106-03

RESOLUTION NO. 106-03

A RESOLUTION APPROVING A CONDITIONAL USE FOR A WIRELESS COMMUNICATION FACILITY ON 10,000 SQAURE FEET, LOCATED SOUTH OF K-96 AND WEST OF 295TH STREET WEST; ON PROPERTY ZONED "RR" RURAL RESIDENTIAL, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984 AND SUBSEQUENTLY AMENDED.

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 Wichita Sedgwick County Unified Zoning Code, a conditional use for the land legally described herein is approved as follows:

Case No. CON2003-00006

A Conditional Use for a wireless communication facility on property described as:

A tract of land in the Southeast Quarter of Section 18, Township 25 South, Range 3 West of the 6th P.M., Sedgwick County, Kansas being more particularly described as follows:

Commencing at the Southeast corner of the Section 18, Township 25 South, Range 3 West; thence North along the East line of said Southeast Quarter on an assumed bearing of N 0 degrees 00'00" E, a distance of 1125.56 feet; thence West at a right angle to said East line of said Southeast Quarter, a distance of 224.85 feet to the Point of Beginning; thence N 90 degrees 00'00" W a distance of 100 feet; thence N 00 degrees 00'00" E a distance of 100 feet; thence S 90 degrees 00'00" E a distance of 100 feet; thence S 00 degrees 00'00" W a distance of 100' to the point of beginning. Generally located south of K-96 and west of 295th Street West.

SUBJECT TO THE FOLLOWING CONDITIONS:

A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met, except as otherwise provided in Item F of this Resolution.
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 "guyed lattice" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The support structure shall be 300 feet in height and shall be designed and constructed to accommodate communication equipment for at least six wireless service providers.
E. Prior to the issuance of a building permit, the applicant shall submit an application for and receive approval of a Zoning Adjustment to waive the screening requirement for the outdoor equipment compound.
F. The tower shall be lighted only with a dual lighting system consisting of red lights at night and medium intensity white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
G. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard to 135 feet from the north property line for the wireless communication facility.
H. The site shall be developed in general conformance with the approved site plan. 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. 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.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use 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 by the Governing Body.

Commissioners present and voting were:

DAVE UNRUH	aye
TIM R. NORTON	absent
THOMAS G. WINTERS	aye
CAROLYN McGINN	aye
BEN SCIORTINO	aye

DATED this 7th day of May, 2003.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

ATTEST:

DON BRACE, County Clerk

Absent
CHAIRMAN, TIM R. NORTON,
Second District

CHAIRMAN PRO TEM,
THOMAS G. WINTERS,
Third District

DAVID M. UNRUH, Commissioner,
First District

APPROVED AS TO FORM:

ROBERT W. PARNACOTT,
Assistant County Counselor

CAROLYN MCGINN, Commissioner,
Fourth District

BEN SCIORTINO, Commissioner,
Fifth District

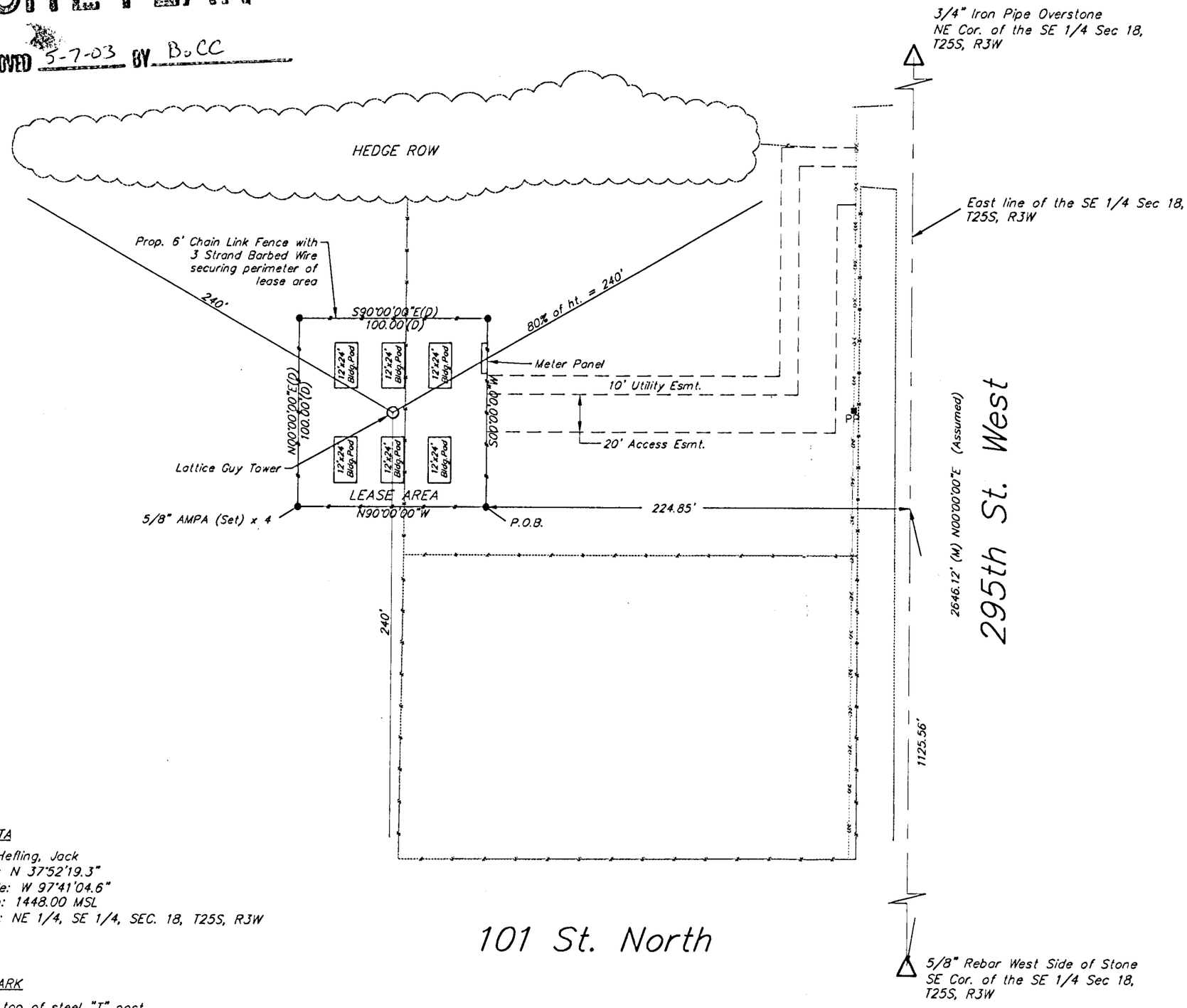
CLERK OF SEDGWICK COUNTY
SEDGWICK COUNTY
KANSAS
KANSAS

CON2003-00006

SITE PLAN

APPROVED 5-7-03 BY BoCC

2C TOWER SITE PLAN
MT. HOPE, KANSAS



SCALE
30 0 30 60

● = 5/8" Rebar AMPA Cap
= Existing Fence
= Overhead Electric
PP = Power Pole

LEASE AREA

A tract of land in the SE 1/4, Sec. 18, T25S, R3W of the 6th P.M., Sedgwick County, Kansas being more particularly described as follows: Commencing at the SE corner of Sec. 18, T25S, R3W; thence North along the East line of said SE 1/4 on an assumed bearing of N00°00'00"E, a distance of 1125.56 feet; thence West at a right angle to said East line of said SE 1/4 a distance of 224.85 feet to the Point of Beginning; thence N90°00'00"W a distance of 100 feet; thence N00°00'00"E a distance of 100 feet; thence S90°00'00"W a distance of 100 feet; thence S00 %%00'00"W a distance of 100 feet to the Point of Beginning.

ACCESS AND UTILITY EASEMENT

A centerline of a 20 foot wide access easement with centerline of utility easement being parallel with and 15 feet North of said access easement centerline in the SE 1/4, Sec. 18, T25S, R3W of the 6th P.M. Sedgwick County, Kansas being more particularly described as follows: Commencing at the SE Cor. of Sec. 18, T25S, R3W; thence North along the East line of said SE 1/4 on an assumed bearing of N00°00'00"E a distance of 1296.36 feet; thence West at a right angle to said East line of said SE 1/4 a distance of 30 feet to the West R/W of 295th Street West as a Point of Beginning of centerline of access easement; thence N90°00'00"W a distance of 20 feet; thence S00°00'00"W a distance of 174.87 feet to a point 50 feet South of the Northeast corner of lease area.

SITE DATA

Owner: Hefling, Jack
Latitude: N 37°52'19.3"
Longitude: W 97°41'04.6"
Elevation: 1448.00 MSL
Location: NE 1/4, SE 1/4, SEC. 18, T25S, R3W

BENCHMARK

USGS is top of steel "T" post
at 32' South & 45' West of SE cor. Sec. 18
Eelvation: 1448.89

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AM CONSULTING Inc.
142 N. Emporia Wichita, KS 67202
316/265-2870 fax: 316/265-2839

PROJECT NUMBER				AM NO. 01196
DESIGN	DRAWN AEE	FILE 01196-site	DATE 02-10-03	SCALE 1"=30'

2C TOWER
SITE PLAN
MT. HOPE, KANSAS

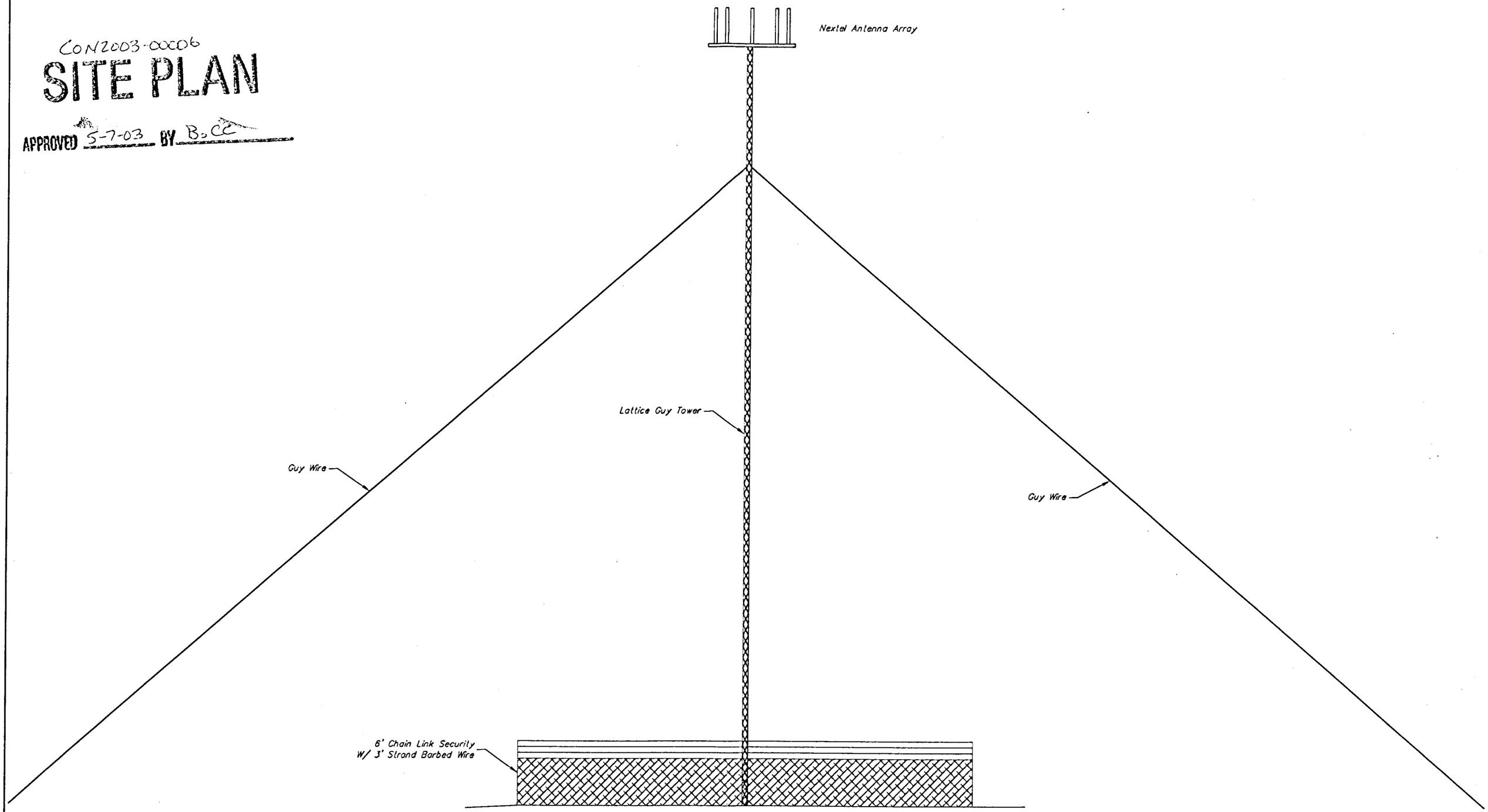
SHEET 1 OF 2

REVISED

CON2003-00006

SITE PLAN

APPROVED 5-7-03 BY B.CE



	PROJECT NUMBER				AM NO. 01196	2C TOWER	SHEET 2
	DESIGN	DRAWN AEE	FILE 01196-elev	DATE 02-10-03	SCALE n.t.s.	**SITE ELEVATION** MT. HOPE, KANSAS	OF 2

WICHITA-SEDGWICK COUNTY
W-SC

AGENDA ITEM NO. 5

STAFF REPORT

Mt. Hope, March 29, 2003
MAPC, April 10, 2003

CASE NUMBER: CON2003-00006

APPLICANT/AGENT: Jack D. & Audrey E. Hefling (Owners); Nextel Communications c/o Michael Reed & Brad Murray Rentals c/o Brad Murray (Applicants); AM Consulting, Inc. c/o Kim Edgington (Agent)

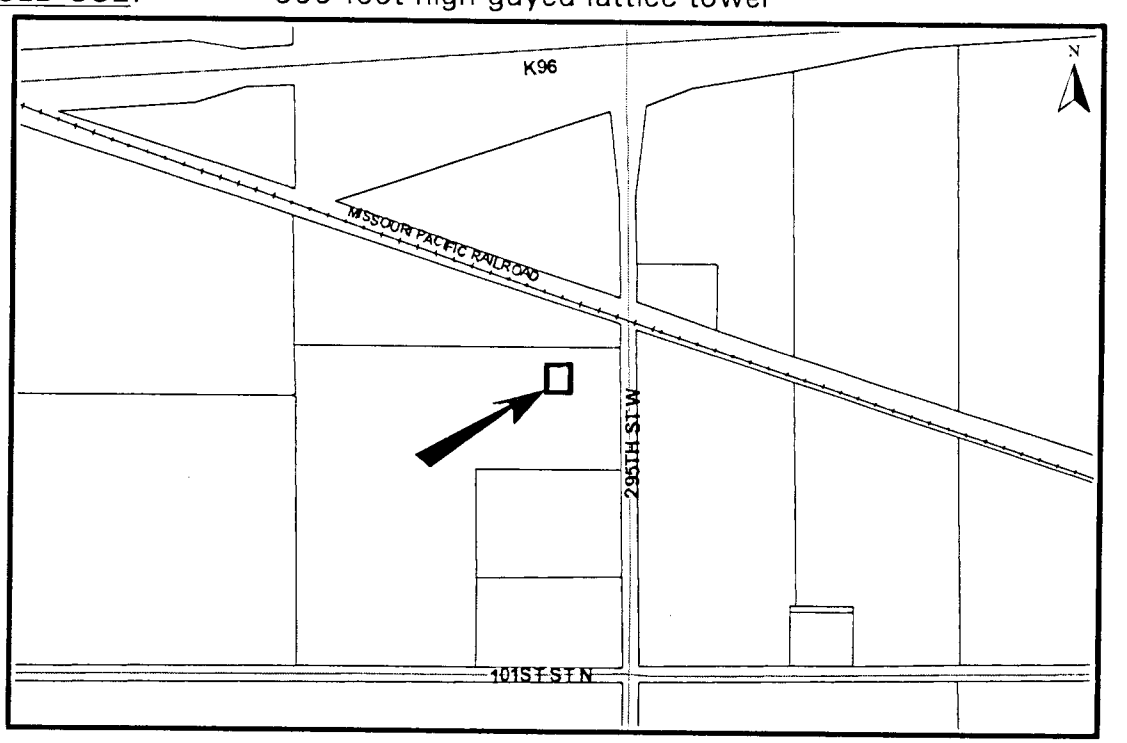
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 10,000 square feet

LOCATION: South of K-96 and west of 295th Street West

PROPOSED USE: 300-foot high guyed lattice tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 300-foot high guyed lattice tower (see attached "Site Elevation") for use by Nextel Communications. The subject property is zoned "RR" Rural Residential and is located approximately ¼ mile south of K-96 on the west side of 295th 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 subject property is located within the zoning area of influence of the City of Mt. Hope. The Mt. Hope Planning Commission considered this request on March 29, 2003, and recommended that the request be approved subject to the conditions recommended by planning staff.

The applicant indicates (see attached letter dated February 10, 2003 and "Before" and "After" radio frequency analyses) that the proposed wireless communication facility is needed for Nextel Communications to provide wireless communication services to the Mt. Hope area and to provide continuous service along K-96 between Wichita and Hutchinson. The applicant indicates that there are no towers or structures in the area with sufficient height to meet their communication needs.

The character of the surrounding area is rural (see attached "Mt. Hope Tower Site"). All surrounding property is zoned "RR" Rural Residential. The properties to the north were used as "borrow pits" to provide fill dirt for the construction of the nearby K-96 overpass that crosses the Kansas Southwestern Railway. All other properties in the area are used for agriculture. The nearest residence is located approximately 700 feet south of the proposed tower. The owners of this residence have submitted the Conditional Use request for the tower.

The tower is proposed to be located within a 10,000 square foot lease area as shown on the attached "Site Plan." Access to the site is proposed via a 20-foot wide access easement to 295th Street West. The tower is proposed to be located in the center of the compound with three 240-foot long guy wires anchored to the ground outside the lease area. The lease area is proposed to have an equipment compound with building and/or equipment pads for six telecommunication providers.

The equipment compound is shown as being enclosed by a chain linking fence; however, Section IV-B.3.b.(1) of the Unified Zoning Code requires that the equipment compound be screened since the equipment compound is located less than 150 feet from the abutting residentially-zoned property to the north. The Unified Zoning Code does not authorize the MAPC to waive screening requirements through the approval of a Conditional Use, but it does allow an administrative adjustment to waive the screening requirement when existing vegetation provides a natural screening. Planning staff finds that the existing hedgerow on the east property line provides a natural screen and will approve an administrative adjustment to waive the screening requirement.

Section IV-C.5.b. of the Unified Zoning Code requires a 300-foot setback for the tower from the north property line; however, the tower is proposed to be set back approximately 135 feet from the north property line. The setback requirement can be reduced through approval of the Conditional Use request, and planning staff recommends reducing the setback requirement to 135 feet.

The proposed tower and associated communication frequencies and wattages have been determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation if the tower is developed according to the conditions stated in the attached "Aeronautical Study." The FAA conditions require dual lighting of the tower consisting of red lights at night and medium intensity flashing white lights during the day. The FAA regulations pertaining to the dual lighting system are attached. Section III-D.6.g.(5) of the Unified Zoning Code prohibits strobe lighting such as the flashing white lights required by the FAA; however, Section V-D.6. of the Unified Zoning Code allows the Board of County Commissioners to modify Supplementary Use Regulations (such as the strobe lighting prohibition) upon receiving a favorable recommendation from the MAPC. Planning staff recommends that the Board of County Commissioners modify the lighting requirement to comply with the FAA mandate.

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

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

PUBLIC SERVICES: No municipally-supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access to 295th Street West, an unpaved township 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) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require day-time strobe lighting; whereas, when the plan was adopted, the FAA allowed painting towers red and white instead of using 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 these factors and the 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 "guyed lattice" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
D. The support structure shall be 300 feet in height and shall be designed and constructed to accommodate communication equipment for at least six wireless service providers.
E. Prior to the issuance of a building permit, the applicant shall submit an application for and receive approval of a Zoning Adjustment to waive the screening requirement for the outdoor equipment compound.
F. The tower shall be lighted only with a dual lighting system consisting of red lights at night and medium intensity white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
G. Approval of the Conditional Use constitutes a reduction of the Compatibility Height Standard to 135 feet from the north property line for the wireless communication facility.
H. The site shall be developed in general conformance with the approved site plan. 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. 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 rural. The properties surrounding the subject property in all directions are zoned "RR" Rural Residential and are used for agriculture and borrow pits. The proposed wireless communication facility is consistent with the zoning, uses, and character 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 currently used for agriculture. The site is apparently suitable for continued agricultural use. A Conditional Use may be granted to permit a wireless communication facility in the "RR" Rural Residential zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan's guidelines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on residentially-zoned properties in the area should be minimized by the screening, lighting, and compatibility standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties.

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 can accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its guyed lattice design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where existing vegetation obscures some of the facility from view. 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. This Conditional Use reduces the compatibility height standard to 135 feet since the adjacent property is used for agriculture.

5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.