



Wichita-Sedgwick County Metropolitan Area Planning Department

October 13, 2011

USD No. 259, c/o Shane Schumacher
3850 N. Hydraulic Avenue
Wichita, KS, 67219

USD No. 259
201 N. Water Street
Wichita, KS, 67202

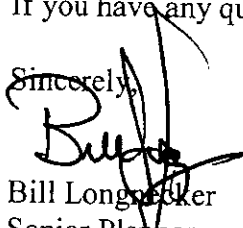
RE: CON2011-00024 - City Conditional Use request for a wireless communication tower on property zoned MF-29 Multi-Family Residential ("MF-29"); generally located midway between McLean Boulevard and Seneca Street, on the northeast corner of Osage and Lincoln Streets.

Dear Ladies and Gentlemen:

At its regular meeting on July 7, 2011, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request, subject to the following conditions on the attached resolution.

If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,


Bill Longnecker
Senior Planner
Current Plans Division

BL/mc
Attachment

CONDITIONAL USE RESOLUTION NO. CON2011-00024

WHEREAS, United School District 259 (USD 259/Owner); 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 a Wireless Communication Facility, with a 100-foot tall galvanized steel, lattice, self-supporting, microwave communication tower located on approximately 25.95-acres zoned MF-29 Multi-Family Residential ("MF-29") described as:

A 18.50-foot (x) 18.50-foot wireless communication facility site with a 100-foot tall galvanized steel, lattice, self-supporting, microwave communication tower located on the USD 259 West High School public school site, and more specifically that part of Lot 1, Block A, West High School Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Lot 1; thence N23°28'48"E along the east line of said Lot 1, 527.61 feet; thence N66°31'12"W perpendicular to the east line of said Lot 1, 148.57 feet for a point of beginning; thence continuing N66°31'12"W perpendicular to the east line of said Lot 1, 18.50 feet; thence N23°28'48"E parallel with the east line of said Lot 1, 18.50 feet; thence S66°31'12"E perpendicular to the east line of said Lot 1, 18.50 feet; thence S23°28'48"W parallel with the east line of said Lot 1, 18.50' to a point of beginning; generally located midway between McLean Boulevard and Seneca Street, on the northeast corner of Osage and Lincoln Streets.

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 July 7, 2011, 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 MAPC that this application be approved to allow a Conditional Use for a Wireless Communication Facility, with a 100-foot tall galvanized steel, lattice, self-supporting, microwave communication tower located on approximately 25.95-acres zoned MF-29 Multi-Family Residential ("MF-29") described as:

A 18.50-foot (x) 18.50-foot wireless communication facility site with a 100-foot tall galvanized steel, lattice, self-supporting, microwave communication tower located on the USD 259 West High School public school site, and more specifically that part of Lot 1, Block A, West High School Addition, Wichita, Sedgwick County, Kansas described as follows: Commencing at the southeast corner of said Lot 1; thence N23°28'48"E along the east line of said Lot 1, 527.61 feet; thence N66°31'12"W perpendicular to the east line of said Lot 1, 148.57 feet for a point of beginning; thence continuing N66°31'12"W perpendicular to the east line of said Lot 1, 18.50 feet; thence N23°28'48"E parallel with the east line of said Lot 1, 18.50 feet; thence S66°31'12"E perpendicular to the east line of said Lot 1, 18.50 feet; thence S23°28'48"W parallel with the east line of said Lot 1, 18.50' to a point of beginning; generally located midway between McLean Boulevard and Seneca Street, on the northeast corner of Osage and Lincoln Streets.

Approved subject to the following conditions:

- A. Allow a 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower.
All antennas will be mounted flush to the support structure, with all cables attached to the support

structure rather than the girders. The 18.50-foot (x) 18.50-foot wireless communication facility site shall be located as shown on an approved site plan, in compliance with all federal, state, and local rules and regulations.

- B. All requirements of Art. III Sec. III.D.6.g., of the Unified Zoning Code shall be met.
- C. The owner shall comply with requirements of the Wireless Communication Master Plan.
- D. 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.
- E. All appropriate lighting and/or markings as approved by the FAA.
- F. The applicant shall submit a current copy of FCC & FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- G. The tower site shall be developed in general conformance with the approved site plan. 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 7th Day of July, 2011

METROPOLITAN AREA PLANNING COMMISSION

Shawn Farney
Shawn Farney, Chair MAPC

ATTEST:

John L. Schlegel
John L. Schlegel, Secretary

STAFF REPORT

MAPC July 7, 2011

CASE NUMBER: CON2011-00024

OWNERS/APPLICANTS: United School District 259 c/o Shane Schumacher
(owner/applicant)

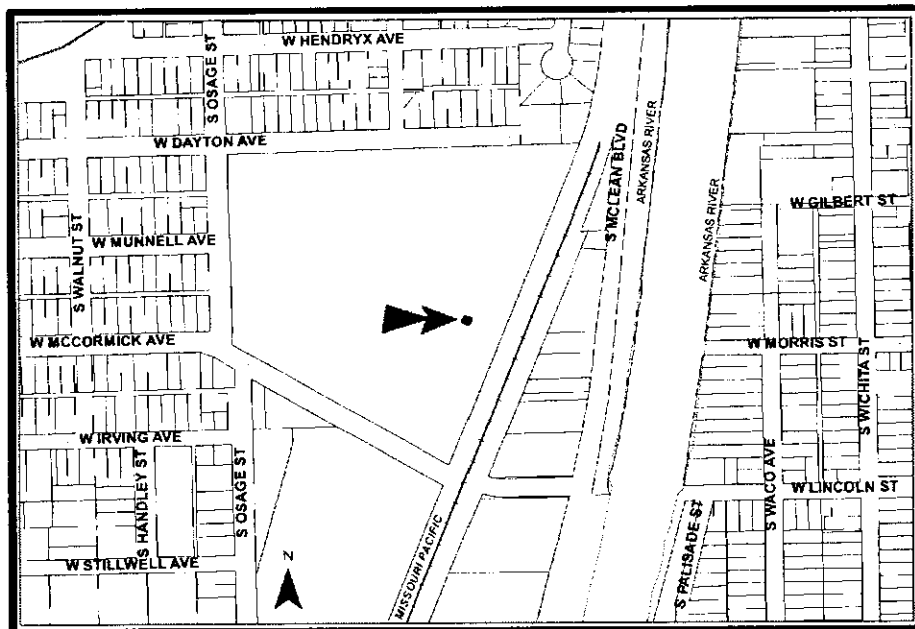
REQUEST: Conditional Use for a Wireless Communication Facility

CURRENT ZONING: MF-29 Multi-Family Residential ("MF-29")

SITE SIZE: An 18.5-foot (x) 18.6-foot tower site located on a USD 259 public school site (West High School)

LOCATION: Generally located midway between McLean Boulevard and Seneca Street, on the northeast corner of Osage and Lincoln Streets (WCC #V)

PROPOSED USE: Relocate and reconstruct a 100-foot tall galvanized steel, lattice, self-supporting, microwave communication tower.



BACKGROUND: Unified School District 259 (USD 259) is requesting a Conditional Use that would permit the relocation and reconstruction of a 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower. The 18.6-foot (x) 18.6-foot tower site is located in the platted, MF-29 Multi-Family Residential ("MF-29") zoned public school grounds of West High School, on the northeast corner of Osage and Lincoln Streets. The existing tower is being relocated and reconstructed on another part of the school site to allow for the expansion of the school's facilities. The proposed tower will provide voice, data and security alarm traffic between schools and administrative facilities as part of USD 259's microwave signal network; the same functions as now on its current site. Per the "Wireless Communication Master Plan" (Wireless Plan, most recently amended and adopted by the WCC 04-06-2011 & the BoCC 04-07-2011), new wireless communication facilities up to 65-feet in height in the MF-29 zoning district may be permitted with an Administrative Permit if it complies with the Location/Design Guidelines in the Wireless Plan and if the property located within the City is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The 100-foot tower exceeds the MF-29 zoning district's 65-foot maximum height, thus the application for a Conditional Use.

The applicant needs to provide a copy of the letter of FCC approval prior to the issuance of any building permits. The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant needs to provide an FAA "Determination of No Hazard to Air Traffic" letter, prior to the issuance of any building permits. The applicant needs to confirm that any proposed lighting of the tower, will be at the base for security purposes, will be temporary lighting needed for nighttime repairs and all other tower lighting will meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the "Design Guidelines" of the "Wireless Communication Master Plan."

In the past most of USD #259's self-supporting lattice microwave communication towers did not have co-location capabilities. The Wireless Communication Master Plan requires that a new undisguised ground mounted wireless communication facility be designed (including the ground area) to accommodate at least two carriers if 80-100 feet tall and three carriers if over 100 feet tall. The Master Plan also requires that the owner of the tower make available in the future the opportunity for another party to pay the cost to modify or rebuild the structure to support additional communication equipment where economically and technically feasible. USD 259 has provided a letter (04-27-2011) stating, among other considerations, that "No structural changes to USD 259 towers will be permitted." This statement would seem to be contrary to the Master Plan. It should be noted that a November 9, 2000, correspondences with the school district staff indicated that the school district was in the process of making their towers available for reconstruction; CON2000-42. In any case USD 259 is now stating that their towers are not available for reconstruction, thus limiting co-location opportunities.

The City's IT's and K-DOT's galvanized steel, lattice, self-supporting, microwave communication tower have co-location capabilities with the only known exception being IT's microwave tower, CON2009-43, located on the City's waste water treatment plant located

midway between 37th and 45th Streets North, on the east side of 135th Street West. This facility must conform to the Federal Drinking Water Security Act of 2009, which requires water treatment facilities to implement the same standards of security as chemical facilities, thus the waiver of the co-location requirement. K-DOT allows co-location with priority given to other government (primarily State) entities.

Per the site plan the tower appears to conform to the compatibility height standard. The site plan does not state if there is a 10-foot tall chain link fence around the tower site. The site plan states that landscaping will be provided in accordance with the City of Wichita's requirements. The site is located on the east side of the school site, directly west of LI Limited Industrial ("LI") zoned properties developed as office – warehouse, manufacturing, vacant land, and what used to be railroad right-of-way. The school's additional facility/building will provide screening along the east and, to lesser degree, southwest side of the site where MF-29 zoned (mostly) single-family residences are located. South of the site is the MF-29 zoned West High School athletic fields and the LI zoned city maintenance facility, plus a continuation of the mentioned railroad right-of-way. North of the site is another MF-29 and B Multi-family Residential ("B") zoned (mostly) single-family residential neighborhood. Using GeoZone to get an idea of the age of the residential neighborhoods, it shows houses being built anywhere from 1890 – 1976, with a majority seeming to be built 1900 – 1920s.

CASE HISTORY: The MF-29 zoned site is platted as the West High School Addition, which was recorded with the Register of Deeds 07-20-2004. BZA 8-68 was a variance to reduce the street side yard setback from 25 feet to zero, with conditions.

ADJACENT ZONING AND LAND USE:

NORTH:	MF-29, B	Single-family residences
SOUTH:	MF-29, LI	West High School track, ball/playing fields, city maintenance facilities
EAST:	LI	Office – warehouse, manufacturing, vacant land
WEST:	MF-29	Single-family residences,

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend all needed electrical and other service to the site. The site has access to Lincoln Street, a paved, four-lane urban arterial, with 80-foot of right-of-way. The 2030 Transportation Plan shows no change to the current status of this street.

CONFORMANCE TO PLANS/POLICIES: Per the "Wireless Communication Master Plan" (most recently amended and adopted by the WCC 04-06-2011 & the BoCC 04-07-2011), new wireless communication facilities up to 65-feet in height in the MF-29 zoning district may be permitted with an Administrative Permit if it complies with the Location/Design Guidelines in the Master Plan and if the property located within the City is designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The 100-foot tower exceeds the MF-29 zoning district's 65-foot maximum height, thus the application for a Conditional Use.

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 requires a Conditional Use for new undisguised ground mounted facilities over 65-feet in height in the MF-29 zoning district, that comply with the compatibility setback standards; it does comply with the compatibility height standards. The Design Guidelines of the Wireless Plan indicate that new facilities should: 1) Preserve the pre-existing character of the area as much as possible; the proposed 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower is the site's existing tower, which will be relocated and reconstructed on a new site on the subject property, thus there is no introduction of a new use in the area. 2) Minimize the height, mass, or proportion of the tower. 3) Minimize the tower's silhouette; in reference to Standards 2 and 3, the latest amendment to the Wireless Communication Master Plan (WCC 04-06-2011 & the BoCC 04-07-2011) states that, when located in an urban area lattice type structures should have antennas mounted flush to the support structure, with cables attached to the support structure rather than the girders to minimize the height, mass, and silhouette of the tower, which is the type of lattice tower USD 259 is proposing. 4) Use colors, textures, and materials on the towers that blend in with the existing environment; the tower's galvanized surface will blend into the sky. 5) Conceal or disguise the tower as a flagpole, clock tower, or church steeple; Planning is not aware that these options have been investigated. 6) Place towers in areas where trees and/or buildings obscure some or all of the facility; existing mature trees, the school building and landscaping will obscure some of the facility. 7) Place towers on walls or roofs of buildings; this option does not appear to be present in this area. 8) Screen towers through landscaping, walls, and/or fencing; the applicant will need to provide solid fencing and landscaping around the site. 9) Paint towers red and white instead of using strobe lighting; see #4 above. The application appears to meet most of these considerations.

The "2030 Wichita Functional Land Use Guide" of the Wichita-Sedgwick County Comprehensive Plan identifies the application area as "Major Institutional." The Major Institutional category includes institutional facilities of significant size and scale of operation and could include a range of such uses as government facilities, military bases, libraries, schools, cemeteries, churches, hospitals, and medical treatment facilities; the site is a High School. The site's current MF-29 zoning is intended to accommodate moderate-density residential development and other complementary land uses, such as the West High School public school site. The proposed tower is an accessory use/facility for the school, as it supports the public educational use of the site.

RECOMMENDATION: The application proposes to relocate and reconstruct a 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower on the West High School public school grounds. The proposed tower will maintain the school's connection to the district's microwave signal network that operates via point-to-point links between control-monitoring locations. The proposed tower is an accessory use/facility for the school, as it supports the public educational use of the site.

Based upon these factors and the information available prior to the public hearing, planning staff recommends that CON2011-00024 be APPROVED subject to the following conditions:

- A. Allow a 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower. All antennas will be mounted flush to the support structure, with all cables attached to the support structure rather than the girders. The site shall be located as shown on an approved site plan, in compliance with all federal, state, and local rules and regulations.
- B. The applicant must provide a written statement explaining why the tower will not be able to provide future opportunities for another party to pay the cost to modify or rebuild the structure to support additional communication equipment if it is economically and technically feasible. The Wireless Communication Master Plan's co-location requirement is for two carriers on the tower and the ground site. All other requirements of Art. III Sec. III.D.6.g., of the Unified Zoning Code shall be met.
- C. The owner shall comply with the removal of unused facilities, as stated in Sec IV.A.8 of the Wireless Communication Master Plan.
- D. 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.
- E. All appropriate lighting and/or markings as approved by the FAA.
- F. The applicant shall submit a current copy of FCC & FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- G. The tower site shall be developed in general conformance with the approved site plan. 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 tower site is located on the east side of the MF-29 zoned school site, directly west of LI Limited Industrial ("LI") zoned properties developed as office – warehouse, manufacturing, vacant land, and what used to be railroad right-of-way. Southwest of the site there is a MF-29 zoned (mostly) single-family residential neighborhood. South of the site is the MF-29 zoned West High School athletic fields and the LI zoned city maintenance facility, plus a continuation of the mentioned railroad right-of-way. North of the site is another MF-29 and B Multi-family Residential ("B") zoned (mostly) single-family residential neighborhood. The residential neighborhoods has houses being built anywhere from 1890 – 1976, with a majority seeming to be built 1900 – 1920s.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is an MF-29 zoned public school site. The MF-29 zoning district permits schools by right. The site is suitable for its continued use as a public school site. A Conditional Use may be granted to permit a wireless communication facility over 65 feet tall in the MF-29 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 and is relocating and reconstructing an existing 100-foot tall lattice, galvanized steel, self-supporting, microwave communication tower; a 100-

foot tall lattice, galvanized steel, self-supporting, microwave communication tower is not a new use for the area.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental impact on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties. The proposed expansion of the West High School public school site and its accessory tower will provide educational opportunities for the benefit of the neighborhood and the greater Wichita – Sedgwick community as well.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: 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 requires a Conditional Use for new undisguised ground mounted facilities over 65-feet in height in the MF-29 zoning district, that comply with the compatibility setback standards; it does comply with the compatibility height standards. The Design Guidelines of the Wireless Plan indicate that new facilities should: 1) Preserve the pre-existing character of the area as much as possible; the proposed 100-foot tall, galvanized steel, lattice, self-supporting, microwave communication tower is the site's existing tower, which will be relocated and reconstructed on a new site on the subject property, thus there is no introduction of a new use in the area. 2) Minimize the height, mass, or proportion of the tower. 3) Minimize the tower's silhouette; in reference to Standards 2 and 3, the latest amendment to the Wireless Communication Master Plan (WCC 04-06-2011 & the BoCC 04-07-2011) states that, when located in an urban area lattice type structures should have antennas mounted flush to the support structure, with cables attached to the support structure rather than the girders to minimize the height, mass, and silhouette of the tower, which is the type of lattice tower USD 259 is proposing. 4) Use colors, textures, and materials on the towers that blend in with the existing environment; the tower's galvanized surface will blend into the sky. 5) Conceal or disguise the tower as a flagpole, clock tower, or church steeple; Planning is not aware that these options have been investigated. 6) Place towers in areas where trees and/or buildings obscure some or all of the facility; existing mature trees, the school building and landscaping will obscure some of the facility. 7) Place towers on walls or roofs of buildings; this option does not appear to be present in this area. 8) Screen towers through landscaping, walls, and/or fencing; the applicant will need to provide solid fencing and landscaping around the site. 9) Paint towers red and white instead of using strobe lighting; see #4 above. The application appears to meet most of these considerations.
5. Impact of the proposed development on community facilities: FAA and FCC approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

