



Wichita-Sedgwick County Metropolitan Area Planning Department

April 20, 2018

Polsinelli, P.C.
Attn: Curtis Holland
6201 College Blvd. Suite, 500
Overland Park, KS 66211

RE: CON2018-00002 - County request to grant a Conditional Use Permit to establish a 150-foot Communication Tower on the East side of 127th Street East North of 63rd Street South

Dear Mr. Holland:

At its regular meeting on April 4, 2018, the Board of Sedgwick County Commissioners considered the above captioned request. The action of the Board was to APPROVE the request. If you would like a copy of the final approved resolution, please let us know.

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

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: Anna J. Rippe, Trust No 1, 300 North 17th Street, Maryville, KS 66508
SCC- Joseph Moore 9900 W. 109th Street, Suite 300, Overland Park, KS 66210
Verizon Wireless, 10740 Nall Ave., Suite 400, Overland Park, KS 66211
MABCD
Jim Howell, District V, County Mail Stop #320
Justin Waggoner, County Law, Mail Stop #349
Stan McPhail, 6140 S. 127th, Derby, KS, 67037
Larry VanDyke, 6215 S. 127th, Derby, KS, 67037

RESOLUTION NO. 048-2018

Published on: April 11, 2018

A RESOLUTION GRANTING A CONDITIONAL USE FOR CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D AS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS 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 lands legally described hereby is approved as follows:

Case No. CON 2018-00002

A Conditional Use request to allow a 150-foot Wireless Communication Facility in a RR Rural Residential District and legally described as follows:

A 50 foot by 50 foot Lessee Land Space, situated in Southwest Quarter of the Southwest Quarter of Section 26, Township 28 South, Range 2 East, in Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Northwest Corner of said Quarter Quarter Section (Found 2" Pipe); thence along the West line of said Quarter Quarter Section, South 01°18' 04" East, a distance of 106.56 feet; thence leaving said West line, North 90°00'00" East, a distance of 700.75 feet to the POINT OF BEGINNING; thence continuing North 90°00'00" East, a distance of 50.00 feet; thence South 00°00'00" West, a distance of 50.00 feet; thence North 90°00'00" West, a distance of 50.00 feet; thence North 00°00'00" East, a distance of 50.00 feet to the POINT OF BEGINNING. Containing 2,500 square feet.

SECTION II. That application CON2018-00002 is hereby approved and the Conditional Use is subject to the following Conditions:

1. Reducing the Compatibility Height Standards setbacks to 152 feet on the north.
2. The applicant shall obtain all permits necessary to construct the Wireless Communication Facility, and the Wireless Communication Facility shall be erected within two years of approval of the Conditional Use.
3. The support structure shall be a galvanized "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
4. The support structure shall be no taller than 150 feet in height, including the ten (10) feet needed for lightning suppression equipment.

SCANNED

APR 05 2018

5. The equipment compound shall be screened with the six-foot privacy fence as proposed.
6. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the Governing Body and prior to the issuance of the Conditional Use Resolution.
7. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
8. 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 Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
9. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
10. 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 III. 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 IV. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body and publication in the official county newspaper.

Commissioners present and voting were:

DAVID M. UNRUH
 MICHAEL B. O'DONNELL, II
 DAVID T. DENNIS
 RICHARD RANZAU
 JAMES M. HOWELL

Aye
Aye
Aye
Aye
NO

Dated this 4th day of April, 2018.

BOARD OF COUNTY COMMISSIONERS
 OF SEDGWICK COUNTY, KANSAS

ATTEST:

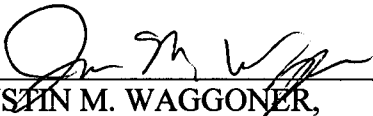
KELLY B. ARNOLD, County Clerk



DAVID T. DENNIS, Chairman
 Commissioner, Third District

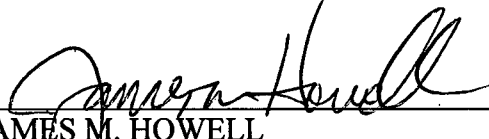
MICHAEL B. O'DONNELL, II
 Commissioner, Second District

APPROVED AS TO FORM:


JUSTIN M. WAGGONER,
Assistant County Counselor


DAVID M. UNRUH, Chair Pro Tem
Commissioner, First District


RICHARD RANZAU
Commissioner, Fourth District


JAMES M. HOWELL
Commissioner, Fifth District

BACKGROUND: This is the second consideration of an application for a Conditional Use to construct a wireless communication facility (tower) in this general location. Case No. CON2017-00033 was heard by the MAPC on October 5, 2017, with a recommendation of approval with the waiver of Compatibility Height Standard restrictions. The proposed location for that case was 115 feet from the property to the north (zoned RR Rural Residential) and 145 feet from the property to the west (127th Street East).

That case was protested by all the surrounding landowners; was returned to the MAPC from the Board of County Commissioners; the MAPC resubmitted the original recommendation for approval; and the applicant has asked for the original case to be continued until May of 2018 in order to consider the new location presented in this application.

This application requests a Conditional Use to permit the construction of a wireless communication facility for Verizon Wireless. The proposed monopole would have an overall height of 150 feet, which includes a 10-foot lightning rod. The subject property is zoned RR Rural Residential District (RR) and is located 1,200 feet north of East 63rd Street South and is to be located 700 feet east of South 127th Street East. The setback from the north property line is shown to be 152 feet.

The tower is proposed to be located within a 0.05 acre lease area as shown on the attached site plan. Access to the site is to be from a new 12-foot gravel drive from South 127th Street East. The tower is proposed to be located in the center of the lease area. The equipment compound is proposed to be fenced with a 6-foot, wooden privacy fence for security purposes and to have building and/or equipment pads for two telecommunication providers.

COMPATIBILITY HEIGHT STANDARDS.

Article IV, Section IV-C.5., of the Unified Zoning Code is applicable to this request and reads as follows:

5. Compatibility Height standards. (In the unincorporated area of the County). The following Height standards shall apply to Development that is subject to compatibility standards, unless reduced or waived through the provisions of Sec. V-I.2. No Structure shall exceed 35 feet in height within 50 feet of the lot line of property zoned TF-3 or more restrictive. Structures located more than 50 feet from the Lot Line of property zoned TF-3 or more restrictive may increase Height (if permitted by the base District regulations) at a ratio of one foot in Height for each three feet of Setback beyond 50 feet. For example, a Structure limited to 35 feet in Height at 50 feet from the Lot Line of property zoned TF-3 or more restrictive could be increased to a Height of 85 feet at a distance of 200 feet from the Lot Line of property zoned TF-3 or more restrictive.

Using the above standards, the minimum setback required for a tower of this height would be 395 feet from all adjacent properties. As noted above, the setback from the east property line is beyond the minimum required; however, the standard from the north property line is not proposed. As stated in the previous case, the Compatibility Height Standards in the unincorporated area can be waived by the Board of County Commissioners as part of this Conditional Use Permit process, (Article VI, Section VI-B.2.), which would be required for the setback from the north property line. This will mandate the Conditional Use Permit must be considered by the Board of County Commissioners.

SCREENING AND LIGHTING.

Article IV, Section IV-B.4.e.1., of the Unified Zoning Code is applicable to this request and reads as follows:

e. Screening of mechanical equipment and outdoor work and storage areas.

(1) Nonresidential Screening from ground level view. Except along local or collector Streets bounded on both sides by the LI or GI district, screening shall be provided on all nonresidential Development sufficient to reasonably hide from ground level view all loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, freestanding coolers or refrigeration units, Outdoor Storage including Portable Storage Containers, outdoor work areas or similar uses from any residential zoning District or public Street Right-of-Way located within 150 feet of such Uses.

This proposal meets the minimum 150-foot setback; however the proposed privacy fence will comply with the screening design standard established by the Unified Zoning Code.

The character of the surrounding area is primarily large lot residential and agricultural. Properties in all directions are zoned RR Rural Residential and are developed with single family homes on large rural parcels. The subject property is zoned RR Rural Residential and is used agriculturally.

CASE HISTORY: The subject property is unplatted. Other than the Conditional Use case heard last fall for a tower, no other past zoning cases are associated with this property. This property is NOT within any designated flood plain.

ADJACENT ZONING AND LAND USE:

NORTH:	RR	large lot residential/single family home
SOUTH:	RR	large lot residential/single family home
EAST:	RR	large lot residential/single family home
WEST:	RR	large lot residential/single family home

PUBLIC SERVICES: No municipal services are required for the installation. The applicant will extend electrical service and telephone system connections to the site. Access to the site will be from an existing drive entrance from South 127th Street East.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. Except as noted above, the proposed tower conforms with the following Design Guidelines of the Wireless Communication Master Plan: 1) is generally compatible with the existing character of the area; 2) minimizes the silhouette by its monopole design; and, 3) uses colors and materials that blend in with the existing environment. Application of the screening requirements will resolve all other issues; provided the Compatibility Height Standards are waived by the Board of County Commissioners.

The property is identified in Area D on the Airport Hazard Zone Map. Area D applies special requirements only when improvements are proposed that are over 300 feet in height above ground elevation. This tower will only be 150 feet in height.

As discussed at the previous hearing, Cook Airfield is located over a mile to the south and east of this location. The FAA as approved the proposed tower location and proposed height. The representatives from Cook Airfield have stated on the record plans are in the works to make modifications to that facility; however since nothing has been placed on the public record, nor has zoning approval been granted for any modifications, the ability to take actions to protect anything beyond what has been approved is not possible.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to the following conditions:

- A. Reducing the Compatibility Height Standards setbacks to 152 feet on the north.
- 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.
- C. The support structure shall be a galvanized “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 no taller than 150 feet in height, including the ten (10) feet needed for lightning suppression equipment.
- E. The equipment compound shall be screened with the six-foot privacy fence as proposed.
- F. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the Governing Body and prior to the issuance of the Conditional Use Resolution.
- G. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
- H. 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 Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
- 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 primarily rural residential and agricultural. The existing Cook Airfield is located about 1 mile to the southeast, north of East 71st Street South and on the west side of South 143rd Street East. In addition, the other significant land use in the vicinity is the Hidden Lakes Golf Course on the East side of Greenwich Road and north of East 63rd Street South.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The approval to construct a wireless communication tower on this property should have no detrimental effect on nearby property. The enhancement of coverage by Verizon in this portion of Sedgwick County

will benefit landowners in the area significantly more than the introduction of the monopole tower could potentially harm them. This will also serve the larger public that live and visit other areas within the enhanced coverage area of this tower location.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: As noted above, The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. Except as noted above, the proposed tower conforms with the following Design Guidelines of the Wireless Communication Master Plan: 1) is generally compatible with the existing character of the area; 2) minimizes the silhouette by its monopole design; and, 3) uses colors and materials that blend in with the existing environment. The proposed screen requirements will resolve all other issues; provided the Compatibility Height Standards are waived by the Board of County Commissioners.
5. Impact of the proposed development on community facilities: FAA approval documentation is required; however, the proposed height of the tower will not mandate any lighting of the structure because it is below 200-feet above ground elevation.

Staff Report Attachments:

1. Zoning Exhibit
2. Aerial Photo
3. Proposed Site Plan

