R#79-1997

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RESOLUTION NO.

A RESOLUTION AUTHORIZING A CONDITIONAL USE ON PROPERTY ZONED "SF-20" SINGLE-FAMILY RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY RESOLUTION NO. 46-1996.

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION I. That after receiving a recommendation from the Wichita-Sedgwick County Metropolitan Area Planning Commission, and after said Planning Commission has given proper notice and held a public hearing as provided by law, and under authority granted by Section V-D of the Unified Zoning Code, a Conditional Use Permit to allow a Commercial Communication Tower on property zoned "SF-20" Single-Family Residential, legally described below:

Case No. CU-413

Conditional Use Permit to allow a Commercial Communication Tower on property described as:

Section 32 Township 26 Range 1W. N 12A S 35A SE 1/4 SE 1/4 EXC N 164.64 Ft thereof & exc E 60 Ft for Rd. Generally located west of Maize Road, south of 31st Street North (3131 N. Maize Road.)

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The tower shall be located as indicated on the approved site plan.

2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 6.6 acre application area on which the tower is located.

3. The tower shall be fenced with chainlink fence which has a minimum height of 10 feet.

4. The color of the tower shall be silver or gray or a similar unobtrusive color unless otherwise required by applicable agencies, or to avoid the use of strobe lights.

5. There shall be no lighting of or on the tower.

6. No commercial advertising signs shall be allowed on the tower or fence.

7. The tower shall not exceed 150 feet in height.

8. In order to minimize the proliferation of towers, this tower shall be designed and constructed to accommodate at least two platforms for a least two communication companies to be able to lease. The owner of the tower shall agree in writing at the time of the issuance of a building permit 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.

9. At the time of requesting a building permit for the communication tower, the applicant shall demonstrate to the satisfaction of the Zoning Administrator that there is no available space on existing towers which can be utilized to meet the applicant's communication needs.

10. The communication tower if unused for a period of 24 consecutive months shall be considered abandoned and shall be removed by the owner no later that 90 days following the end of the 24-month period.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit shall be shown on the "Official Zoning District Map" on file in the office of the Planning Director of the Wichita-Sedgwick County Metropolitan area Planning Department.

SECTION III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN	Aye
PAUL W. HANCOCK	Aye
THOMAS G. WINTERS	Aye
MELODY C. MILLER	Nay
MARK F. SCHROEDER	Nay

DATED this 2nd day of April, 1997.

BOARD OF COUNTY COMMISSIONERS

SEDGWICK COUNTY, KANSAS

THOMAS G. WINTERS, Chairman

ATTEST:

JAMES ALFORD
County Clerk

APPROVED AS TO FORM ONLY:

Assistant County Counselor

WICHITA–SEDGWICK COUNTY
W-SC
METROPOLITAN AREA PLANNING COMMISSION

AGENDA ITEM NO. 3

STAFF REPORT

MAPC October 31, 1996
County Commission January 22, 1997
MAPC February 27, 1997

CASE NUMBER: CU-413

APPLICANT/AGENT: Donald R. & Sheryl L. King (applicants/property owners); Brad Murray Rentals (applicant/agent)

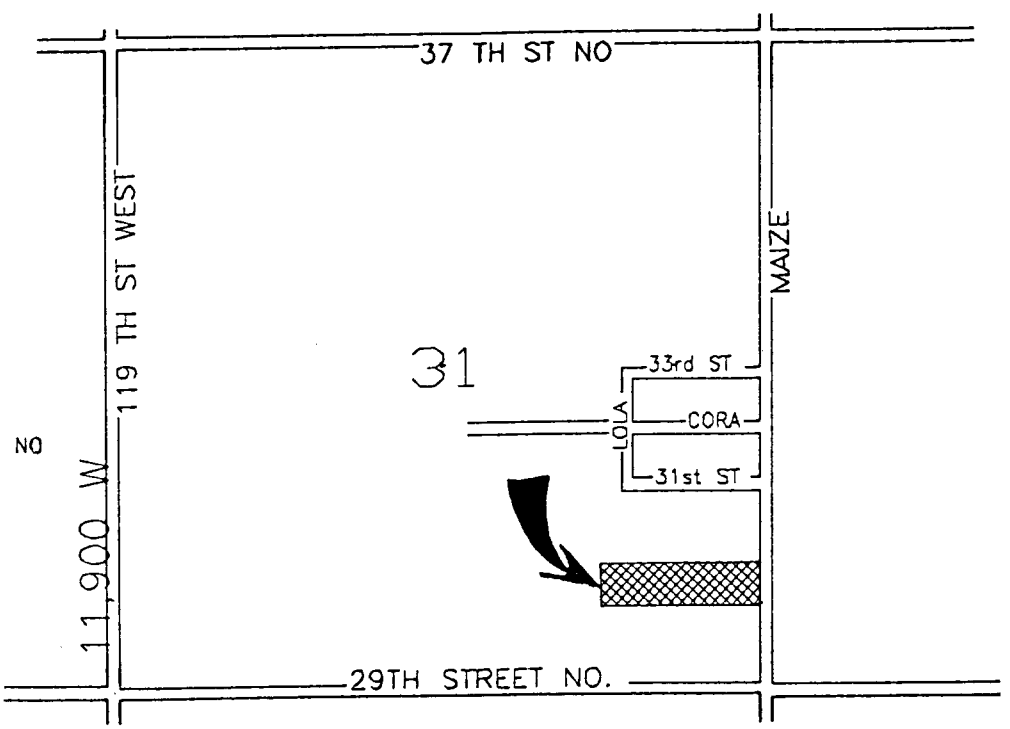
REQUEST: Conditional Use to permit the construction of a 150 foot commercial communications tower

CURRENT ZONING: "SF-20" Single-Family Residential

SITE SIZE: 6.6 acres

LOCATION: West of Maize Road, south of 31st Street North

PROPOSED USE: Commercial Communication Tower



BACKGROUND: The applicant requests approval of a conditional use to allow the construction of a commercial communication tower on a 6.6 acre site zoned "SF-20" Single Family Residential. The tower is to be used by common carriers who wish to provide wireless communication services to customers in the Maize area and areas of northwest Wichita.

The zoning code allows commercial communication towers in the "SF-20" district only as a conditional use. The application area is located approximately 850 feet north of 29th Street North, and approximately 1100 feet west of Maize Road. All of the land adjacent to the application area is zoned "SF-20." Land located west of the application area is being used for agricultural purposes. There are homes located on large lots north, south and east of the application area. The closest off-site building to the tower site is approximately 550 feet south of the proposed tower location. Other buildings are 700 to 900 feet away. Maize Road is a paved, two-lane section-line road.

The applicant is proposing to construct a self-supporting tower 150 feet tall. Self-supporting towers are designed to collapse in on themselves should there be a structural failure. The application area measures 1320 feet by 404 feet. However, the actual location of the tower is within a 50 feet by 50 feet fenced compound situated in the west 200 feet of the application area as indicated on the site plan.

Sprint Spectrum Limited Partnership is developing a nationwide personal communication service system, including cellular phones. Sprint is currently completing their search for approximately 30 sites in the Wichita trading area. By co-locating their antennae on existing towers or roof top locations, they have been able to minimize the construction to two new towers in Sedgwick County thus far. The applicant. Sprint Spectrum L.P. has indicated that they intend to co-locate three services on this tower, as have other cellular and paging services in the Wichita area.

A preliminary communications tower study developed by Gateway Communications indicates that the nearest communication towers are located at 61st Street North and 135th Street West, and 13th Street North and Windmill Road, both approximately 3 miles from the proposed tower site. The agent for the applicant has indicated that the existing towers are too distant to serve this area.

This case was heard by the County Commission on January 22, 1997. After discussion, the Commission moved to send this request back to the MAPC for further recommendations.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: SF-20, Single Family; residences
SOUTH: SF-20, Single Family; residences
EAST: SF-20, Single Family; residences
WEST: SF-20, Single Family; agricultural

PUBLIC SERVICES: Except for telephone and electrical service, no public services are required.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Suburban." 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. The zoning code lists five conditions towers are subject to: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrate an effort has been made to co-located 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:

1. The tower shall be located as indicated on the approved site plan.

2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 6.6 acre application area on which the tower is located.

3. The tower shall be fenced with chainlink fence which has a minimum height of 6 feet.

4. The color of the tower shall be silver or gray or a similar unobtrusive color unless otherwise required by applicable agencies, or to avoid the use of strobe lights.

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agree in writing at the time of the issuance of a building permit 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.

9. At the time of requesting a building permit for the communication tower, the applicant shall demonstrate to the satisfaction of the Zoning Administrator that there is no available space on existing towers which can be utilized to meet the applicant's communication needs.

10. The communication tower if unused for a period of 24 consecutive months shall be considered abandoned and shall be removed by the owner no later that 90 days following the end of the 24-month period.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All of the land adjacent to the application area is zoned SF-20, Single Family. Agricultural use exists to the west. There are homes located north, south and east of the application area, but not within 550 feet of the proposed tower. The overall character is suburban with large lot homes scattered within one-half mile of the site.

2. The suitability of the subject property for the uses to which it has been restricted: Given the mix of large lot homes, and agricultural uses, the property could continue to be used as currently zoned.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Based on information on hand at the time this report was prepared, staff has not been able to identify any detrimental impact this request might have on nearby property, other than the visual impact of a tower in this area.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If the applicant cannot build a new tower at this site, there will potentially be gaps in the cellular and paging service in the Wichita area. These gaps would result in an inconvenience to cellular and paging customers.

5. Conformance of the requested change to adopted or recognized Plans/Policies: The plan does not speak specifically to cellular towers, but does generally indicate a need to provide the highest quality utilities at a reasonable cost.

6. Impact of the proposed development on community facilities: No municipal water or sewer service is required, traffic generation is minimal, and no other negative impact on community facilities has been identified.