



Wichita-Sedgwick County Metropolitan Area Planning Department

May 22, 2012

George Eugene Shirley
1755 North Broadway
Wichita KS, 67214

REFERENCE: CON2012-00010 - City Conditional Use for a Wireless Communication Facility on LC Limited Commercial ("LC") zoned property; generally located on the southwest corner of 17th Street North and Broadway Avenue. Legal Description: Lots 2, 4, 6, & 8 (even). Lawrence Avenue - Powells Addition.

Dear Applicant:

At its regular meeting on May 17, 2012, 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:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. Waive the compatibility setback requirement.
- 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. The existing 199-foot tall lattice tower with guy lines and equipment located on it shall be completely removed; no "stub" or remnant of the tower shall remain on the site = Lots 6-8 (even) Lawrence Avenue - Powell's Addition.
- C. The support structure shall be a "monopole" 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 not exceed 199 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.

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- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the 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. 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.
- F. The tower site located within the owner's (+) 0.18-acres shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. 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.

NOTICE: The public hearing on planning items is conducted by the MAPC under provisions of State Law. Adopted policy is that the City Council will not take additional testimony on zoning related applications and other issues for which the MAPC has held a public hearing. However, interested parties may file a written statement with the City Clerk by 5:00 p.m. on the Wednesday preceding this meeting, providing new facts on the issue or alleging an unfair hearing. The Council will determine from such statements whether to return the issue to the MAPC for reconsideration or to reverse their recommendation.

Property owners may also file written protest petitions on zoning related items heard by the MAPC. In order to be considered a "valid" petition, the signatures must reflect the correct and entire ownership of the property, the property must be at least partially within 200 feet of the property for which the application was filed, and must be submitted to the City Clerk within 14 days of the conclusion of the MAPC hearing, by **May 31, 2012, at 5 p.m.** Such petitions may cause the application to be disapproved, if the land area encompassed by the protesting owners exceeds 20% of the land area within 200 feet of the perimeter of the application area, unless the Council overrides such a protest and approves the application by a vote of 6 of its members.

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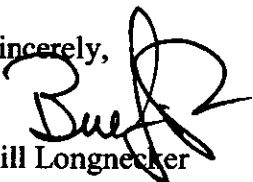
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If there are no valid appeals or protest petitions filed opposing this action by **May 31, 2012**, the action of the MAPC will be considered final. If appeals or protest petitions are filed, your application will be forwarded to the **June 19, 2012** City Council meeting for review and final action.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,



Bill Longnecker
Senior Planner

BL:mc

Copies to: Historic Midtown Citizens Assoc., Dan Fitzgerald, 1150 N. Broadway, Wichita, KS, 67214
Mike Douchant, VP, Dolan Realty Advisors, LLC, 11 E. Lockwood Ave, Ste 200, Webster Groves, MO 63119
Terri Dozal, NA VI, Mail Stop 1-135,
Janet Miller, WCC I, Mail Stop 1-13
Rick Stubbs, Superintendent OCI, Mail Stop 1-72
Paul Hayes, OCI, Mail Stop 1-72

CONDITIONAL USE RESOLUTION NO. CON2012-00010

WHEREAS, George Eugene Shirley(owner) and Verizon Wireless, c/o Marion S. Crable – Network Real Estate Manager (applicant); 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 199-foot tall galvanized steel monopole cell phone tower on approximately 0.18-acres zoned LC Limited Commercial (“LC”), described as:

Lots 2, 4, 6 and 8 on Lawrence, now Broadway Avenue, in Powell’s Addition, Wichita, Sedgwick County, Kansas; generally located on the southwest corner of Broadway Avenue and 17th Street North.

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 May 17, 2012, 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 allow a Conditional Use for a Wireless Communication Facility with a 199-foot tall galvanized steel monopole cell phone tower on approximately 0.18-acres zoned LC Limited Commercial (“LC”), described as:

Lots 2, 4, 6 and 8 on Lawrence, now Broadway Avenue, in Powell’s Addition, Wichita, Sedgwick County, Kansas; generally located on the southwest corner of Broadway Avenue and 17th Street North.

Approved subject to the following conditions:

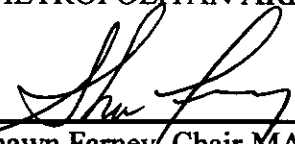
- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. Waive the compatibility setback requirement.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable. The existing 199-foot tall lattice tower with guy lines and equipment located on it shall be completely removed; no “stub” or remnant of the tower shall remain on the site = Lots 6-8 (even) Lawrence Avenue - Powell’s Addition.
- C. The support structure shall be a “monopole” 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 not exceed 199 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the 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. 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.
- F. The tower site located within the owner’s (+) 0.18-acres shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the type and size of fencing around

the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.

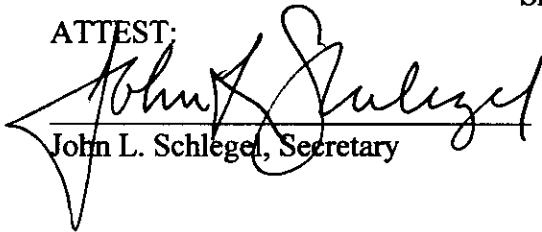
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions 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 17th day of May 2012.

METROPOLITAN AREA PLANNING COMMISSION


Shawn Farney, Chair MAPC

ATTEST:


John L. Schlegel, Secretary



AGENDA ITEM NO. 4

STAFF REPORT

MAPC May 17, 2012

DAB VI May 16, 2012

CASE NUMBER: CON2012-00010

OWNERS/APPLICANTS: George Shirley (owner) Verizon Wireless, c/o Mike Douchant (applicant)

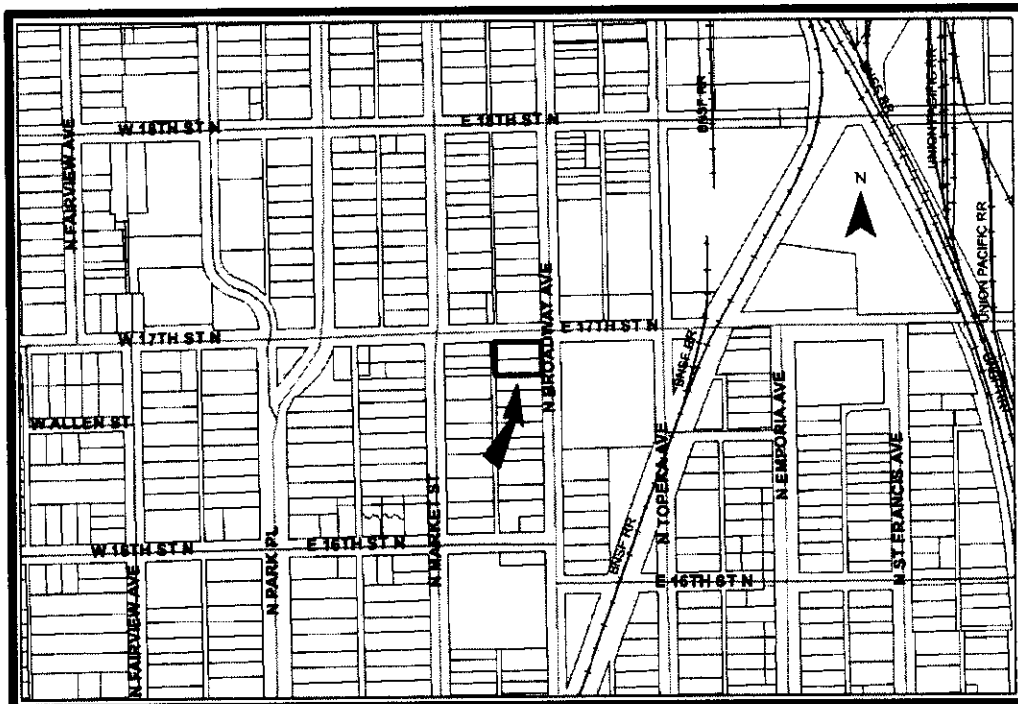
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 55' x 30' site located within 0.18-acres

LOCATION: Generally located on the southwest corner of 17th Street North and Broadway Avenue

PROPOSED USE: 199-foot wireless, galvanized steel, monopole, cell phone tower and equipment



BACKGROUND: The applicant, Verizon Wireless, is seeking a Conditional Use to permit the construction of a 199-foot tall, wireless, galvanized steel, monopole cell phone tower on the LC Limited Commercial ("LC") zoned lot located on the southwest corner of 17th Street North and Broadway Avenue. The LC zoning district permits new, undisguised ground mounted facilities up to 120 for consideration as an Administrative Permit, thus the Conditional Use request for the 199-foot tall monopole. The tower does not meet the compatibility setback standards, as it is located within 15 feet (the width of the west, abutting platted alley) of TF-3 Two-Family Residential ("TF-3") zoning. The applicant is requesting a waiver of the compatibility height standards, which can be considered in the Conditional Use process. Besides the existing tower on the site, there is a small electronics store on the site.

The applicant proposes to remove their equipment and antennas from an abandoned building located at 400 East 18th Street North. The applicant's agent and RF Engineer have described the building as a potential safety and health hazard due to its deteriorating condition. The applicant has been at the 400 E. 18th Street North property since 1999. The applicant proposes to move to the LC Limited Commercial ("LC") zoned subject site. The site has an existing 199-foot tall lattice tower with guy lines and equipment located on it. Staff has found no case history on the lattice tower, but the applicant has stated that the original design drawings were dated May 13, 1986. The applicant's structural analysis of the lattice tower has found it does comply with structural standards under the proposed loading condition and that extensive modifications would have to be made in order to comply. The applicant has also stated that the foundation capacity would need to be verified before a change condition can be approved. Because of these considerations the applicant proposes to build a 199 foot monopole on the site and then tear down the existing 199-foot tall lattice tower, thus leaving the proposed monopole.

The applicant's RF Engineer has stated that the proposed facility is needed to both maintain and improve phone service in this section of Wichita. The RF Engineer states that there are no towers or structures in the immediate 1-mile area that would allow co-location opportunities to meet their communication needs. The wireless facilities map provided by the applicant shows the existing facilities in the area. This map is in general agreement with the case map generated by City IT. The applicant has provided current and desired coverage maps. The applicant has also provided comments on two other sites close to the subject site that were considered, with the OW Office-Warehouse ("OW") zoned Nibarger site located approximately 600 feet east (across the railroad tracks) of the site having strong consideration, but with no resolution in terms of a lease.

The zoning and character of the area has LC and GC General Commercial ("GC") zoned commercial development located along both sides of Broadway Avenue. The next block west of this commercial development is mostly TF-3 Two-Family Residential ("TF-3") zoned single-family residential development. East of Broadway and across the railroad tracks is the beginning of an extensive LI Limited Industrial ("LI") and GI General Industrial ("GI") zoned area. There are cell towers of different heights and design throughout this area out to I-135.

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 has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. Tower lighting must 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." The proposed tower must allow co-location for three (3) other providers. The applicant has indicated that the tower will have a triangular "top hat" antenna array, the UZC recommends antennas mounted flush to the support structure over triangular "top hat" antenna arrays, however it also recognizes that the triangular "top hat" antenna's signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

CASE HISTORY: The site is located on Lot 2, 4, 6 and 8, Powells Addition, which was recorded with the Register of Deeds, June 9, 1887. There is no case history on the existing 199-foot tall lattice tower and its equipment.

ADJACENT ZONING AND LAND USE:

NORTH:	LC, GC, TF-3	Commercial, single-family residential
SOUTH:	LC, TF-3	Commercial, single-family residential
EAST:	LC, OW, LI	Commercial, manufacturing, milling
WEST:	TF-3, B	Single-family residential

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 Broadway Avenue, a four-lane arterial street and 17th Street North, a local street. The 2030 Transportation Plan shows no change to the current status of this road.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance, new wireless communication facilities over 120 feet in height in the LC zoning district may be permitted with 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 120-feet in height in the LC zoning district and that they comply with the compatibility setback standards; the 199-foot tall tower's site is located within 15 feet of TF-3 zoning and does not meets those setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The proposed 199-foot monopole tower will replace an existing 199-foot lattice tower with guy lines. The site has residential uses within 15 feet of it. There are numerous towers located east of the site, across Broadway and the railroad tracks; 2) Minimize the height, mass, or proportion. The tower is similar or taller in height, mass and proportion to other monopole towers in the area; 3) Minimize the silhouette; the proposed monopole will have a more silhouette than the lattice tower it proposes to

replace. The 199-foot monopole tower uses triangular "top hat" antenna arrays, rather than the preferred flush mounted antennas. The triangular "top hat" antenna's signal travels further than the flush mounted antennas, therefore, in theory, reducing the number of needed towers; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole tower will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. These options have not been presented; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. There are some multi-storied commercial buildings in the area and mature trees in the area around the site, which will help to obscure the site; 7) Be placed on walls or roofs of buildings. The application has done this in the past, but is currently in the process of removing antennas and equipment from a poorly maintained building; 8) Be screened through landscaping, walls, and/or fencing. The applicant needs to provide solid screening with the minimum being 6-8 foot tall wooden fence and landscaping planted around it.

The 2030 Wichita Functional Land Use Guide depicts this location as being appropriate for "local commercial," which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. A wireless communication facility is a commercial use.

RECOMMENDATION: Considerations in this request include replacing an old 199-foot tall lattice tower with guy lines, which is at full capacity in regards to carriers, with a 199-foot tall monopole that will be built to allow more carriers. Another consideration is the site's extremely close proximity to single-family residential development, which amounts to the 15-foot width of the west abutting alley. This close proximity means it would be difficult for any tower on this site to comply with the compatibility standards and provide adequate coverage. Looking from the site to the east one can see numerous communication towers, all located within an industrial area. This is where the applicant is moving from, after failing to find co-location or not being able to agree on a fair market value for property in the industrial area. Replacing the old tower that appears to have been at this location since 1986 with a new monopole that maintains current coverage and may improve coverage with the additional co-location opportunities seems to be at best a wash. 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 Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. Waive the compatibility setback requirement.
- 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 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 not exceed 199 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the 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. 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.
- F. The tower site located within the owner's (+) 0.18-acres shall be developed in general conformance with the approved revised site and landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- H. 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 zoning and character of the area has LC and GC General Commercial ("GC") zoned commercial development located along both sides of Broadway. The next block west of this commercial development is mostly TF-3 Two-Family Residential ("TF-3") zoned single-family residential development. West of Broadway and across the railroad tracks is the beginning of an extensive LI Limited Industrial ("LI") and GI General Industrial ("GI") zoned area. There are cell towers of different heights and design throughout this area out to I-135.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and is currently used as site for a 199-foot tall lattice tower with guy lines and its equipment and an electronics store. The electronics store is permitted by right in the LC zoning district. There is no case history on the existing tower, which may have been on the site since 1986. Today that tower would require a Conditional Use and waiving of the compatibility setbacks for location on the site, which is what the applicant is requesting for the replacement tower, a 199-foot tall monopole tower.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The 199-foot lattice tower with guy lines is proposed to be replaced with a 199-foot monopole tower. The proposed monopole will have more silhouette than the lattice tower it proposes to replace. However, the conditions of approval will add solid screening and landscaping around the site, to help minimize the eye level visual impact.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility partially conforms to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The application fails to meet the compatibility setback requirements and any tower that would provide adequate coverage probably could not meet the compatibility setback requirements. The proposed wireless communication facility attempts to conform to the Design Guidelines of the Wireless Communication Master Plan through its monopole design and by utilizing an unobtrusive color with a matte finish to minimize glare.
5. Impact of the proposed development on community facilities: FAA 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.