CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

March 25, 2020

The TAP of Kansas Holdings, LLC
% Steve May
620 South Washington Street
Wichita, KS 67211

Network Real Estate, LLC
% Matt Schlichter
5055 Highway N, Suite 200
St. Charles, MO 63304

RE: CON2020-00002 - City request for a Conditional Use Permit to allow a 125-foot monopole wireless communication facility in the LI Limited Industrial District generally located 900 feet west of South Oliver Avenue on the south side of East 31st Street South (4665 East 31st Street South).

Dear Applicants:

At its regular meeting on **February 20, 2020**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request by a vote of 10 to 0 in accordance with the attached resolution. No protests were filed, so this matter is considered complete, subject to the conditions outlined in the attached MAPC 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 IV, Jeff Blubaugh, Mail Stop 1-13
Rebecca Fields, CSR IV, Mail Stop 1-135
Paul Hays, OCI, Mailstop 1-72
Jeff Van Zandt, City Law, Mailstop 1-134
Shawn Mellies, Engineering, Mail Stop 1-71
Seth Gotchey, Engineering, Mail Stop 1-71

CONDITIONAL USE RESOLUTION NO. CON2020-00001

WHEREAS, The TAP of Kansas Holdings, LLC (Owner), by and through Network Real Estate, LLC – Matt Schlichter (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 125-foot tall wireless communication facility (tower) on property zoned LI, Limited Industrial District, on property south of 31st Street South on the East side of I-35, at 4665 East 31st Street South, and legally described as:

> That part of Lot 1, Caro Third Addition, Wichita, Sedgwick County, Kansas, and being more particularly described as follows:
>
> Referring to the Northeast corner of said Lot 1, a #4 rebar with plastic cap found, also being a point on the southerly right-of-way line of East 31st Street South; thence westerly on a Grid bearing of South 87°49'06" West, on the southerly right-of-way line of East 31st Street South, 141.71 feet, to a 1/2" pipe found, also being a point on the southerly right-of-way line of East 31st Street South; thence continuing on the southerly right-of-way line of East 31st Street South westerly South 87°58'07" West, 122.46 feet; thence departing the southerly right-of-way line of East 31st Street southerly South 01°00'26" West, 21.07 feet, to the Point of Beginning for the described Lease Area; thence following the perimeter of the described Lease Area on the following bearings and distances; the South 01°00'26" East, 45.00 feet; then South 88°59'34" West, 60.00 feet; thence North 01°00'26" West, 45.00 feet; thence North 88°59'34" East, 60.00 feet, to the Point of Beginning for the described Lease Area. Containing a total calculated area of 2,700 square feet or 0.062 acres, 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 February 20, 2020, 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 a125-foot tall wireless communication facility (tower) on property zoned LI, Limited Industrial District, on property south of 31st Street South on the East side of I-35, at 4665 East 31st Street South, and legally described as:

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South westerly South 87°58'07" West, 122.46 feet; thence departing the southerly right-of-way line of East 31st Street southerly South 01°00'26" West, 21.07 feet, to the Point of Beginning for the described Lease Area; thence following the perimeter of the described Lease Area on the following bearings and distances; the South 01°00'26" East, 45.00 feet; then South 88°59'34" West, 60.00 feet; thence North 01°00'26" West, 45.00 feet; thence North 88°59'34" East, 60.00 feet, to the Point of Beginning for the described Lease Area. Containing a total calculated area of 2,700 square feet or 0.062 acres, more or less.

Subject to the following conditions:

A. The applicant shall obtain all permits necessary to construct the Wireless Communication Facility within 50 days of submittal of the building permit application, and the Wireless Communication Facility shall be erected within one year of the issuance 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 125 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 building permit.

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.

Adopted this 20th Day of FEBRUARY, 2020

METROPOLITAN AREA PLANNING COMMISSION

Charles A. Warren, Chair MAPC

ATTEST:

Scott Knebel, Secretary

WICHITA–SEDGWICK COUNTY
METROPOLITAN AREA PLANNING

AGENDA ITEM NO. 4.3

STAFF REPORT

MAPC - February 20, 2020
DAB III - March 4, 2020

CASE NUMBER: CON2020-00001

APPLICANT/AGENT: The Tap of Kansas Holdings, LLC (Steve May) (Owners); Network Real Estate, LLC (Matt Schlichter) (Agent); AT&T Mobility (Brian Harriss) (Tower Owner)

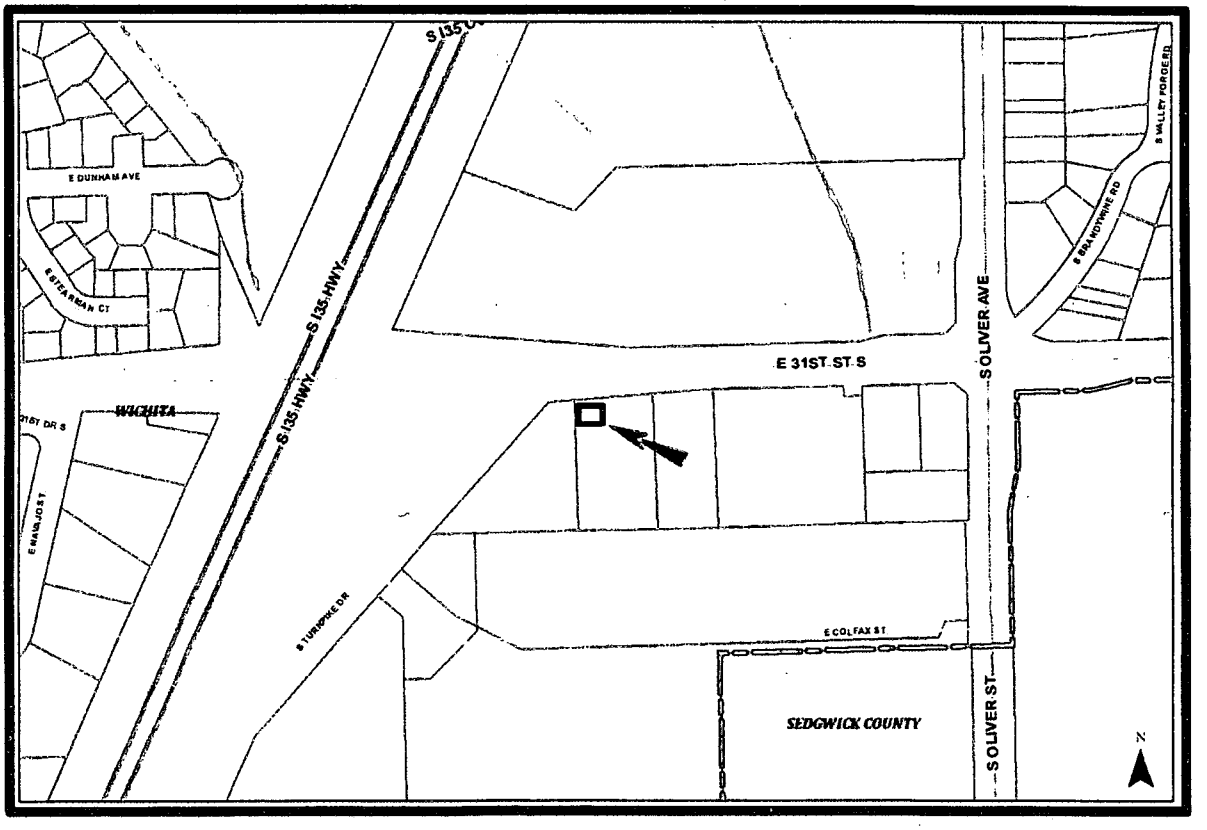
REQUEST: Conditional Use for a Wireless Communication Facility (AT&T)

CURRENT ZONING: LI Limited Industrial

SITE SIZE: Less than 1 acre

LOCATION: South side of East 31st Street South and 900 feet west of South Oliver Avenue (4665 East 31st Street South)

PROPOSED USE: 125-foot tall wireless communication facility



BACKGROUND: The applicant is requesting a Conditional Use to allow the placement of a 125-foot tall cell tower for AT&T Mobility on property located on the south side of East 31st Street South and 900 feet west of South Oliver Avenue which is zoned LI Limited Industrial (LI). 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 LI District at the proposed location.

The applicable provisions of the Unified Zoning Code (UZC) are as follows:

Section III-D.6.g(3):

A Wireless Communication Facility shall be approved by Administrative Permit in any zoning District, under the procedures in Sec. VI-G.9 and Sec. VI-H.5, if it conforms to the Location/Design Guidelines in the "Wireless Communication Master Plan" and, for zoning Lots located within the City, is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" of Sec. I- L.:

(e) New ground-mounted facilities up to 150 feet in height in the IP, CBD, LI and GI zoning Districts that comply with the compatibility height standards as outlined in Sec. IV-C.5, which shall not be reduced or waived through the provisions of Sec. V-I.2.e.

Section III-D.6.g(4):

A Wireless Communication Facility that does not meet the requirements of Sec. III-D.6.g(2) or Sec. III-D.6.g(3) shall be reviewed through the Conditional Use process as outlined in Sec. V-D.

Section IV-C.5:

5. Compatibility Height Standards. The following height standards shall apply to development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2.

   b. Wireless communications facilities shall not exceed a height equal to the distance to the lot line of property zoned TF-3 or more restrictive. For example, a wireless communication facility located 100 feet from the lot line of property zoned TF-3 or more restrictive cannot exceed a height of 100 feet.

The above provisions, as applied to this parcel, require the Conditional Use because the location is not in an area eligible for an administrative permit. The Compatibility Height Setback provisions cited above still apply.

The applicant has submitted a proposed site plan indicating the proposed tower location is approximately 180 feet south of the property on the north side of East 31st Street South, which is zoned SF-5 Single-Family Residential (SF-5), which meets the setback requirement of the UZC.

The site plan also indicates intent to fence the 40-foot by 55-foot lease area with a chain-link fence with landscaping along the north side of the compound except for the entrance gate. This does not meet the

requirement of Section IV-B(3)(e) of the Unified Zoning Code, which requires solid screening from view of any residential district or public right-of-way within 150 feet. As noted below, the subject site is within 150 of the right-of-way for 31st Street South and all the property north of that street is zoned SF-5.

The character of the surrounding area is mostly industrial. The parent parcel is zoned LI and occupied with an office/warehouse according to the records from the Sedgwick County Appraiser's Office. Similar uses and LI zoning exist to the east, west and south. The property to the north across 31st Street South is zoned SF-5 Single-Family Residential (SF-5) and is occupied by the Wichita Regional Fire Training Facility and by Plainview Park. The fire training facility was approved with a Conditional Use Permit granted by CON2008-00068 in January, 2009.

CASE HISTORY: The property is part of Caro Third Addition, filed with the Sedgwick County Register of Deeds on May 20, 1968. There are no other zoning actions on record for this property.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	safety service operation/park
SOUTH:	LI	office/warehouse
EAST:	LI	office/warehouse
WEST:	LI	office/warehouse

PUBLIC SERVICES: The proposed wireless communication facility will not require any municipal services; however, all municipal facilities are available to the property. 31st Street South is classified as a five-lane, arterial with all improvements.

CONFORMANCE TO PLANS/POLICIES: The "Community Investments Plan 2015-2035" depicts this location as being "industrial". 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 adjacent to, but outside 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 within 50 days of submittal of the building permit application, and the Wireless Communication Facility shall be erected within one year of the issuance 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 125 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 building permit.

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 industrial. The parent parcel is zoned LI and occupied with an office/warehouse according to the records from the Sedgwick County Appraiser's Office. Similar uses and LI zoning exist to the east, west and south. The property to the north across 31st Street South is zoned SF-5 Single-Family Residential (SF-5) and is occupied by the Wichita Regional Fire Training Facility and by Plainview Park. The fire training facility was approved with a Conditional Use Permit granted by CON2008-00068 in January, 2009.

2. **The suitability of the subject property for the uses to which it has been restricted:** The subject property has been used as an office and warehouse for some time.

3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested approval for a communication tower will not impact the industrial uses to the east, west or south. The installation of the required screening fencing will mitigate potential impacts to the existing uses to the north.

4. **Length of time the property has been vacant as currently zoned:** The property has been used zoned commercially for years.

5. **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** There are no impacts evident under either situation. The requested use is reasonable and will enhance value of the land.

6. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The "Community Investments Plan 2015-2035" depicts this location as being

"industrial". 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 adjacent to, but outside the designated "established central area" of the City of Wichita.

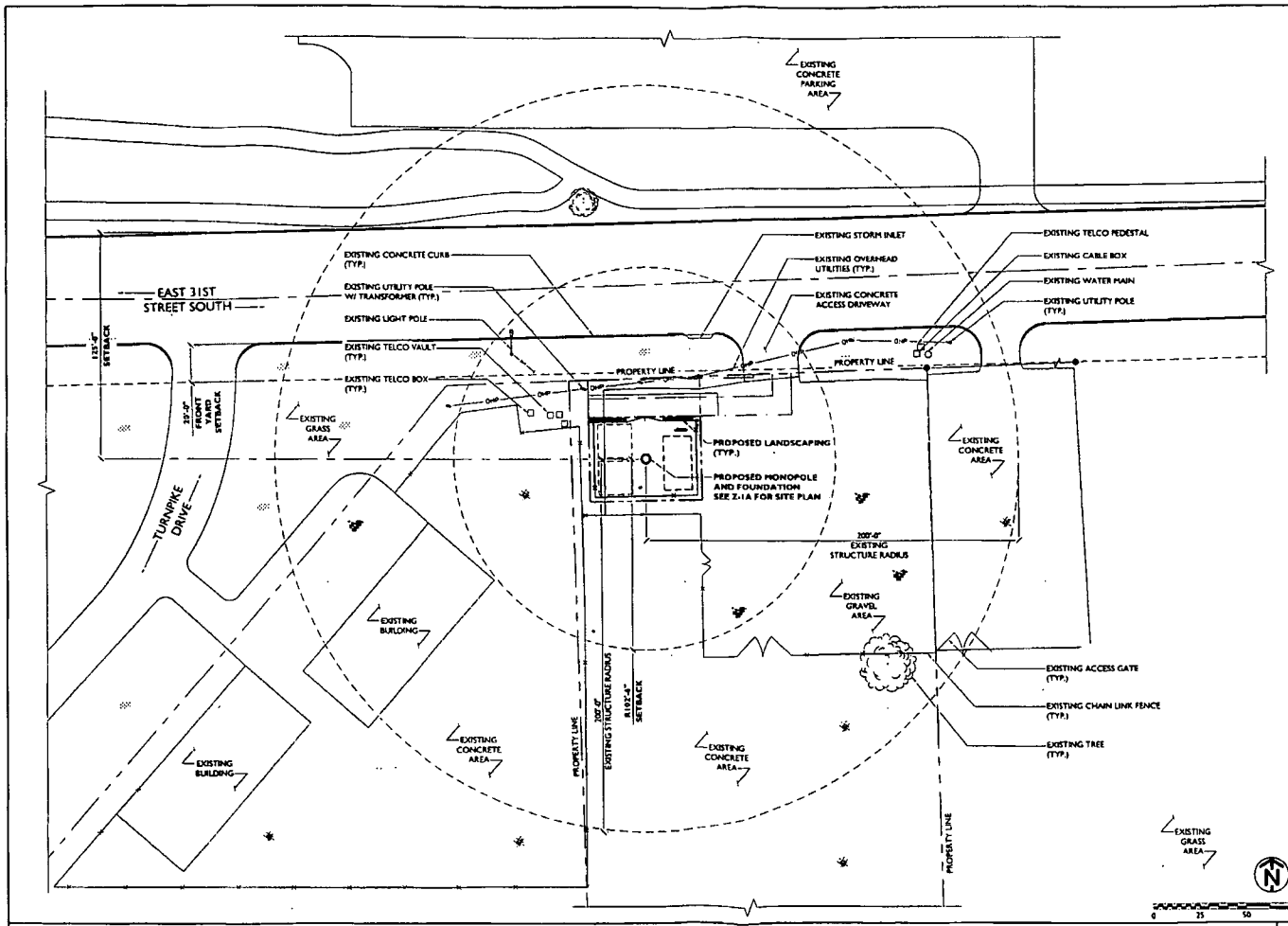
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The combined conclusion for conformance to the Plans and Policies is this request complies with the overall spirit and intent to accommodate both the expansion of wireless communication capabilities within the City, while honoring the introduction 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.

7. **Impact of the proposed development on community facilities:** The proposed use will have no detrimental impact on community facilities.

Attachments:

Applicant Supporting Documents



OVERALL SITE PLAN

SCALE: 1" = 50'-0" | 1

at&t

12851 MANCHESTER ROAD
ST. LOUIS, MO 63131

Network Real Estate LLC

8053 Hwy N, Suite 200
St. Charles, MO 63304

FULLERTON ENGINEERING DESIGN

1100 E. WOODFIELD ROAD, SUITE 500
SCHAUMBURG, ILLINOIS 60173
TEL: 847-908-8400
COA#: E-1939
www.FullertonEngineering.com

#	DATE	DESCRIPTION	INIT.
A	3/1/19	PRELIM. ZONING	JW
B	6/6/19	PRELIM. ZONING	JW
C	6/18/19	PRELIM. ZONING	JW

SITE NAME
PLANEVIEW PARK

SITE NO.
KS5162

SITE ADDRESS
4445 EAST 31ST STREET SOUTH
WICHITA, KS 67210

SHEET NAME
OVERALL SITE PLAN

SHEET NUMBER
Z-1

PROJECT# 2018.03000025