conclusion for conformance to the Plans and Policies is this request complies with the overall spirit and intent to accommodate both the expansion of wireless communication capabilities within the City, while honoring the introduction of this type of use at this location by requiring the conditional use approval process and applying all the supplementary regulations to the property to mitigate the impacts associated with the new development.

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

- A. The applicant shall obtain all permits necessary to construct the Wireless Communication Facility, and the Wireless Communication Facility shall be erected within one year of approval of the Conditional Use by the MAPC or Governing Body, as applicable.
- B. 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.
- C. The support structure shall be no taller than 100 feet in height, plus an additional five (5) feet for lightning suppression equipment.
- D. The equipment compound shall be screened with a six (6) foot tall solid screening fence.
- E. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use and prior to the issuance of the Conditional Use Resolution.
- F. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
- G. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- H. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- I. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is 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 mostly residential. The parent parcel is surrounded by the Elmwood, Elmwood Park, and Elmwood Park 2nd Additions, and the lots adjoining the land are developed with single family residences. The properties on the west side of Hillside are mostly single family residences, with a church north of Kinkaid Avenue. The most significant non-residential use is the Hillside Nursery, which as noted earlier has been at this location for approximately 75 years.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single Family Residential, but completely used by the nursery. The proposed wireless communication facility will not impact the continued use of the property.

3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. As noted above, the proposed cell tower meets the general intent of the plans and policies. The Conditional Use as recommended meets the spirit and intent of supporting expansion of coverage for this industry within the community.

Attachments:

Site Plan

Supporting Documents

