



Wichita-Sedgwick County Metropolitan Area Planning Department

June 26, 2003

Albert A. Jansen, Sr. Living Trust
c/o Albert A. Jansen, Jr.
2344 N. 16th St.
Colwich, KS 67030

Re: CON2003-00024: An Administrative Adjustment to approve minor adjustments to the conditions of approval for CON2001-00064.

Legal Description: Part of the Southwest Quarter of Section 3, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as: referring to the West Quarter Corner of said Section 3, at a found 5/8" Rebar; thence southerly S 01 degrees 36'53" E on the West Line of the Southwest Quarter of said Section 3, 637.18 feet; thence easterly N 88 degrees 23'07" E, 249.96 feet, to the point of beginning for the described Lease Site; thence easterly N 88 degrees 23'07" E, 100.00 feet; thence southerly S 01 degrees 36'53" E, 100.00 feet; thence westerly S 88 degrees 23'07" W, 100.00 feet; thence northerly N 01 degrees 36'53" W, 100.00 feet to the point of beginning, containing a total calculated area of 10,000 sq. ft. or 0.230 acres more or less. Located on the east side of 359th St. W. approximately 1/3 mile north of 21st St. N.

Dear Mr. Jansen:

We have reviewed your request for an Administrative Adjustment to CON2001-00064. From reviewing your application and our records, we understand that Condition of Approval B required the tower to be erected by December 20, 2002. However, the tower has yet to be erected, and on January 8, 2003, CON2001-00064 was declared null and void for failure to erect the tower within the specified time period. We understand that Sprint PCS still has a communication need that will be addressed by the proposed tower; therefore, you have requested an Administrative Adjustment to reopen the Conditional Use case and to modify Condition of Approval B to allow additional time to erect the tower.

Sec. V-D.14. of the Unified Zoning Code allows the Planning Director, with the concurrence of the Zoning Administrator, to approve minor adjustments to the conditions a Conditional Use as long as the adjustment does not have any of the negative impacts stated in Sec. V-I.6. We find that extending the time allowed to erect the tower meets the four conditions required by Section V-1.6 of the Unified Zoning Code as set out below:

- 1) Impact on safety and convenience of vehicular and pedestrian circulation: The proposed adjustment to extend the time allowed to erect the tower will have no impact on the safety and convenience of vehicular and pedestrian circulation.

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- 2) Impact on existing uses in surrounding areas: The impact of the proposed tower on existing uses in surrounding areas will not change by granting additional time to erect the tower, and the MAPC has found through the approval of CON2001-00064 that the proposed tower will not detrimentally affect nearby properties.
- 3) Compatibility with existing or permitted uses on abutting sites: Use of the subject property for a wireless communication facility has been found to be compatible with existing or permitted uses on abutting sites through the approval of CON2001-00064. The compatibility with existing or permitted uses on abutting sites should not change by granting additional time to erect the tower.
- 4) Effect on public health, safety or welfare: There will be no encroachment into public utility easements or right-of-way; therefore, there should not be a negative impact on the public health, safety or welfare nor will properties or improvements in the vicinity be materially injured.

Our signatures below indicate that an Administrative Adjustment to extend the time allowed to erect the tower permitted by CON2001-00064 on the aforementioned property is hereby granted subject to the following conditions:

- 1) All conditions of approval for CON2001-00064 shall be met, except as modified through this Administrative Adjustment.
- 2) The tower shall be erected no later than December 20, 2003.
- 3) The site shall be developed in general conformance with the site plan and elevation rendering approved through this Administrative Adjustment.
- 4) An approved extension of the FAA determination of no hazard to air navigation issued by Aeronautical Study No. 01-ACE-2602-OE shall be submitted to Code Enforcement prior to the issuance of a building permit.
- 5) The tower shall not be painted red and white but shall be lighted with a dual lighting system consisting of red lights at night and medium intensity white flashing lights during the day that conforms with FAA regulations.
- 6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Administrative Adjustment, 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 Administrative Adjustment is null and void.

The zoning adjustment sign may now be removed from the property.


Dale Miller
Acting Planning Director


Glen Wiltse
Code Enforcement Director

Enclosures

cc: Glen Wiltse, Sedgwick County Code Enforcement
Wayne Anderson, Sprint PCS, 2301 Savage Ave., Independence, MO 64055
Peter Schaub, 4417 Grimes Ave., Edina, MN 55424

CONDITIONAL USE RESOLUTION NO. CON-2001-00064

WHEREAS, Albert a. Jansen, Sr. Living Trust c/o Albert A. Jansen, Jr. Co-Trustee (Owner); Sprint PCS c/o Michael S. Romesburg (Applicant); Polsinelli, Shalton, Welte c/o Curtis M. Holland (Agent), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use for a 250-foot high self-support lattice tower on 10,000 square feet zoned "RR" Rural Residential described as:

LEGAL DESCRIPTION LEASE SITE ONLY

Part of the Southwest Quarter of Section 3, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas.

Referring to the West Quarter Corner of said Section 3, at a found 5/8" Rebar; thence southerly S 01 degrees 36'53" E on the West Line of the Southwest Quarter of said Section 3, 637.18 feet; thence easterly N 88 degrees 23'07" E, 249.96 feet, to the point of beginning for the described Lease Site; thence easterly N 88 degrees 23'07" E, 100.00 feet; thence southerly S 01 degrees 36'53" E, 100.00 feet; thence westerly S 88 degrees 23'07" W, 100.00 feet; thence northerly N 01 degrees 36'53"W, 100.00 feet to the point of beginning for the described Lease Site. Containing a total calculated area of 10,000 sq. ft. or 0.230 acres more or less. Generally located north of 21st Street North and east of 359th Street West.

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 December 20, 2001, 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 for a 250-foot high self-support lattice tower on 10,000 square feet zoned "RR" Rural Residential described as:

LEGAL DESCRIPTION LEASE SITE ONLY

Part of the Southwest Quarter of Section 3, Township 27 South, Range 4 West of the Sixth Principal Meridian, Sedgwick County, Kansas.

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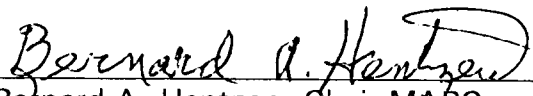
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subject to the following conditions:

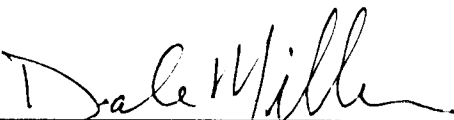
- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the MAPC or governing body, as applicable.
- C. The support structure shall be a self-support lattice design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare, unless the FAA requires the structure to be painted red and white to avoid strobe lighting.
- D. The support structure shall be 250 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 300 feet and future loading expansions to accommodate communication equipment for at least five wireless service providers.
- F. 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.
- G. Revised site plans and elevation drawings indicating the approved location and 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 MAPC or governing body, as applicable.
- 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. Any violation of the conditions of approval shall render the Conditional Use null and void.

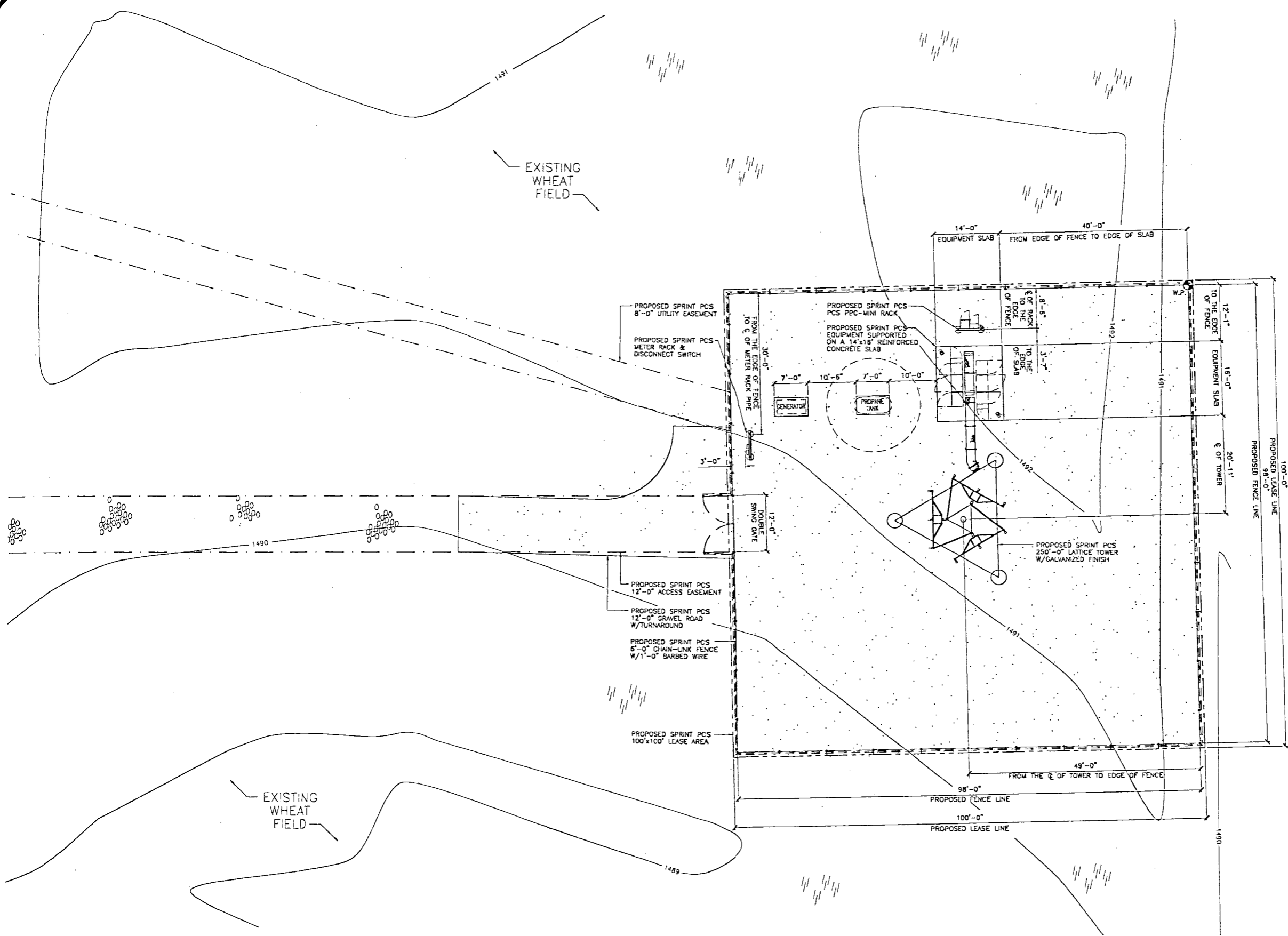
Adopted this 20th day of December, 2001. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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


Bernard A. Hentzen, Chair MAPC

ATTEST:


Dale Miller, Secretary



ENLARGED SITE PLAN
SCALE: 1" = 10'-0"



Sprint PCS
 SPRINT PCS
 9801 HIGGINS ROAD
 SUITE 220
 ROSEMONT, ILLINOIS 60018
 OFFICE: (847) 384-3000
 FAX: (847) 384-2860

FEE
 Fullerton Eng. Consultants, Inc.
 4320 West Montrose Avenue
 Chicago, Illinois 60641
 Tel. 773-304-1004
 Fax 773-304-1013

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APPROVALS

SPRINT RC _____
 LANDLORD _____
 SPRINT PROPERTY _____
 R.F. _____
 ZONING _____
 CONSTRUCTION _____
 NETWORK OPERATIONS _____

PROJECT NO: WT54XC102A

DRAWN BY: L. GUERRERO

CHECKED BY: *[Signature]*

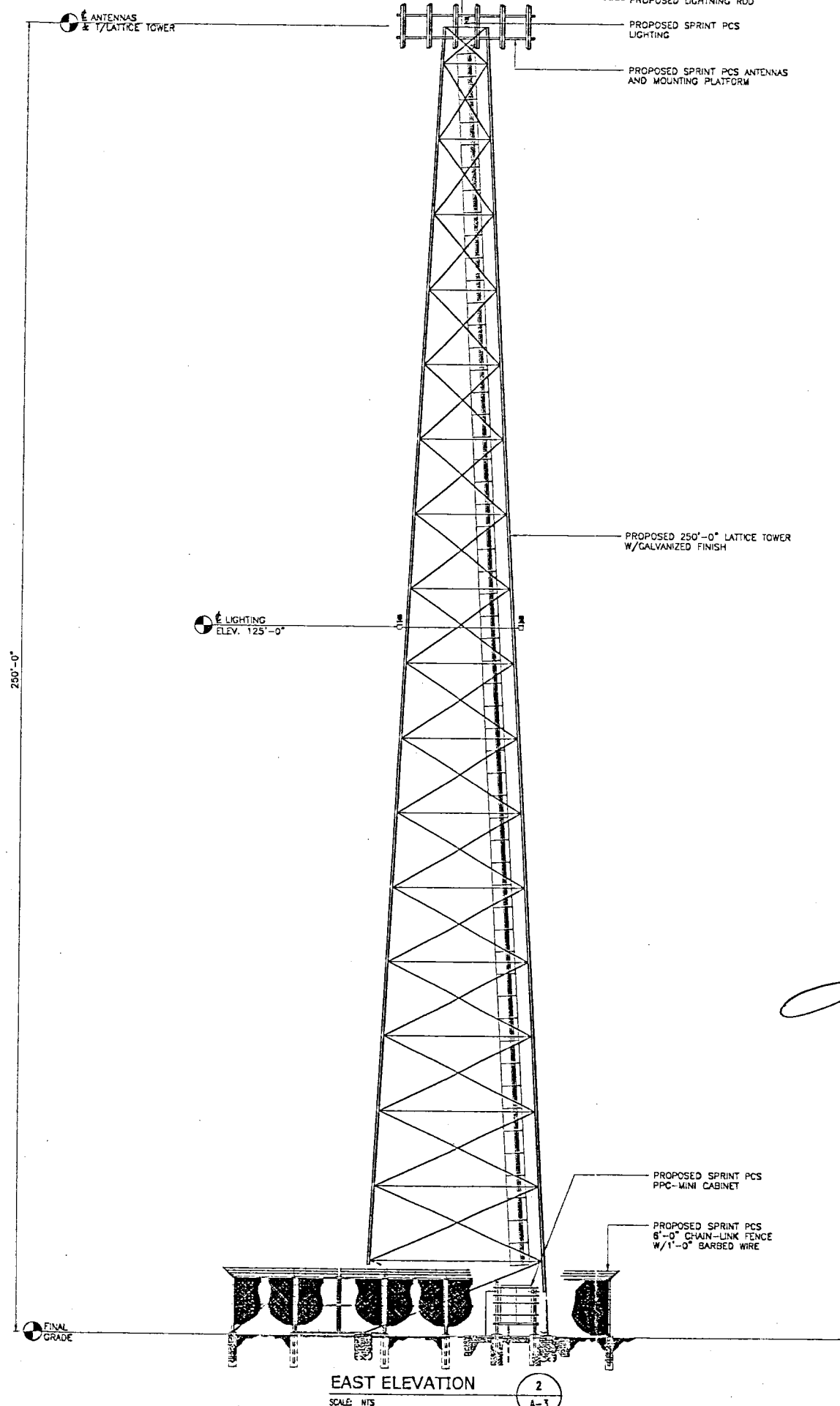
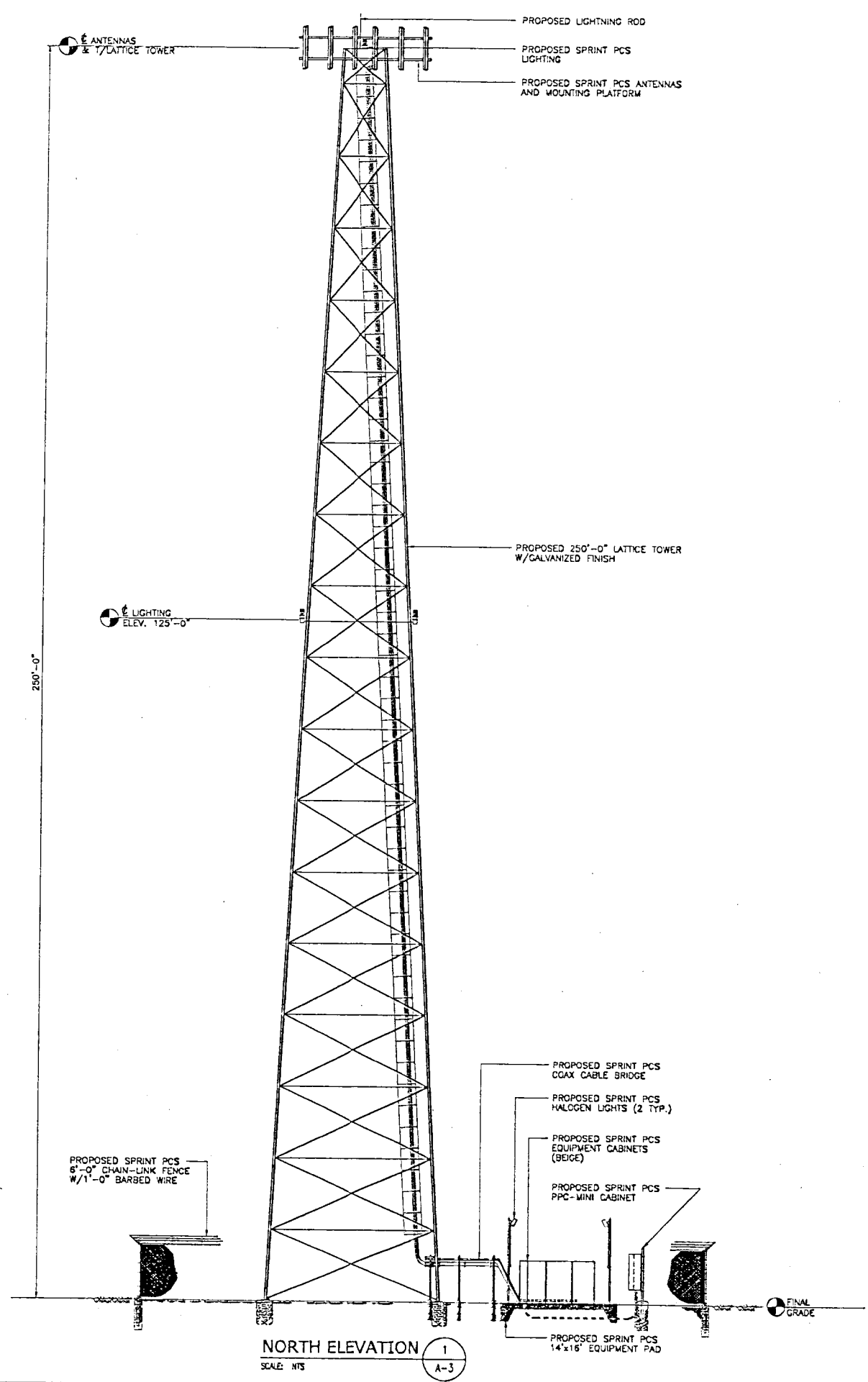
THADDEUS A. PACYNAK
 LICENSED
4509
 KANSAS
 PROFESSIONAL ARCHITECT

PROJECT NO.	WT54XC102A	DATE	10/01/01
REVISED BY		DATE	10/19/01
ISSUED FOR REVIEW		DATE	10/01/01
No.	<i>01/20/03</i>	Date	

WT54XC102A
JANSEN
 NW OF 21ST N & 359TH W
 CHENEY, KANSAS 67025
 PROPOSED SELF-SUPPORT
 LATTICE TOWER

SHEET TITLE
ENLARGED SITE PLAN

SHEET NUMBER
A-2



Sprint PCS

SPRINT PCS
9801 HIGGINS ROAD
SUITE 220
ROSEMONT, ILLINOIS 60018
OFFICE: (847) 384-3000
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SPRINT RC _____

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SPRINT PROPERTY _____

R.F. _____

ZONING _____

CONSTRUCTION _____

NETWORK OPERATIONS _____

PROJECT NO: WT54XC102A

DRAWN BY: L. GUERRERO

CHECKED BY: S. MASCORRO

THADDEUS A. PACYNIAK
LICENSED
4509
KANSAS
PROFESSIONAL ARCHITECT
B 19/01
A ISSUED 10/01/01
No. 06/0103 Date

WT54XC102A
JANSEN
NW OF 21ST N & 359TH W
CHENEY, KANSAS 67025
PROPOSED SELF-SUPPORT LATTICE TOWER

SHEET TITLE
ELEVATIONS

SHEET NUMBER
A-3

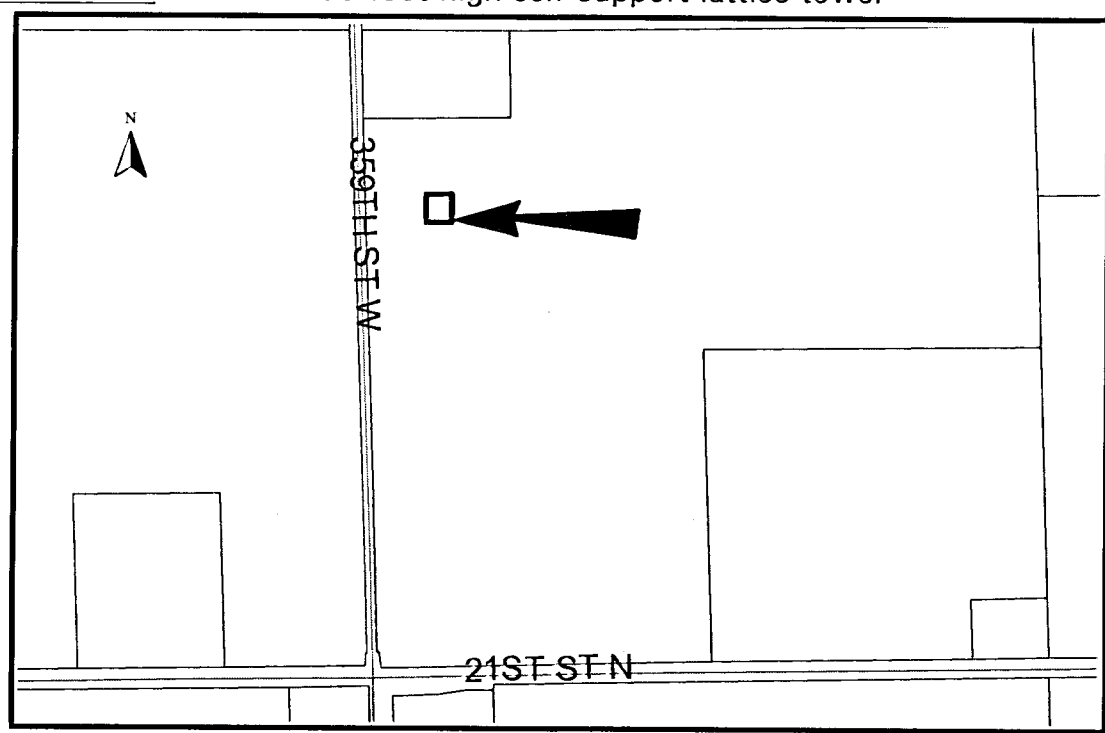


AGENDA ITEM NO. 11

STAFF REPORT

MAPC, December 20, 2001

- CASE NUMBER:** CON2001-00064
- APPLICANT/AGENT:** Albert A. Jansen, Sr. Living Trust c/o Albert A. Jansen, Jr. Co-Trustee (Owner); Sprint PCS c/o Michael S. Romesburg (Applicant); Polsinelli, Shalton, Welte c/o Curtis M. Holland (Agent)
- REQUEST:** Conditional Use for a wireless communication facility
- CURRENT ZONING:** "RR" Rural Residential
- SITE SIZE:** 10,000 square feet
- LOCATION:** North of 21st Street North and east of 359th Street West
- PROPOSED USE:** 250-foot high self-support lattice tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 250-foot high self-support lattice tower (see attached "Elevations") by Sprint PCS to expand the coverage area of its wireless phone system. The proposed site is an unplatted tract zoned "RR" Rural Residential and located north of 21st Street North and east of 359th Street West. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The character of the surrounding area is agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The nearest residence is located approximately 500 feet north of the site along 359th Street West. The residence is oriented such that it does not face the proposed tower and has a solid hedge of evergreen trees that should limit the view of the proposed tower.

The proposed tower would be sited 250 feet east of 359th Street West on a 10,000 square foot area on a 106 acre agricultural tract. Access to the site is proposed to be via a 12-foot wide access easement to 359th Street West. The applicant's site plan (see attached "Enlarged Site Plan") depicts a 100-foot by 100-foot lease area with a 98-foot by 98-foot fenced compound. The tower is proposed to be located in the center of the compound, and the ground-level equipment is proposed to be located north of the tower. The compound is proposed to be enclosed by six-foot high chain link fencing with barbed wire on top. Screening of the equipment compound is not required by the Unified Zoning Code since the equipment compound is located more than 150 feet from the property lines.

The application indicates that the proposed wireless communication facility is needed for Sprint PCS to expand the coverage area of its wireless phone system along the U.S. 54 highway corridor west of Wichita, to Lake Cheney, to the City of Cheney, and the surrounding areas (see "Sprint PCS Justification Report" and "Before" and "After" propagation plots). Sprint PCS indicates that it needs to mount its antennas at a height of 250 feet because shorter heights were researched and they do not provide the necessary interface with surrounding tower sites, which would result in an inability to access the wireless phone system and dropped calls in the area.

The application indicates that an existing 180-foot high tower located approximately one mile northeast of the site cannot be utilized by Sprint PCS (see attached "Sprint PCS Co-location Report"). The applicant indicates that the tower is owned by the Kansas Department of Transportation (KDOT), and KDOT has indicated that its policy is not to sublease its wireless communication facilities to private companies.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally supplied public services are required. The site will have access to 359th Street West, an unpaved section line road.

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: Based upon 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 self-support lattice design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare, unless the FAA requires the structure to be painted red and white to avoid strobe lighting.

- D. The support structure shall be 250 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. The support structure and its foundation shall be designed and constructed in such a manner that permits future height extensions to 300 feet and future loading expansions to accommodate communication equipment for at least five wireless service providers.
- F. 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.
- G. Revised site plans and elevation drawings indicating the approved location and 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 MAPC or governing body, as applicable.
- 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. Any violation of the conditions of approval shall render the Conditional Use 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 agricultural. The properties surrounding the site in all directions are zoned "RR" Rural Residential and are used for agricultural purposes. The proposed wireless communication facility is consistent with the agriculture character and uses of the area.
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 used for agriculture. Wireless communication facilities in excess of 65 feet in height in the "RR" Rural Residential zoning district may be permitted as a Conditional Use, which should be subject to conditions of approval that maintain conformance with the Location/Design Guidelines of the Wireless Communication Master Plan.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The closest property developed with a residential use is single-family residence located approximately 500 feet to the north. The only impact to be noted at the time this report was prepared is the visual impact of a tower. The

visual impact of the tower should be limited because the residence is oriented such that it does not face the proposed tower and has a solid hedge of evergreen trees that should limit the view of the proposed tower.

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 are available to accommodate the communication needs of the applicant. The proposed wireless communication facility conforms to the Design Guidelines of the Wireless Communication Master Plan since the height of the facility is minimized, the facility is consistent with the agricultural character of the area, and the facility will be an unobtrusive color with a matte finish to minimize glare unless strobe lighting would otherwise be required by the FAA. The proposed wireless communication facility complies with the compatibility height standard of the Uniform Zoning Code since it is located more than 250 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.