



FILE COPY

Wichita-Sedgwick County Metropolitan Area Planning Department

August 23, 2002

Kansas Public Telecommunications Service, Inc.
%David W. McClintock
320 W. 21st Street North
Wichita, KS 67203

RE: CON2002-39 – Conditional Use for a wireless communication facility on property zoned “LC” Limited Commercial. Generally located at the northeast corner of 21st Street North and Waco (320 W. 21st Street North).

Dear Ladies and Gentlemen:

At its regular meeting on August 8, 2002, 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 Conditional Use Resolution.

This action was not accompanied by valid appeals or protest petitions, therefore, the action of the Planning Commission is FINAL. Enclosed is a signed copy of the above-referenced Conditional Use Resolution. If you have any questions concerning this case, please contact our office.

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

Sincerely,

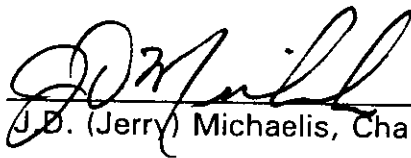
Scott Knebel
Senior Planner

SK/rms

Cc: Ferris Consulting, %Greg Ferris, P O Box 573, Wichita, KS 67201
VoiceStream Wireless, %George Wyrick, 4533 Enterprise Drive,
Oklahoma City, OK 73120
Mark Clark, 525 N. Main, Room 227, Wichita, KS 67203
Sharon Fearey, City Council Member, District VI, Mail Stop 1-13
Terri Dozal, D.A.B. VI, Mail Stop 1-135
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
Randy Sparkman, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72
J.R. Cox, Office of Central Inspection, Mail Stop 1-72

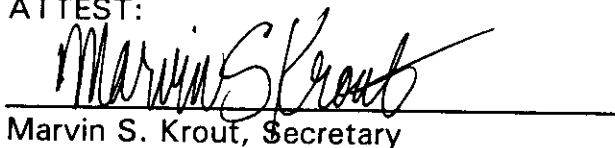
Adopted this 8th DAY of AUGUST, 2002. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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

A handwritten signature in cursive script, appearing to read "J.D. Michaelis", written over a horizontal line.

J.D. (Jerry) Michaelis, Chair MAPC

ATTEST:

A handwritten signature in cursive script, appearing to read "Marvin S. Krout", written over a horizontal line.

Marvin S. Krout, Secretary

CONDITIONAL USE RESOLUTION NO. CON2002-00039

WHEREAS, Kansas Public Telecommunications Service, Inc., c/o David W. McClintock (Applicant/Owner); VoiceStream Wireless c/o George Wyrick (Applicant); Ferris Consulting c/o Greg Ferris (Agent), 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 allow for a wireless communication facility on 1,192 square feet zoned "LC" Limited Commercial described as:

A tract of land lying in and being a part of Lots Thirteen (13) and Fifteen (15), Judson Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Lot 13; Thence North 88 degrees 45'11" East, along the North line of said Lot 13, a distance of 11.24 feet to the point of beginning; Thence continuing North 88 degrees 45'11" East, along said North line, a distance of 43.94 feet; Thence South 01 degree 14'49" East a distance of 36.50 feet; Thence South 88 degrees 45'11" West a distance of 20.44 feet; Thence North 01 degree 14'49" West a distance of 12.00 feet; Thence South 88 degrees 45'11" West a distance of 3.50 feet; Thence North 01 degree 14'49" West a distance of 6.50 feet; Thence South 88 degrees 45'11" West a distance of 20.00 feet; Thence North 01 degree 14'49" West a distance of 18.00 feet to the point of beginning. Generally located at the northeast corner of 21st Street North and Waco 9320 W. 21st 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 August 8, 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.

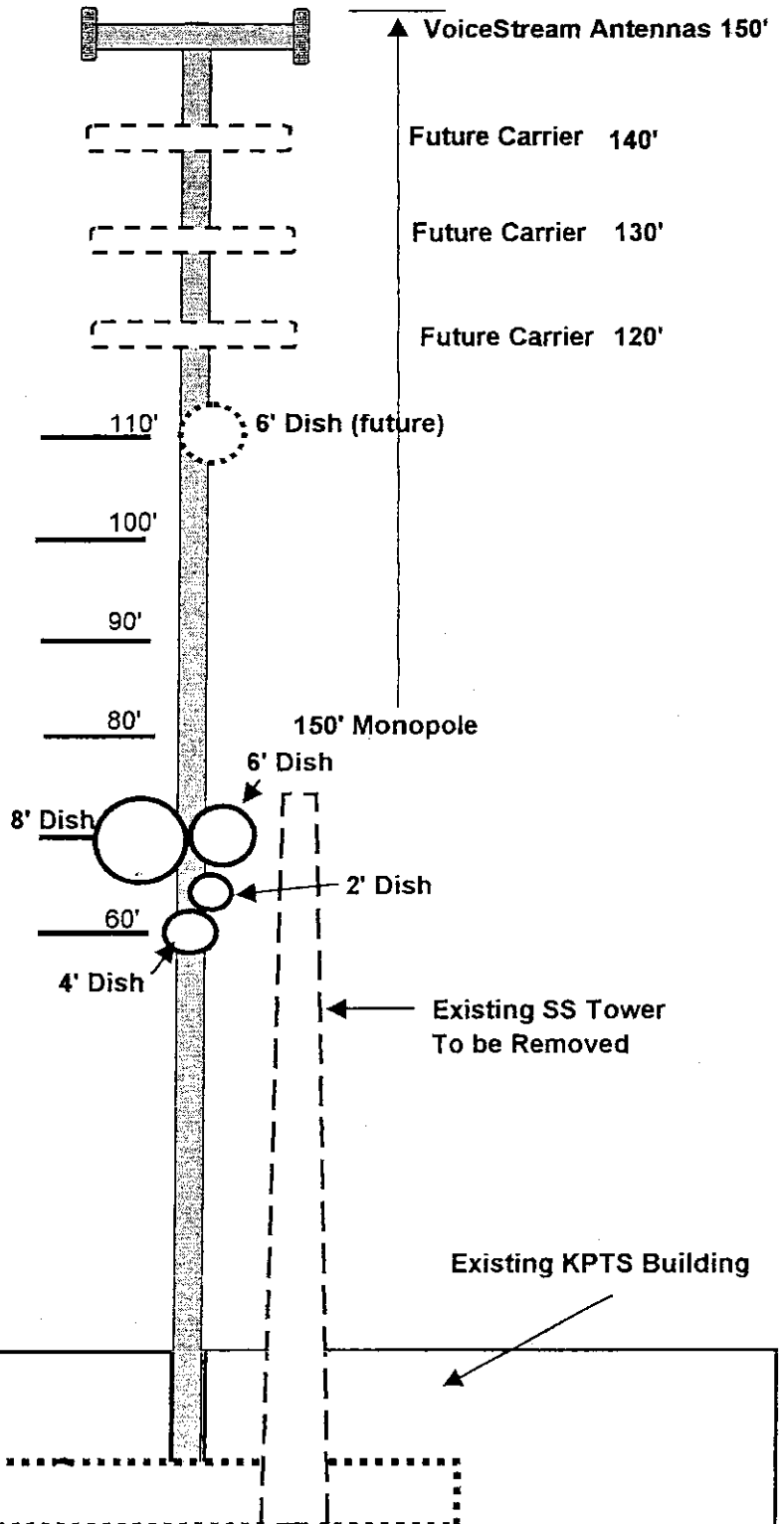
NOW, THEREFORE, BE IT RESOLVED by the Metropolitan Area Planning Commission that this application be approved to permit a Conditional Use to allow for a wireless communication facility on 1,192 square feet zoned "LC" Limited Commercial described as:

A tract of land lying in and being a part of Lots Thirteen (13) and Fifteen (15), Judson Addition to Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Northwest corner of said Lot 13; Thence North 88 degrees 45'11" East, along the North line of said Lot 13, a distance of 11.24 feet to the point of beginning; Thence continuing North 88 degrees 45'11" East, along said North line, a distance of 43.94 feet; Thence South 01 degree 14'49" East a distance of 36.50 feet; Thence South 88 degrees 45'11" West a distance of 20.44 feet; Thence North 01 degree 14'49" West a distance of 12.00 feet; Thence South 88 degrees 45'11" West a distance of 3.50 feet; Thence North 01 degree 14'49" West a

distance of 6.50 feet; Thence South 88 degrees 45'11" West a distance of 20.00 feet; Thence North 01 degree 14'49" West a distance of 18.00 feet to the point of beginning. Generally located at the northeast corner of 21st Street North and Waco 9320 W. 21st Street North).

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 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The existing 70-foot high support structure shall be removed within 30 days of erection of the 150-foot high support structure.
- F. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.e. of the Unified Zoning Code.
- G. 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.
- H. The site shall be developed in general conformance with the approved site plan and elevation drawings. 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.

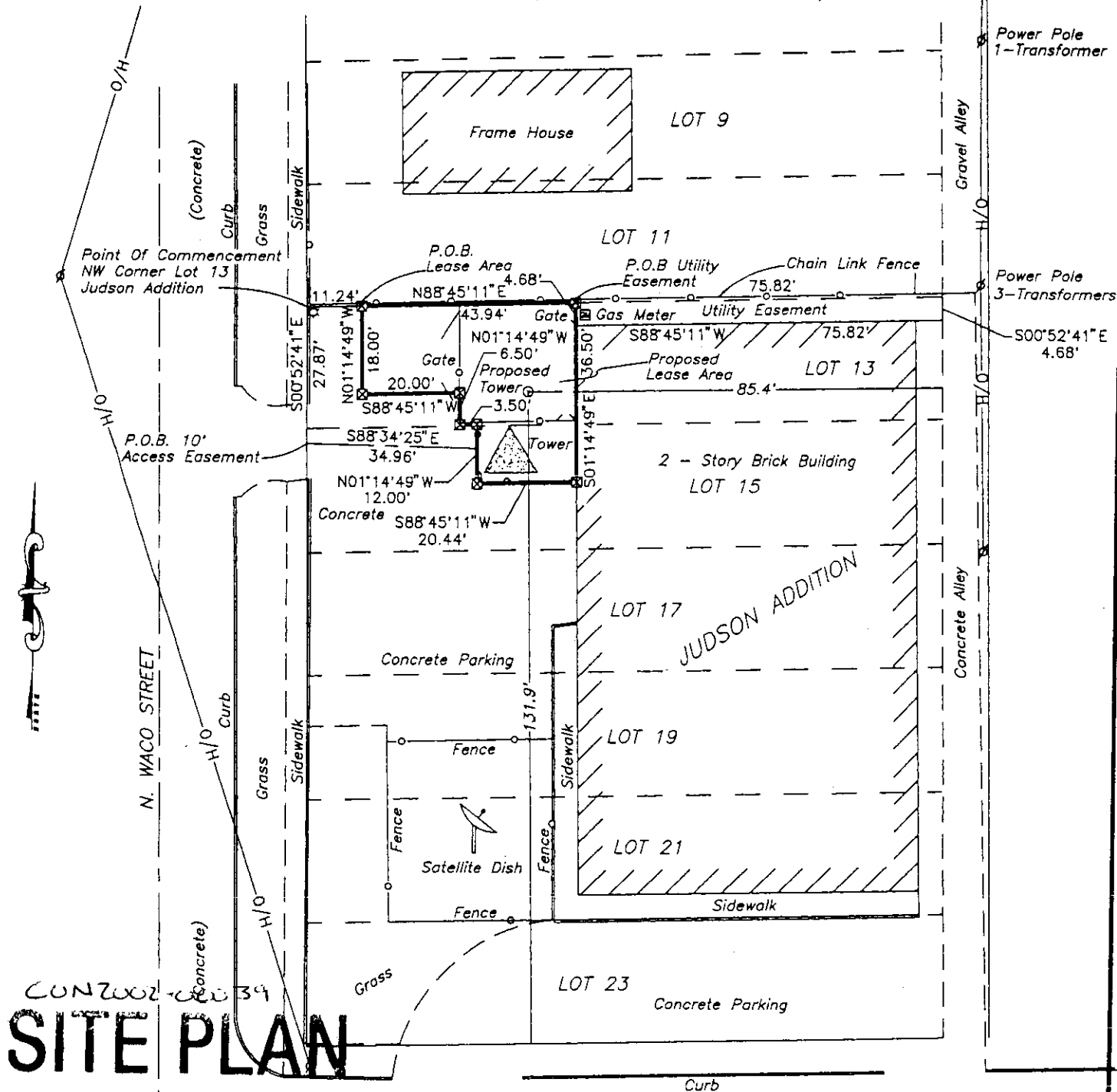


Drawing Not to Scale

CON2002-00039
SITE PLAN

APPROVED 8-8-02 BY MAPC

A PROPOSED LEASE AREA IN PART OF LOTS 9 & 15,
JUDSON ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS



APPROVED 8-8-02 BY MAPC (Asphalt)

(Asphalt)

WI2103
21ST & AMIDON

☒ Denotes Chiseled "X" Set

Bearings shown are based on Kansas State Plane
Coordinate System, South Zone, NAD83 Datum.
This is not a Boundary Survey.

VOICESTREAM WIRELESS
OKLAHOMA CITY, OKLAHOMA

DATE: 6/20/02

SCALE: 1" = 30'

JOB #: 0976

FIELD BOOK #: 15

PAGE #: 63

SHEET 1 OF 2

NO.	REVISION	DATE	BY
SURVEYED BY: MAN			
DRAWN BY: KEH			
APPROVED BY: KEH			

Prepared By:
ACK Professional Land Survey, P.C.
713 S. 8th Street Yukon, OK 73099 (405)-354-8272

guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The visual impact of the proposed tower will increase with the more than doubling the height of the tower; however, a 70-foot high tower has existed on the subject property without any significant detrimental affects on nearby property.
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 monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed in an area where a building obscures some of the facility from view. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 150 feet from the nearest lot line of property zoned "TF-3" or more restrictive.
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.

STAFF REPORT

DAB VI, August 5, 2002

MAPC, August 8, 2002

CASE NUMBER: CON2002-00039

APPLICANT/AGENT: Kansas Public Telecommunications Service, Inc. c/o David W. McClintock (Owner/Applicant); VoiceStream Wireless c/o George Wyrick (Applicant); Ferris Consulting c/o Greg Ferris (Agent)

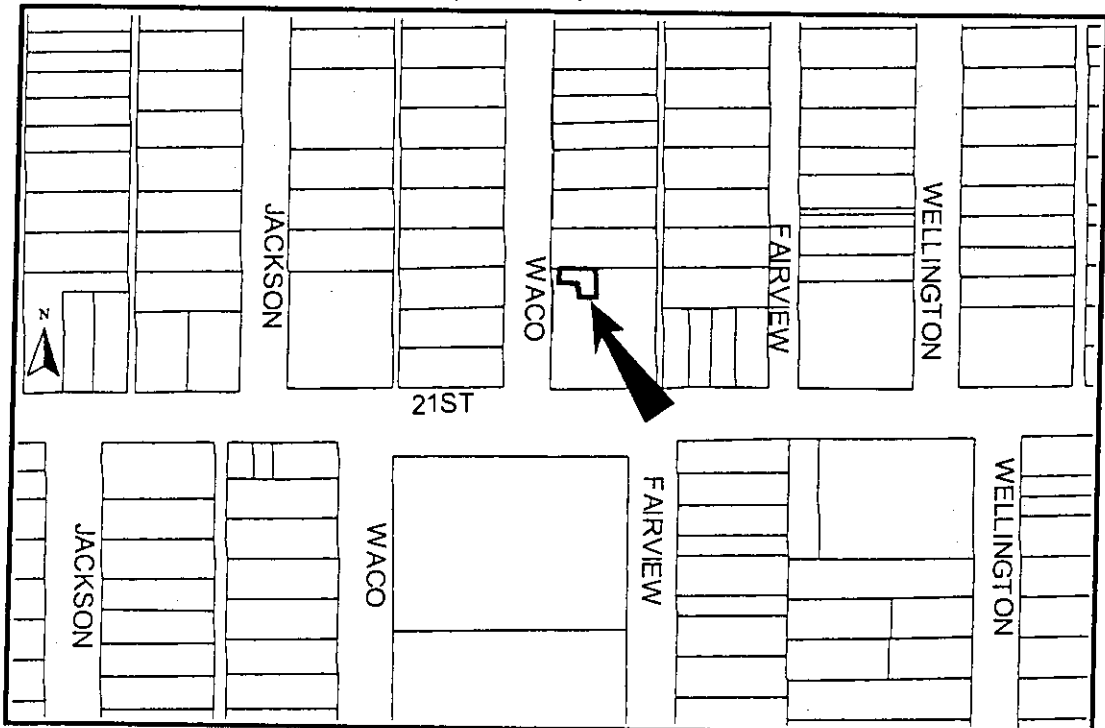
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 1,192 square feet

LOCATION: Northeast corner of 21st St. N. and Waco (320 W. 21st St. N.)

PROPOSED USE: 150-foot high monopole tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached illustration) for use by KPTS-TV and VoiceStream Wireless. An existing 70-foot high lattice tower on the property would be removed after construction of the new tower. The proposed site is zoned "LC" Limited Commercial. Wireless Communication Facilities over 85 feet in height in the "LC" Limited Commercial zoning district may be permitted with a Conditional Use.

The proposed tower would be sited on a 1,192 square foot area located approximately 115 feet north 21st Street North and 10 feet east of Waco. Access to the site is proposed via an existing concrete parking lot for KPTS-TV. The applicant's site plan (attached) depicts an "L-shaped" fenced compound with the tower located approximately in the center of the compound. The compound is shown as being enclosed by a six-foot high chain linking fence. A solid screening fence around the equipment compound is required by the Unified Zoning Code since the equipment compound is located less than 150 feet from the street right-of-way.

The applicant indicates (see attached letter) that the proposed wireless communication facility is needed for KPTS-TV to mount an additional antenna at a height of 110 feet. The applicant also indicates that the tower is need for VoiceStream Wireless to provide improved wireless telephone coverage in the area near 21st Street North and Broadway. The applicant indicates that they evaluated using several existing towers in the area, and that these other towers do not meet their communication needs.

The character of the surrounding area is a mixture of commercial and residential uses along the 21st Street corridor, with commercial uses adjacent to 21st Street and residential uses located behind the commercial uses. The property located east of the subject property is zoned "LC" Limited Commercial and is developed with the KPTS television studio. The property located north of the subject property is zoned "GO" General Office, is currently developed with single-family residences, and is the location of a planned expansion of the KPTS television studio. The property located west of the subject property across Waco is zoned "LC" Limited Commercial and is developed with retail and restaurant uses. The property located south the subject property across 21st Street is zoned "LC" Limited Commercial and is developed with retail and medical office uses.

CASE HISTORY: The subject property is platted a part of Judson's Addition, which was recorded March 18, 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	"GO"	Single-family
SOUTH:	"LC"	Retail, medical office
EAST:	"LC"	Television studio
WEST:	"LC"	Retail, restaurant

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to Waco, a two-lane paved local street.

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: Planning staff finds that the proposed wireless communication facility conforms to the guidelines of the Wireless Communication Master Plan. KPTS-TV has plans for a major expansion of the television studio at this location. These plans were recently supported by the approval of a zone change on property north of the existing tower. The expansion of the television studio involves a need for an additional antenna at a height of 110 feet, which requires reconstruction of the existing tower. Were this request for a 110-foot high tower only for KPTS-TV, the Unified Zoning Code would allow by right a 25% height extension to 137.5 feet, which is only 12.5 feet lower than the 150-foot high tower requested. Additionally, the Wireless Communication Master Plan specifically mentions that wireless service providers should seek to replace existing towers before constructing new towers. 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 "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 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The existing 70-foot high support structure shall be removed within 30 days of erection of the 150-foot high support structure.
- F. The equipment compound shall be enclosed by a minimum six-foot high solid screening fence constructed of materials that meet the requirements of Sec. IV.B.3.d. of the Unified Zoning Code.
- G. 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.
- H. 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.
- 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 a mixture of commercial and residential uses along the 21st Street corridor, with commercial uses immediately adjacent to 21st Street and residential uses located behind the commercial uses. The location of the proposed tower is within the commercial area of the neighborhood. While increasing the tower height will increase its visual impact, it should not significantly alter the character of the neighborhood.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LC" Limited Commercial, and has been developed with a commercial use, including a 70-foot high wireless communication facility. Wireless communication facilities up to 85 feet in height in the "LC" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "LC" district that does not conform to the