



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

November 18, 2005

Mildred E. Mitchell - Trust
Marsha Meyersick, Co-Trustee
721 W. 21st #406
Andover, KS 67002

RE: CON2005-41 – Sedgwick County Conditional Use to permit a Wireless Communication Facility on property zoned “RR” Rural Residential. Generally located approximately 207 feet east of Greenwich, approximately 1/4 mile north of 45th Street. (District I)

Dear Ladies and Gentlemen:

At its regular meeting on October 6, 2005, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in cursive script that reads 'Dale Miller'.

Dale Miller, Manager
Current Plans Division

DLM/rms

Cc: Curtis Holland, Cingular Wireless, 6201 College Blvd Ste 500, Overland Park KS 66211
Mark Clark, 525 N. Main, Room 227, Wichita, KS 67203
Dave Unruh, County Commissioner District I, Mail Stop, County Room 320
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213


Adopted this 6TH DAY of OCTOBER, 2005. 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



Harold Warner, Jr., Chair MAPC

ATTEST:



John L. Schlegel, Secretary

CONDITIONAL USE RESOLUTION NO. CON2005-00041

WHEREAS, Mildred Mitchell Trust (Marsha Meyersick, Co-Trustee) and Cingular Wireless (Curtis Holland); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to permit a Wireless Communication Facility on approximately 1/2 acre zoned "RR" Rural Residential described as:

A tract of land situated in the Southwest Quarter of the Southwest Quarter of Section 22, Township 26 S, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 22, said point bears South 88 degrees 50'02" West, a distance of 2644.23 feet from the Southeast corner of the Southwest Quarter of said Section 22, said point also bears South 01 degrees 30'01" East, a distance of 2652.84 feet from the Northwest corner of said Southwest Quarter; thence North 10 degrees 35'31" East, a distance of 1224.90 feet to the POINT OF BEGINNING; thence North 00 degrees 00'00" East, a distance of 100.00 feet; thence South 90 degrees 00'00" East, a distance of 100.00 feet; thence South 00 degrees 00'00" West, a distance of 100.00 feet; thence North 90 degrees 00'00" West, a distance of 100.00 feet to the POINT OF BEGINNING. Generally located approximately 207 feet east of Greenwich, approximately 1/4 mile north of 45th Street.

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 October 6, 2005, 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 Wireless Communication Facility on property zoned "RR" Rural Residential described as:

A tract of land situated in the Southwest Quarter of the Southwest Quarter of Section 22, Township 26 S, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Southwest corner of said Section 22, said point bears South 88 degrees 50'02" West, a distance of 2644.23 feet from the Southeast corner of the Southwest Quarter of said Section 22, said point also bears South 01 degrees 30'01" East, a distance of 2652.84 feet from the Northwest corner of said Southwest Quarter; thence North 10 degrees 35'31" East, a distance of 1224.90 feet to the POINT OF BEGINNING; thence North 00 degrees 00'00" East, a distance of 100.00 feet; thence South 90 degrees 00'00" East, a distance of 100.00 feet; thence South 00 degrees 00'00" West, a distance of 100.00 feet; thence North 90 degrees 00'00" West, a distance of 100.00 feet to the POINT OF BEGINNING. Generally located approximately 207 feet east of Greenwich, approximately 1/4 mile north of 45th Street.

APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6g. 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 with a maximum of 195 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures: for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for 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 the Conditional Use null and void.

- LEGEND:**
- PROPERTY LINE
 - SETBACK LINE
 - 1320--- EXISTING INDEX CONTOURS
 - 1318--- EXISTING INTERMEDIATE CONTOURS
 - EDGE OF BIT. ASPHALT PAVEMENT
 - EDGE OF GRAVEL DRIVEWAY
 - X X FENCE LINE
 - TOP/TOE OF SLOPES
 - CENTERLINE OF DITCH
 - CULVERTS
 - o UTILITY/ POWER LINE
 - o RAILROAD SPIKE
 - o FOUND IRON PIN
 - PROPOSED FINISHED GRADE
 - E--- PROPOSED UNDERGROUND POWER LINE
 - T--- PROPOSED UNDERGROUND TELEPHONE LINE

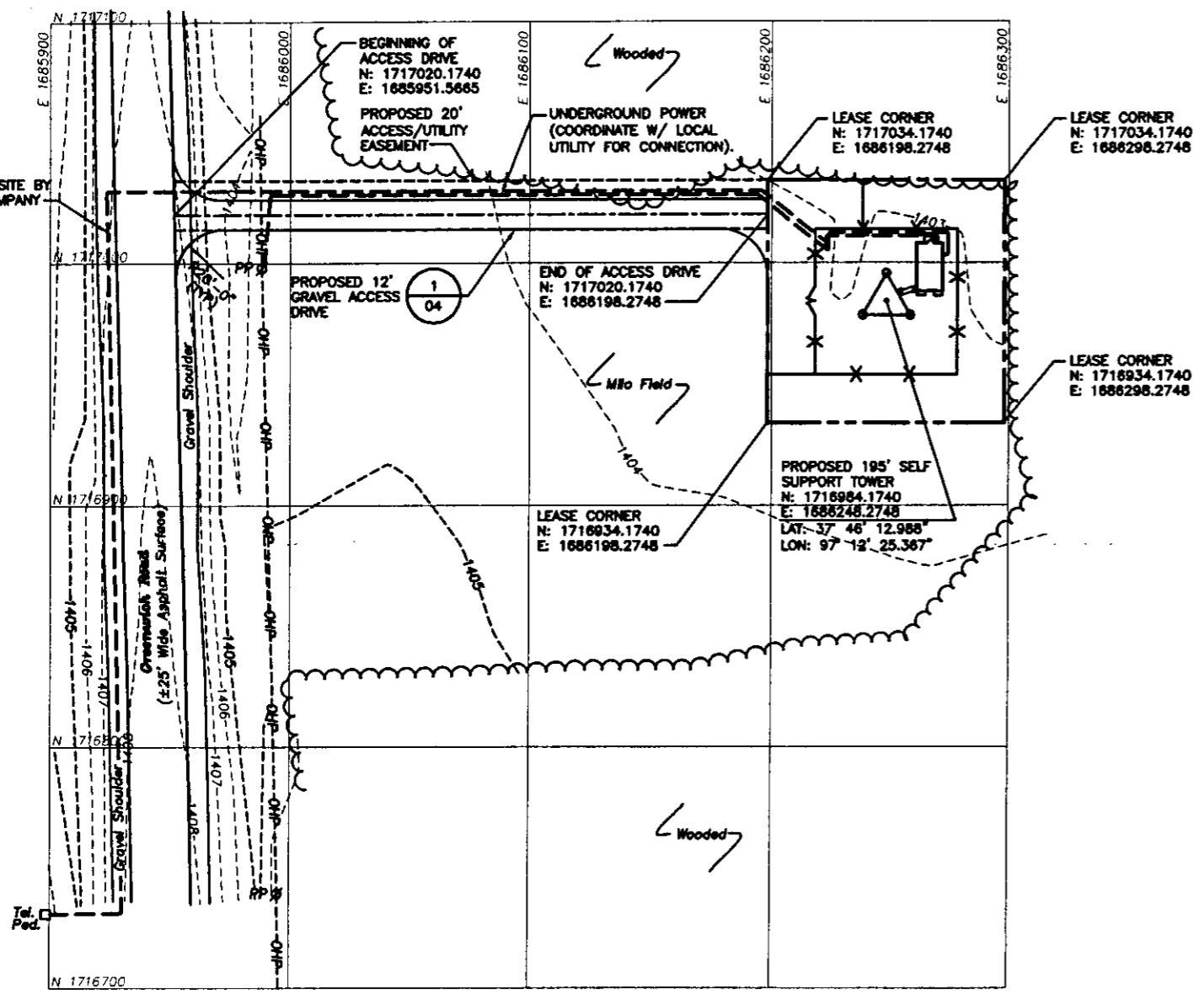
- NOTES:**
- EXISTING STRUCTURE, BOUNDARY, TRUE NORTH, AND TOPOGRAPHIC INFORMATION WERE TAKEN FROM SURVEY.
 - ALL TOWER INFORMATION SHOWN IS FOR ILLUSTRATION PURPOSES ONLY AND MAY DIFFER FROM THE FINAL DESIGN PROVIDED BY THE TOWER MANUFACTURER. THE CONTRACTOR SHALL CONSTRUCT THE TOWER, FOOTINGS, AND ALL OTHER RELATED COMPONENTS IN ACCORDANCE WITH THE TOWER MANUFACTURER'S DRAWINGS AND SPECIFICATIONS.

GEOGRAPHIC COORDINATES FOR CENTER OF TOWER

NAD 83 State Plane	N: 1718984.1740
	E: 1888248.2748
NAD 83 Geographic	37° 48' 12.988"
	97° 12' 25.367"

PROPERTY OWNER INFORMATION:

M & L LAND COMPANY
 15901 E 77TH STREET
 BENTON, KANSAS 67017
 PHONE 316-218-0236

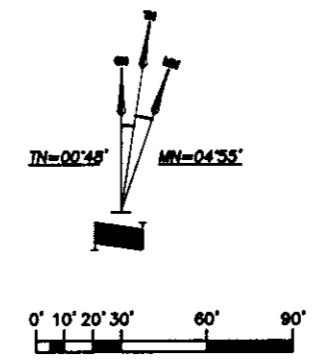


CALL BEFORE YOU DIG - DRILL - BLAST
 1-800-344-7483
 (TOLL FREE)



MISSOURI ONE CALL SYSTEM, INC.

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.



SITE PLAN

TOWER BASE:
 LATITUDE: 37° 48' 12.988" N
 LONGITUDE: 97° 12' 25.367" W
 (PER NORTH AMERICAN DATUM OF 1983)
 ELEVATION: 1403'±
 (PER NATIONAL GEODETIC VERTICAL DATUM OF 1929)

APPROVED 11-17-05 BY DM

CONOS-41 MAPC 10-6

SITE PLAN

3

2

SELECTIVE SITE CONSULTANTS, INC.
 A Site Acquisition, Engineering, and Construction Quality Assurance Company
 8500 W. 110th St., Suite 300 Phone: 913-438-7700
 Overland Park, Kansas 66210 Fax: 913-438-7777

**GREENWICH
 KS-4685**
 TBD E. 45TH ST
 WICHITA, KANSAS 67226



NO.	DATE	REVISIONS	BY	CHK	APP'D
0	08/24/05	ISSUED FOR CONSTRUCTION	JMB	HAN	HAN
A	08/17/05	ISSUED FOR REVIEW	JMB	HAN	HAN

SCALE: AS SHOWN DESIGNED: JMB DRAWN: JMB

CINGULAR WIRELESS

OVERALL SITE PLAN

DRAWING NO.	REV
KS-4685-02	0

community facilities.

STAFF REPORT

MAPC 10-6-05

CASE NUMBER: CON2005-00041

APPLICANT/AGENT: Mildred Mitchell Trust (Marsha Meyersick, Co-Trustee) and Cingular Wireless (Curtis Holland)

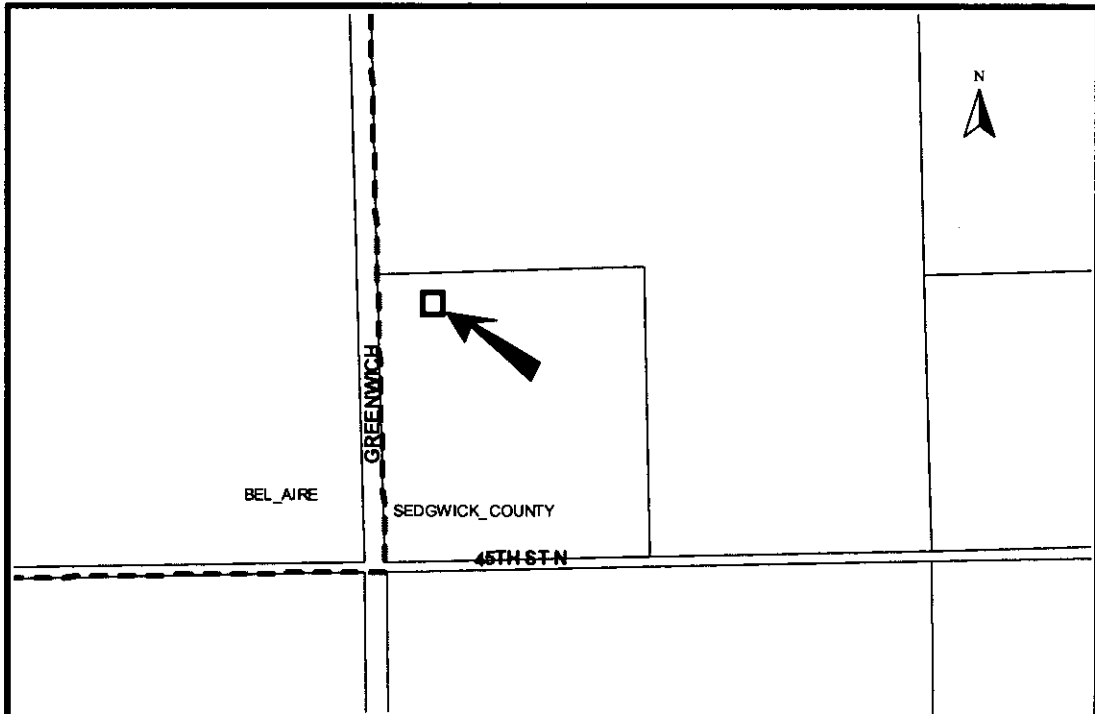
REQUEST: Conditional Use to permit a Wireless Communication Facility

CURRENT ZONING: RR Rural Residential

SITE SIZE: Approximately ½ acre

LOCATION: Approximately 207 feet east of Greenwich, approximately ¼ mile north of 45th Street

PROPOSED USE: Wireless Communication Facility



BACKGROUND: The applicant's are seeking a Conditional Use to permit a 195-foot tall lattice type wireless communications facility support structure and associated equipment. The application area is zoned RR Rural Residential, is approximately 100 feet by 100 feet square in size, and is located approximately ¼ mile north of 45th Street and east of Greenwich Road. The property owner owns the 40 acres surrounding the application area, and the remainder of the ¼ section surrounding the parent tract. The application area is unplatted. The wireless compound is to be located greater than 207 feet east of the Greenwich right-of-way and nearly a ¼ mile north of 45th. Within the approximately 100 by 100 square-foot application area the applicant proposes to construct a 60-foot by 60-foot fenced compound that would contain the self-support tower, equipment shelter and accessory equipment. Access to the site is via a drive off of Greenwich.

A rental residence owned by the property owner is located on the 40-acre parent site and it is located within 500 feet of the tower. No other residences are located within 1,000 feet of the application area.

The applicant indicates they need a tower in this general area in order to improve customer service for Cingular Wireless, especially "in building coverage" between 159th and Rock Road, and between 61st and 29th streets north. There are not any structures suitable for co-location located within the target service area. The closest structure with any height is a 180-foot tall City of Wichita water tower located 1.75 miles to the northwest of the application area (north of 53rd Street, approximately ½ mile east of Rock Road). The closest existing wireless tower is located 1.75 miles to the southwest (north of K-96 and west of Webb Road). Neither one of these structures are located in the target service area in a way that will effectively address the company's service delivery objectives.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: RR Rural Residential; agriculture
SOUTH: RR Rural Residential; agriculture
EAST: RR Rural Residential; agriculture
WEST: RR Rural Residential; agriculture (City of Bel Aire)

PUBLIC SERVICES: The site does not have access to sewer or water services, nor does the use need them. Access to the site is via Greenwich, which is a paved road.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita-Sedgwick County Comprehensive Plan depicts this site as located within the City of Wichita's "2030 urban growth area." This category of land use is intended for land that is located on Wichita's urban fringe, but it is anticipated that municipal services will be extended

within the planning period, more intense development requests will be made and the property will be annexed. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The *Wireless Communication Master Plan* contains location and height guidelines, design guidelines and co-location requirements that have been incorporated in the Wichita-Sedgwick County Unified Zoning Code as Supplemental Use Regulation g. In general, the wireless plan promotes a wireless system that minimizes the height and number of support structures necessary to provide effective wireless services.

RECOMMENDATION: The main focus of the "Wireless Communication Mater Plan" is to encourage effective wireless service while minimizing the number and height of support towers, and the visibility of the equipment needed to provide the service. The plan includes design guidelines that indicate: co-location is preferred to new construction; the character of the area should be preserved as much as possible; minimize the height, mass or proportion of the facilities and minimize the silhouette presented by the support structures and antenna arrays. To that end a monopole support structure has generally been found to be more consistent with the plan's recommendations than a lattice tower. The plan states that monopoles are favored over lattice-type structures to a height of at least 150 feet. The request is for a 195-foot tower, but this area is adjacent to the City of Bel Aire, and is located within the City of Wichita's projected urban growth areas. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Conditional Use restrictions:

- A. All requirements of Section III.D.6g. 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 with a maximum of 195 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures: for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned RR Rural Residential and primarily used for agricultural purposes. The character of the area is rural but increasing development pressure due to its proximity to the cities of Wichita and Bel Aire is anticipated. At some not too distant point in time this rural area will be annexed into a city.
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 could continue to be used for agricultural uses or for large-lot residential uses permitted by the RR district or other uses permitted by right in that zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on properties in the area should be minimized by the recommended conditions of approval.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to the applicant, approval would improve wireless services specifically for Cingular customers and for other public carriers needing to improve service in the area who could co-locate on the proposed wireless facilities. Denial would presumably cause the property owner a loss of income and potentially limit wireless service in the area identified as being deficient in service.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita-Sedgwick County Comprehensive Plan depicts this site as located within the City of Wichita's 2030 urban growth area. This category of land use is intended for land that is located on Wichita's urban fringe, but it is anticipated that municipal services will be extended within the planning period, more intense development will occur and the property will be annexed. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. With a monopole the application would comply with adopted policies.
6. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed facility does not detrimentally impact