

CONDITIONAL USE RESOLUTION NO. CU-413 #1

WHEREAS, Brad Murray Rentals; L.L.C. (Lessee); Mark S. and Carey L. Dwyer (owner); Austin Miller, P.A. c/o Dave Yearout (agent) pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested to amend the Conditional Use CU-413 to increase the height of the commercial communications tower by 20 feet zoned "SF-20" Single-Family Residential described as:

The North 12 acres of the South 35 acres of the Southeast Quarter of the Southeast Quarter of Section 31, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the North 354.64 feet of said Southeast Quarter of the Southeast Quarter, and except the East 40 feet for road. Generally located west of Maize Road, south of 31st 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 October 28, 1999, 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 amend the Conditional Use to increase the height of the commercial communications tower by 20 feet zoned "SF-20" Single-Family Residential described as

The North 12 acres of the South 35 acres of the Southeast Quarter of the Southeast Quarter of Section 31, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, except the North 354.64 feet of said Southeast Quarter of the Southeast Quarter, and except the East 40 feet for road. Generally located west of Maize Road, south of 31st Street North.

subject to the following conditions:

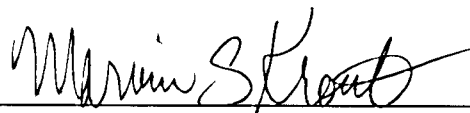
1. The tower shall be located as indicated on the approved site plan.
2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 6.6 acre application area on which the tower is located.
3. The tower shall be fenced with chainlink fence which has a minimum height of 10 feet, with 3 or more strands of barbed wire. The term "barbed wire" shall mean any twisted wire with barbs spaced a minimum of 4 inches apart and placed at the top of the fence and gate at an angle not to exceed 160 ° facing away from the excavation.
4. The color of the tower shall be silver or gray or a similar unobtrusive color.
5. There shall be no lighting of or on the tower.
6. The tower shall not exceed 170 feet in height.

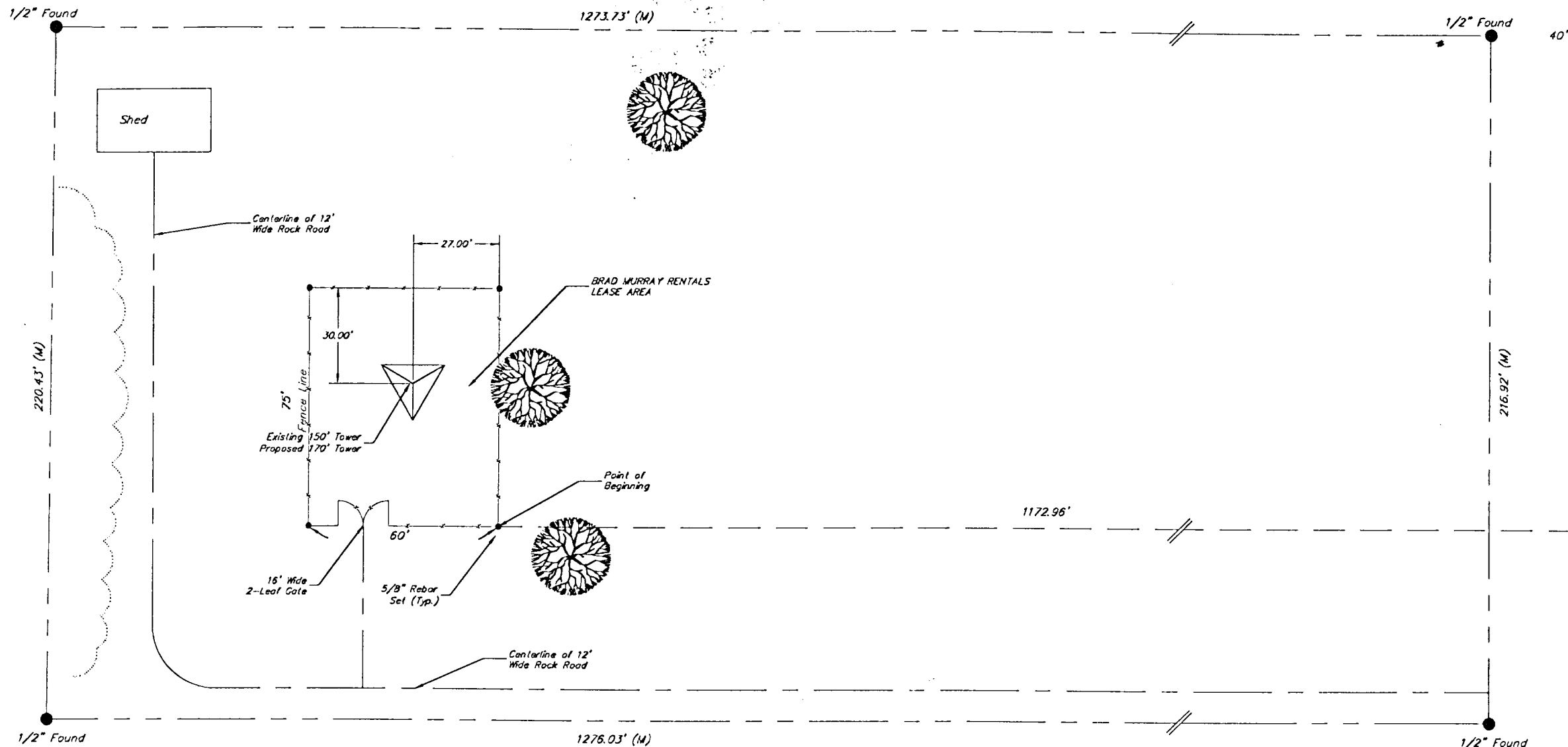
Adopted this 28th day of October, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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


Frank Garofalo, Chair

ATTEST:


Marvin S. Krout, Secretary

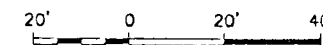


Maize Road

SE Cor.
Sec. 31-26S1W
1/2" Iron Found



SCALE



LEGAL DESCRIPTION:

The North 12 Acres Of the South 35 Acres of the SE 1/4 of the SE 1/4, Except the North 164.64feet and Except East 60 feet for Road, Sec 31-26S-1W, Sedgwick County, KS.

BRAD MURRAY RENTAL LEASE DESCRIPTION

A Tract of Land Located in the SE 1/4 of the SE 1/4 of Section 31, Township 26 South, Range 1 West of the 6th P.M., in Sedgwick County, KS, more particularly described as follows:

Commencing at the Southeast corner of said Section 31; Thence North along the East line of said Section 31, a distance of 802.39 feet; Thence West at right angle to the east line of said Section 31, a distance of 1172.96 feet to the Point Of Beginning; Thence North 75 feet; Thence West 60 feet; Thence South 75 feet; Thence East 60 feet to point of beginning; containing 4,500 square feet.

29TH Street N

SE Cor.
Sec. 31-26S1W
1/2" Iron Found

STEEL PLAN

APPROVED 11/2/99 BY Dg

99085/erstg-site



AUSTIN MILLER P.A.

ENGINEERING SERVICES

254 S. Laurel, Suite 210 Wichita, KS 67211
316/262-1281 fax 316/262-6773

STAFF REPORT

MAPC October 28, 1999

CASE NUMBER: CU-413 Amendment #1

APPLICANT/AGENT: Brad Murray Rentals, L.L.C. (Lessee); Mark S. and Carey L. Dwyer (owner); Austin Miller, P.A. c/o Dave Yearout (agent)

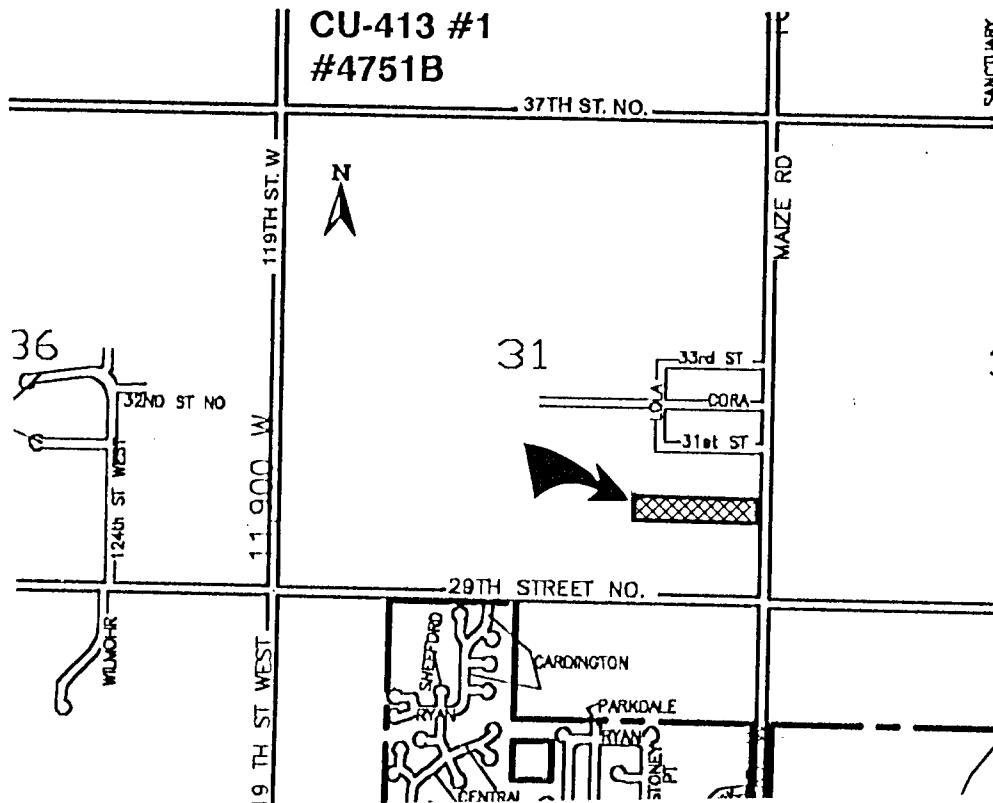
REQUEST: To amend the Conditional Use to increase the height of the commercial communications tower by 20 feet

CURRENT ZONING: "SF-20" Single-Family Residential

SITE SIZE: 6.6 acres

LOCATION: West of Maize Road, south of 31st Street North

PROPOSED USE: Commercial Communication Tower



BACKGROUND: The applicant is requesting an amendment to the Conditional Use for a commercial communication tower, in order to increase the height of the tower from 150 feet to 170 feet. The tower is located on a 6.6 acre site zoned "SF-20" Single Family Residential. The tower is currently being used by common carriers that wish to provide wireless communication services to customers in the Maize area and areas of northwest Wichita. According to the applicant, the approved tower was designed to accommodate four users. All four spots are occupied and there have been inquiries to add additional users to the tower. Twenty feet is being requested because it would allow the addition of two new users, plus it is the standard size for a tower section.

The application area is located approximately 850 feet north of 29th Street North, and approximately 1,100 feet west of Maize Road. All of the land adjacent to the application area is zoned "SF-20." Land located west of the application area is being used for agricultural purposes. There are homes located on large lots north, south and east of the application area. The closest off-site building to the tower site is approximately 550 feet south of the proposed tower location. Other buildings are 700 to 900 feet away. Maize Road is a paved, two-lane section-line road.

The existing tower is a self-supporting structure that is 150 feet tall, and is located within a 50 feet by 50 feet fenced compound situated in the west 200 feet of the application area as indicated on the site plan.

A preliminary communications tower study developed by Gateway Communications indicated that the nearest communication towers were located at 61st Street North and 135th Street West, and 13th Street North and Windmill Road, both approximately 3 miles from the proposed tower site. The agent for the applicant has indicated that the existing towers are too distant to serve this general area.

CASE HISTORY: CU-413 was approved by the County Commission on April 2, 1997. The applicant originally requested to build a 170 foot tower, but agreed at the public hearing to limit the height to 150 feet.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20, Single Family	Residences
SOUTH:	SF-20, Single Family	Residences
EAST:	SF-20, Single Family	Residences
WEST:	SF-20, Single Family	Agricultural

PUBLIC SERVICES: Except for telephone and electrical service, no public services are required. It is anticipated that the general area will continue to be urbanized, with the City of Wichita having approved the new northwest sewer plant and Sedgwick County planning to widen Maize Road northward to 45th Street next year.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Suburban." The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. The zoning code lists five conditions that towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrate that an effort has been made to co-locate on an existing tower and willingness to provide space for other communication towers.

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

1. The tower shall be located as indicated on the approved site plan.
2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 6.6 acre application area on which the tower is located.
3. The tower shall be fenced with chainlink fence which has a minimum height of 6 feet.
4. The color of the tower shall be silver or gray or a similar unobtrusive color.
5. There shall be no lighting of or on the tower.
6. The tower shall not exceed 170 feet in height.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All of the land adjacent to the application area is zoned SF-20, Single Family. Agricultural use exists to the west. There are homes located north, south and east of the application area, but not within 550 feet of the proposed tower. The overall character is suburban with large lot homes scattered within one-half mile of the site.
2. The suitability of the subject property for the uses to which it has been restricted: A commercial communication tower already occupies the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Based on information on hand at the time this report was prepared, staff has not been able to identify any detrimental impact this request might have on nearby property, other than the visual impact of the additional twenty feet in height added to the existing tower.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: The additional height allows two new users to utilize an existing tower; thus decreasing the need for an additional tower while meeting the public welfare of providing better cellular communication services.
5. Conformance of the requested change to adopted or recognized Plans/Policies: The plan does not speak specifically to cellular towers, but does generally indicate a need to provide the highest quality utilities at a reasonable cost.
6. Impact of the proposed development on community facilities: No municipal water or sewer service is required, traffic generation is minimal, and no other negative impact on community facilities has been identified.