

CONDITIONAL USE RESOLUTION NO. CON-2001-00045

WHEREAS, Joyce Kemnitz (Owner); American Tower c/o Ron Jones and Verizon Wireless c/o Nancy Fulks (Applicant), 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 for a wireless communication facility a 250-foot high guyed lattice tower on 22,500 square feet zoned "RR" Rural Residential described as:

A 150 foot by 150 foot Lease Area long with a 20 foot wide Access and Utility Easement, situated in the Southwest Quarter of Section 18, Township 29, Range 2, Sedgwick County, Kansas, being more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of said Section 18; thence South 89 degrees 58 feet 47 inches East along the South line of said Quarter Section, a distance of 337.45 feet; thence North 00 degrees 00 feet 00 inches West, a distance of 930.36 feet to the POINT OF BEGINNING of said 150 foot by 150 foot Lease Area; thence North 00 degrees 00 feet 00 inches West, a distance of 75.00 feet to a point hereafter referred to as Point "A"; thence continuing North 00 degrees 00 minutes 00 seconds West a distance of 75.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 150.00 feet; thence South 00 degrees 00 minutes 00 seconds East; a distance of 150.00 feet; thence South 90 degrees 00 minutes 00 seconds West a distance of 150.00 feet to the POINT OF BEGINNING. Containing 22,500 square feet, more or less. Generally located north of 95th Street South and east of 215th Street West.

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 23, 2001, 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 for a wireless communication facility a 160-foot high monopole tower on 22,500 square feet zoned "RR" Rural Residential described as:

A 150 foot by 150 foot Lease Area long with a 20 foot wide Access and Utility Easement, situated in the Southwest Quarter of Section 18, Township 29, Range 2, Sedgwick County, Kansas, being more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of said Section 18; thence South 89 degrees 58 feet 47 inches East along the South line of said Quarter Section, a distance of 337.45 feet; thence North 00 degrees 00 feet 00 inches West, a distance of 930.36 feet to the POINT OF BEGINNING of said 150 foot by 150 foot Lease Area; thence North 00 degrees 00 feet 00 inches West, a distance of 75.00 feet to a point hereafter referred to as Point "A"; thence continuing North 00 degrees 00 minutes 00 seconds West a distance of 75.00 feet; thence North 90 degrees 00 minutes 00 seconds East a distance of 150.00 feet; thence South 00 degrees 00 minutes 00 seconds East; a distance of 150.00 feet; thence South 90 degrees 00 minutes 00 seconds West a distance of 150.00 feet to the POINT OF BEGINNING. Containing 22,500 square feet, more or less. Generally located north of 95th Street South and east of 215th Street West.

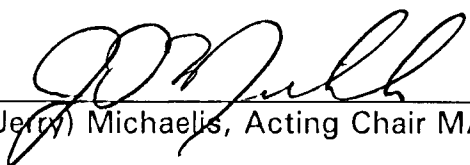
subject to the following conditions:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. 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.
- C. 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.
- D. The monopole shall not exceed 160 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions to at least 190 feet in structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. 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 MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.

- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated 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.

Adopted this 23rd day of August, 2011. 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


J.D. (Jerry) Michaelis, Acting Chair MAPC

ATTEST:


Marvin S. Krout, Secretary



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THE UTILITIES AS SHOWN ON THIS SET OF DRAWINGS WERE DEVELOPED FROM THE INFORMATION AVAILABLE. THE INFORMATION PROVIDED IS NOT IMPLIED NOR INTENDED TO BE THE COMPLETE INVENTORY OF UTILITIES IN THIS AREA. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION OF ALL UTILITIES (WHETHER SHOWN OR NOT) AND PROTECT SAID UTILITIES FROM ANY DAMAGE CAUSED BY CONTRACTOR'S ACTIVITIES.

LEGEND

- *---*---*--- CHAIN LINK FENCE
- PROPERTY LINE
- LEASE AREA
- O/E--- OVERHEAD POWER
- UTILITY EASEMENT

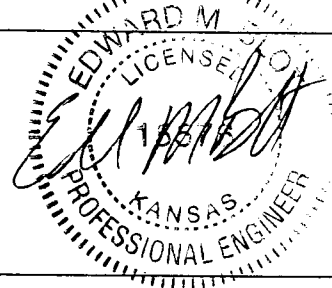
APPROVALS

ZONING REP	PHONE NUMBER	DATE
SITE ACQUISITION APPROVAL	PHONE NUMBER	DATE
ATC CONSTRUCTION COORDINATOR	PHONE NUMBER	DATE
PROPERTY OWNER/ OWNERS REP/LESSOR	PHONE NUMBER	DATE



SELECTIVE SITE CONSULTANTS, INC.
A 90% Independent Engineering and Construction Quality Assessment Company

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AMERICAN TOWER CORPORATION

9647 LACKMAN ROAD
LENEXA, KS 66215
Phone: 913-888-5102
Fax: 913-888-8356

ATC SITE NO.:

036331

ATC SITE NAME:

NINNESCAH RIVER

SITE ADDRESS:

21480 WEST 95th STREET SOUTH
CLEARWATER, KANSAS 67026

DRAWN BY: JRH

CHECKED BY: HAN

APPROVED BY: HAN/TMS

REVISIONS:

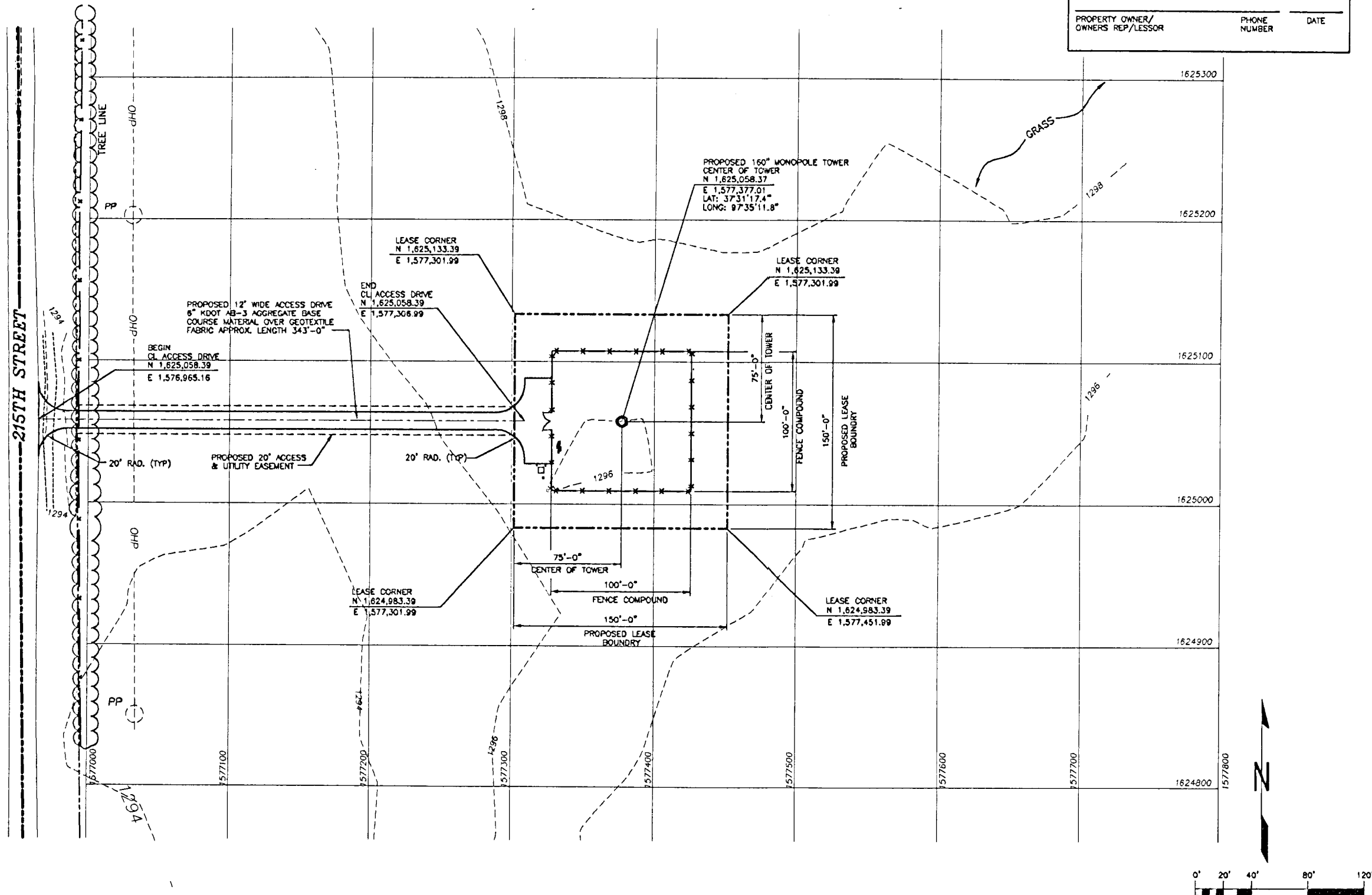
NO:	DATE:	DESCRIPTION:
A	08/28/01	ISSUED FOR ZONING
B	09/26/01	ISSUED FOR REVIEW
C	10/01/01	TOWER CHANGE
D	10/09/01	ISSUED FOR CONSTRUCTION

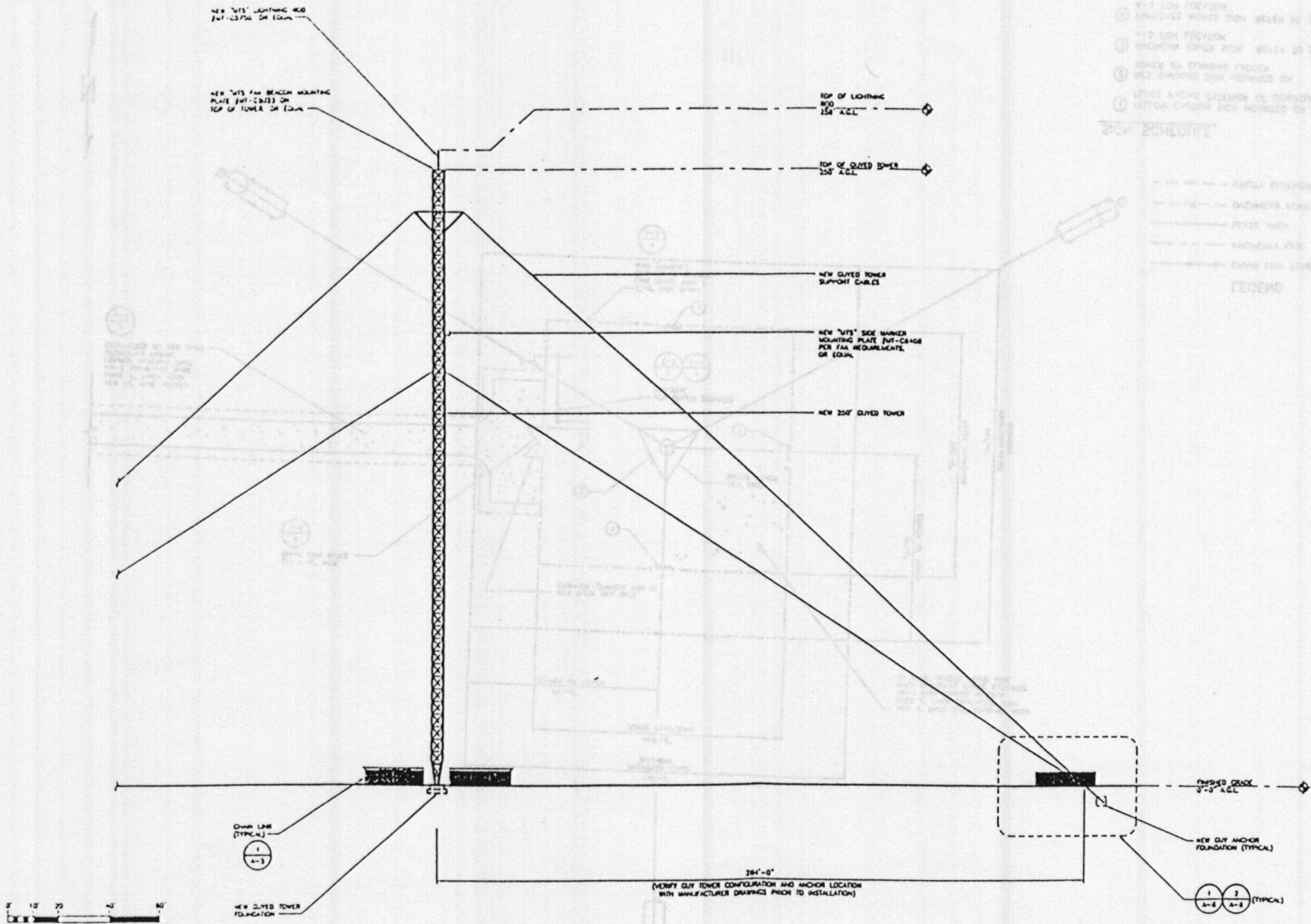
DRAWING TITLE:

SITE PLAN

DRAWING NO.:

A-1






SELECTIVE SITE CONSULTANTS, INC.
 13542 W 85th Street
 Lenexa, Kansas 66215
 Phone 913-438-7700
 Fax 913-438-7771

AMERICAN TOWER CORPORATION
 9647 LACKMAN ROAD
 LENEXA, KS 66215
 Phone: 913-888-5102
 Fax: 913-888-8356

ATC SITE NO:
036331

ATC SITE NAME:
NINNESCAH RIVER

SITE ADDRESS:
**9240 S. 215 W.
 CLEARWATER, KANSAS 67026**

DRAWN BY: **DOS**

CHECKED BY: **HAN/TWS**

APPROVED BY: **HAN/TWS**

REVISIONS:

NO.	DATE	DESCRIPTION
A	02/28/00	ISSUED FOR BIDDING

DRAWING TITLE:

ELEVATION VIEW

DRAWING NO.:
A-3

ELEVATION VIEW



AGENDA ITEM NO. 7

STAFF REPORT

MAPC, August 23, 2001

CASE NUMBER: CON2001-00045

APPLICANT/AGENT: Joyce Kemnitz (Owner); American Tower c/o Ron Jones and Verizon Wireless c/o Nancy Fulks (Applicant)

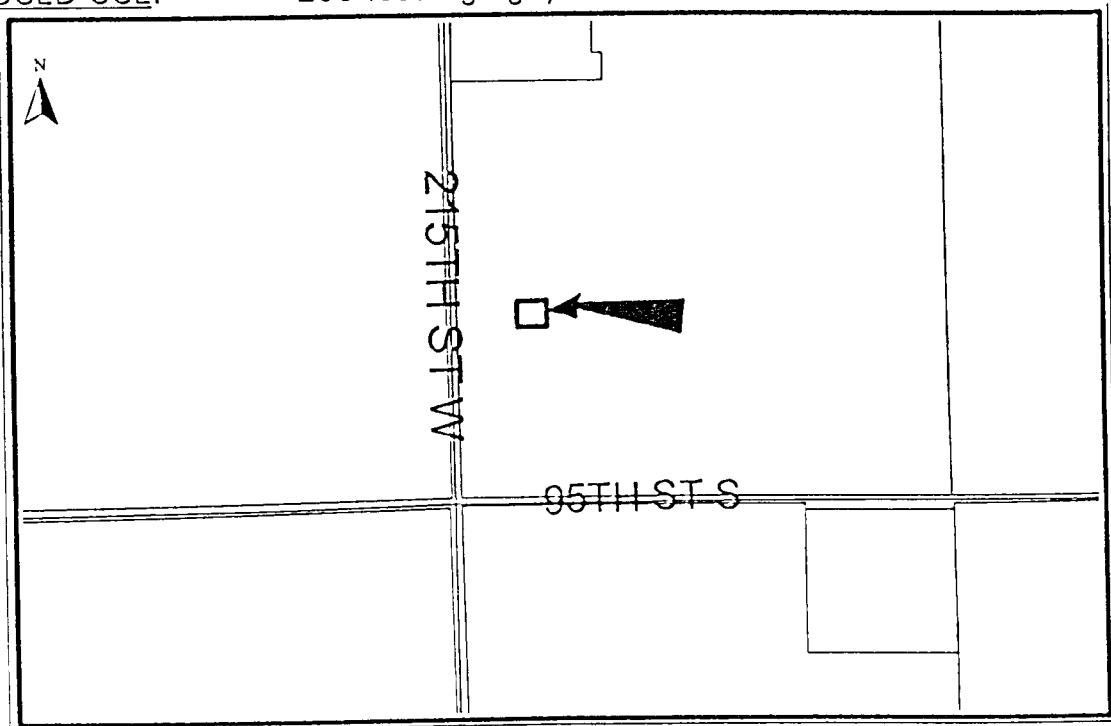
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 22,500 square feet

LOCATION: North of 95th Street South and east of 215th Street West

PROPOSED USE: 250-foot high guyed lattice tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 250-foot high guyed lattice tower (see attached "Elevation View") by American Tower Corporation. American Tower Corporation indicates that the tower is being constructed, at least initially, for Verizon Wireless. The proposed site is zoned "RR" Rural Residential. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest properties developed non-agricultural uses are single-family residences on 2-7.5 acre lots located approximately ¾ mile north of the site near K-42 and 215th Street West.

The proposed tower would be sited on a 22,500 square foot area located north of 95th Street South and east of 215th Street West within a 45 acre pasture and agricultural home site bordered on all sides by a hedge row. Access to the site is proposed to be via a 20-foot wide access and utility easement to 215th Street West. The applicant's site plan (see attached "Enlarged Site Plan") depicts a 150-foot by 150-foot lease area with a 100-foot by 100-foot fenced compound with the tower located in the center of the compound. The site plan also shows the guy wires for the tower to be anchored to the ground in the pasture outside the lease area. The site plan does not indicate the specific location of ground-level equipment within the compound. The compound and the guy wire anchors are to be enclosed by six-foot high chain link fencing with three strands of barded wire on top.

The application indicates that the proposed wireless communication facility is needed for Verizon Wireless to expand the coverage area of its wireless phone system along the K-42 highway corridor (see attached letter dated August 6, 2001 and "Existing" and "Proposed" propagation plots). Verizon Wireless indicates that it needs to mount its antennas at a height of 150 feet; however, American Tower has requested to construct a 250-foot high tower, which is contrary to the Unified Zoning Code's requirement to remove unused portions of towers.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site will have access to 215th Street West, an unpaved section line road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) not use strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

RECOMMENDATION: Planning staff finds that two elements of the request do not conform to the guidelines of the Wireless Communication Master Plan. First, the request does not minimize the height, mass, and proportion of the facility since a 250-foot high tower is requested when only a 150-foot high tower is needed. Second, the request does not minimize the silhouette of the facility since a guyed lattice tower is requested rather than a monopole. Therefore, planning staff is recommending conditions of approval that bring the request into conformance with the guidelines of the Wireless Communication Master Plan. 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 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.
- C. 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.
- D. 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.

- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of at least 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. 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 MAPD, Office of Central Inspection, and Director of Airports prior to the issuance of a building permit.
- G. Revised site plans and elevation drawings indicating the approved location and design of the wireless communication facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the MAPC or governing body, as applicable.
- H. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- I. The site shall be developed and operated 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 recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest properties developed non-agricultural uses are single-family residences on 2-7.5 acre lots located approximately ¾ mile north of the site near K-42 and 215th Street West. The proposed wireless communication facility is consistent with the agriculture character and uses of the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is used as pastureland. Wireless communication facilities in excess of 65 feet in height in the "RR" Rural Residential zoning district may be permitted as a Conditional Use, which should be subject to conditions of approval that maintain conformance with the Location/Design Guidelines of the Wireless Communication Master Plan.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest properties that are developed with residential uses are single-family residences located approximately ¾ mile to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower, and the recommended conditions of approval should reduce the visual

impact of the tower in two ways. First, reducing the height of the tower to 150 feet will bring the tower below the FAA's 200-foot threshold where aircraft warning lighting and painting the tower red and white are required. Second, requiring a monopole will minimize silhouette of the tower, thus making the tower less visually intrusive.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: **The proposed wireless communication facility conforms to** *it approved as recommended* the Location Guidelines of the **Wireless Communication Master Plan** since there are no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. With the recommended conditions of approval, the proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan. The recommended height of 150 feet rather than the requested 250 feet minimizes the height, mass, proportion of the facility and allows the facility to utilize an unobtrusive color with a matte finish to minimize glare rather than a red and white paint scheme with aircraft warning lighting. The recommended monopole rather than the requested guyed lattice tower minimizes the silhouette of the facility. The facility is proposed to be placed in an area where trees obscure some of the facility from view from nearby properties. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
5. Impact of the proposed development on community facilities: **FAA approval should ensure that the proposed monopole does not detrimentally impact the operation of airports in the vicinity.**