

CONDITIONAL USE RESOLUTION NO. CON-2001-00057

WHEREAS, Darrel & Paul Rau (Owners); Brad Murray Rentals, LLC c/o Brad Murray; Verizon Wireless c/o Nancy Fulks; & Pixius Communication, LLC c/o Tim LeBlanc (Applicants); Austin Miller, PA c/o Kim Edgington (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 for a wireless communication facility a 190-foot high self-support lattice tower on 9,000 square feet zoned "RR" Rural Residential described as:

A tract of land in the NE 1/4, Section 26, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas being more particularly described as follows: Beginning at the Northeast corner of said NE1/4; Thence South along the East line of said NE1/4 a distance of 1513.63 feet; Thence West at right angles to said east line of said NE1/4 a distance of 580.65 feet to the Point of Beginning; Thence N a distance of 100 feet; thence E a distance of 90 feet; Thence S a distance of 100 feet; Thence W a distance of 90 feet to the Point of Beginning. Generally located north of U.S. 54 and west of 327th 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 January 10, 2002, 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 190-foot high self-support lattice tower on 9,000 square feet zoned "RR" Rural Residential described as:

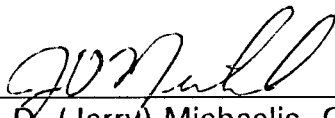
A tract of land in the NE 1/4, Section 26, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas being more particularly described as follows: Beginning at the Northeast corner of said NE1/4; Thence South along the East line of said NE1/4 a distance of 1513.63 feet; Thence West at right angles to said east line of said NE1/4 a distance of 580.65 feet to the Point of Beginning; Thence N a distance of 100 feet; thence E a distance of 90 feet; Thence S a distance of 100 feet; Thence W a distance of 90 feet to the Point of Beginning. Generally located north of U.S. 54 and west of 327th 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 self-support lattice design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare, unless the FAA requires the structure to be painted red and white to avoid strobe lighting.
- D. The support structure shall be 190 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 250 feet and future loading expansions to accommodate communication equipment for at least five wireless service providers.
- F. An administrative adjustment to waive the screening requirement based on the existence of a natural vegetative screen shall be acquired prior to the issuance of a building permit. Alternatively, a solid screening fence or solid evergreen vegetation shall be provided around the equipment compound.
- G. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard for the wireless communication facility from 250 feet to 140 feet for the property zoned "RR" Rural Residential to the north.
- H. Within 14 days of approval of the Conditional Use by the MAPC, a legal description of the 90-foot by 100-foot equipment compound shall be submitted to the Planning Director for inclusion in the Conditional Use Resolution.
- I. 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.
- J. 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.
- K. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- L. Any violation of the conditions of approval shall render the Conditional Use null and void.

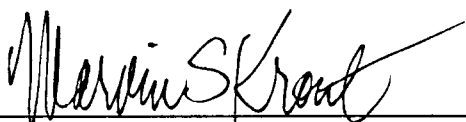
Adopted this 10th day of JANUARY, 2002. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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, Chair MAPC

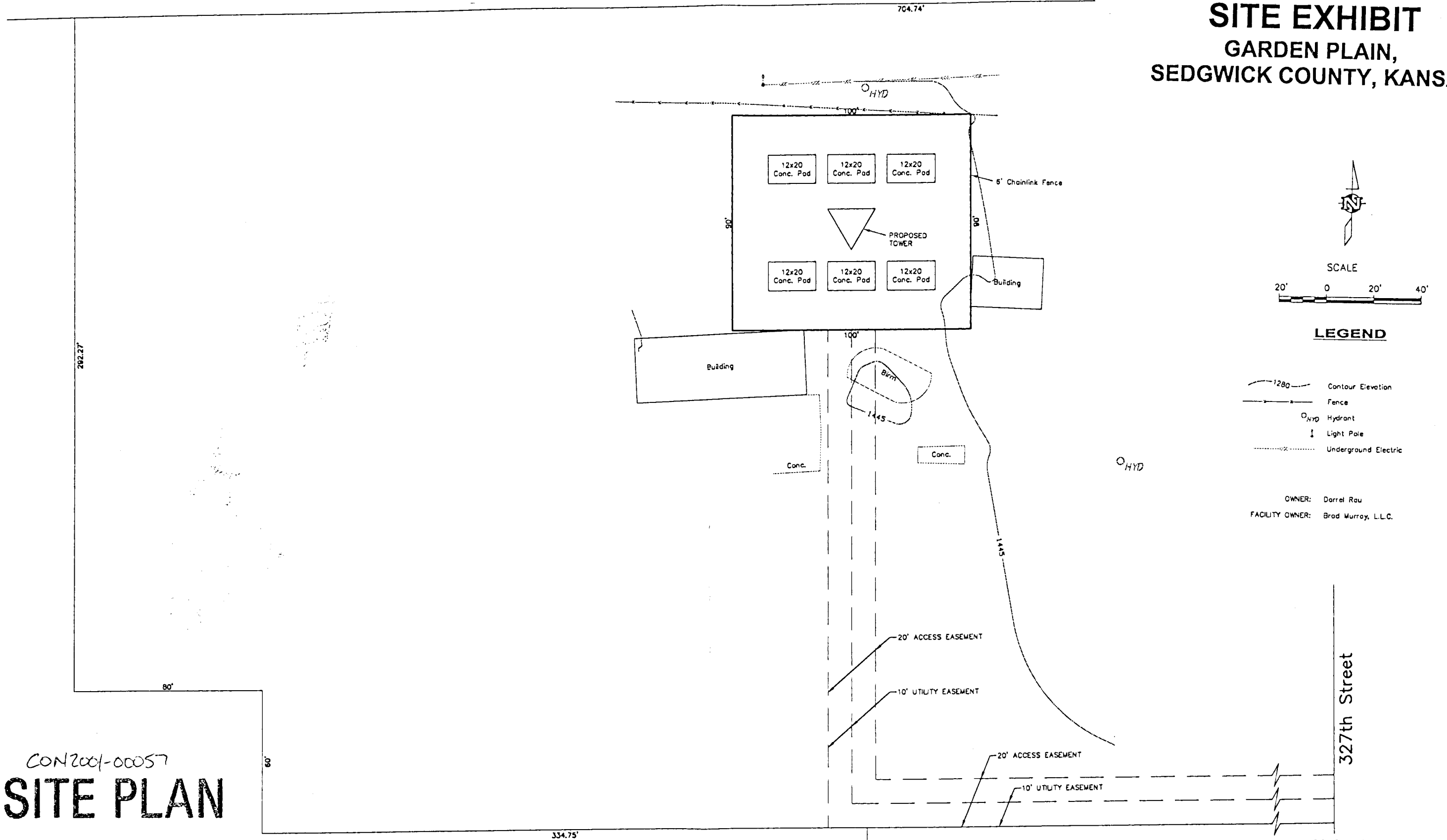
ATTEST:



Marvin S. Krout, Secretary MAPC

SITE EXHIBIT

GARDEN PLAIN, SEDGWICK COUNTY, KANSAS



LEGEND

- 1280 Contour Elevation
- Fence
- HYD Hydrant
- Light Pole
- Underground Electric

OWNER: Darrel Rau
FACILITY OWNER: Brad Murray, L.L.C.

CON2001-00057
SITE PLAN

APPROVED 1-10-02 BY MAPC

FILENAME: 01219-EXHIBIT



AUSTIN MILLER & ASSOCIATES P.A.
ENGINEERING SERVICES

355 N. Meade, Suite 200 Wichita, KS 67202
316/262-1281 fax 316/262-6773

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SITE PLAN

APPROVED 1-10-02 BY MAFC

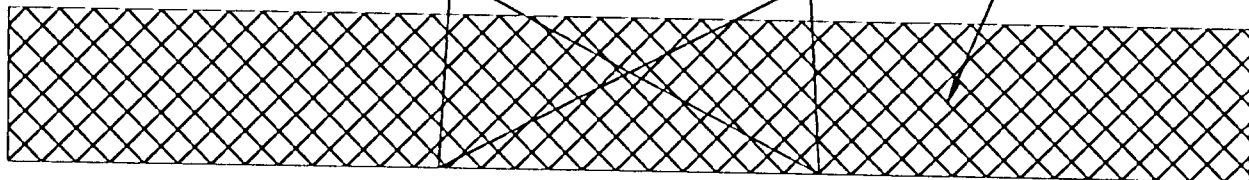
360° ANTENNA ARRAY
w/ (8) UNI-16s (12"x12")
ON 2x2 ANGLE FRAME
(60" OCTAGON)

(1) UNI-24 ANTENNA
(24"x42")

360° Antenna Array
w/6 4'x1' Antennas
@ 150'

190' Self-Support Tower
w/Steel grey galvanized finished

6' Chain-Link Fence
w/3-strand barb wire





AGENDA ITEM NO. 9

STAFF REPORT

Garden Plain, January 9, 2002
MAPC, January 10, 2002

CASE NUMBER: CON2001-00057

APPLICANT/AGENT: Darrel & Paula Rau (Owners); Brad Murray Rentals, LLC c/o Brad Murray; Verizon Wireless c/o Nancy Fulks; & Pixius Communications, LLC c/o Tim LeBlanc (Applicants); Austin Miller, PA c/o Kim Edgington (Agent)

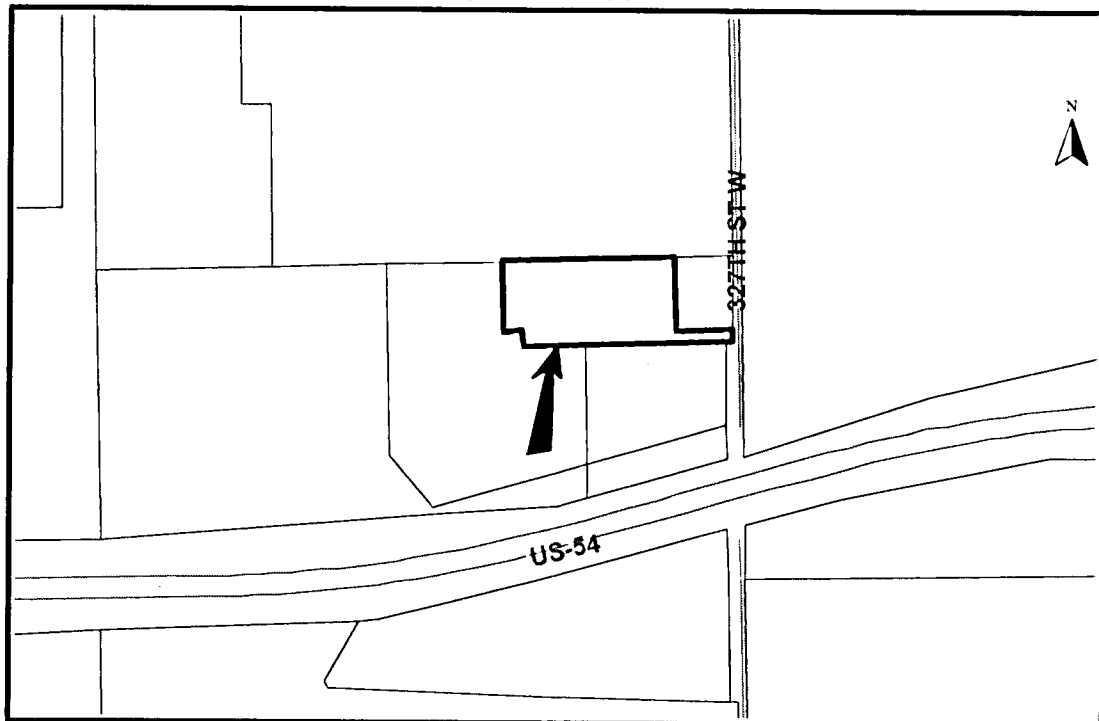
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 9,000 square feet

LOCATION: North of U.S. 54 and west of 327th Street West

PROPOSED USE: 190-foot high self-support lattice tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 190-foot high self-support lattice tower (see attached "Site Elevation") by Brad Murray Rentals, LLC for use by Verizon Wireless and Pixius Communications, LLC. The proposed site is an unplatted tract zoned "RR" Rural Residential and located north of U.S. 54 and west of 327th Street West. 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 and related residential purposes. The nearest residences are located approximately 350 feet southwest of the site, 530 feet east of the site, and 600 feet southeast of the site. Each of these residences are oriented such that the front of the residence does not directly face the proposed tower.

The proposed tower would be sited approximately 600 feet west of 327th Street West and 800 feet north of U.S. 54 on a 9,000 square foot area located on a 5.77 acre tract containing agricultural buildings . Access to the site is proposed to be via a 20-foot wide access easement to 327th Street West. The applicant's site plan (see attached "Site Exhibit") depicts a 90-foot by 100-foot fenced compound. The tower is proposed to be located in the center of the compound, and the ground-level equipment is proposed to be located both north and south of the tower. The compound is proposed to be enclosed by six-foot high chain link fencing with barbed wire on top. Solid screening of the equipment compound is required by the Unified Zoning Code since the equipment compound is located less than 150 feet from the residentially-zoned property to the north. Since an existing hedge row exists north of the compound, an administrative adjustment could be granted to waive the screening requirement based on the existence of a natural vegetative screen. Alternatively, a solid screening fence or solid evergreen vegetation could be provided around the equipment compound.

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 U.S. 54 highway corridor west of Wichita (see "Intent to Co-locate" memo and "Existing Coverage" and "Coverage at 180'" propagation plots). Verizon Wireless indicates that locating at 120 feet on an existing water tower in the City of Garden Plain does not meet its communication needs (see attached "Coverage at 120'" propagation plot).

The application also indicates that the wireless communication facility is needed for Pixius Communications, LLC to locate at a height of 190-feet on the tower (see attached letter dated October 29, 2001). The application does not document the communication need to be met by Pixius Communications, LLC locating antennas at

190-feet on the tower nor does the application provide documentation that the communication need cannot be met another way. Both are requirements of the Unified Zoning Code. Therefore, planning staff cannot recommend that the additional 10-feet in tower height for Pixius Communications, LLC be constructed at this time.

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 327th 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: 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 support structure shall be 180 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. An administrative adjustment to waive the screening requirement based on the existence of a natural vegetative screen shall be acquired prior to the issuance of a building permit. Alternatively, a solid screening fence or solid evergreen vegetation shall be provided around the equipment compound.
- F. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard for the wireless communication facility from 180 feet to 140 feet for the property zoned "RR" Rural Residential to the north.
- G. Within 14 days of approval of the Conditional Use by the MAPC, a legal description of the 90-foot by 100-foot equipment compound shall be submitted to the Planning Director for inclusion in the Conditional Use Resolution.
- H. 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.
- I. 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.
- J. 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.
- K. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- L. 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 and related residential purposes. The proposed wireless communication facility is consistent with the agricultural 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 for agriculture. 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 property developed with a residential use is single-family residence located approximately 350 feet to the southwest. The only impact to be noted at the time this report was prepared is the visual impact of a tower. The visual impact of the tower should be limited because the residence is oriented such that the front of the residence does not directly face the proposed tower. Additionally, the recommended "monopole" design of the tower should help limit its visual impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to 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 are available to accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan the facility is consistent with the agricultural character of the area and the facility will be an unobtrusive color with a matte finish to minimize glare. Additionally, the recommended "monopole" design of the tower will minimize the mass, proportion, and silhouette of the facility, and the recommended 180-foot height of the tower will minimize its height. The proposed wireless communication facility does not comply with the compatibility height standard of the Uniform Zoning Code; however, the Unified Zoning Code provides for a reduction of the Compatibility Height Standard, as is recommended for this Conditional Use request.
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.