

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2014-00028

An amendment to Protective Overlay PO #78 on the following described portion of the 0.94-acre GC General Commercial zoned Lot 1, Block A, Schulte Country Storage Addition:

LEASE TRACT DESCRIPTION: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas, described as commencing at the northeast corner of said Lot 1; thence S87°44'36"W (Assumed), along the north line of said Lot 1, 184.22 feet; thence S02°15'24"E, perpendicular with the north line of said Lot 1, 74.51 feet to the point of beginning; thence continue S02°15'24"E, 50.00 feet; thence S87°44'36"W, parallel with the north line of said Lot 1, 50.00 feet; thence N02°15'24"W, perpendicular to the north line of said Lot 1, 50.00 feet; thence N87°44'36"E, parallel with the north line of said Lot 1, 50.00 feet to the Point of Beginning. Subject property contains 2,500 square feet, or 0.057 Acres.

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15-foot wide ACCESS AND UTILITY EASEMENT: A portion of Lot 1, Block A, Schulte Country Storage Addition, Sedgwick County, Kansas and a portion of Lot 1, Block A, Schulte Country Store Addition, Sedgwick County, Kansas, more particularly described as commencing at the northeast corner of Lot 1, Block A, said Schulte Country Storage Addition; thence S87°44'36"W (Assumed) along the north line of Lot 1, Block A, said Schulte Country Storage Addition, 184.22 feet; thence S02°15'24"E, perpendicular to the north line of Lot 1, Block said Schulte Country Storage Addition, 100.38 feet to the point of beginning; thence N52°59'36"E, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 82.47 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 32.40 feet; thence continue S37°00'24"E, 40.15 feet; thence S52°59'36"W, parallel with the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence S37°00'24"E, perpendicular to the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 95.96 feet, to a point on the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said point being 71.02 feet southwest of the southeast corner of Lot 1,

Block A, said Schulte Country Store Addition; thence southwesterly along the southeast line of Lot 1, Block A, said Schulte Country Store Addition, said line being a curve to the left having a radius of 19,158.61 feet, an arc length of 15.00 feet, a chord length of 15.00 feet and a chord bearing of S53°36'10"W; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 110.80 feet; thence N52°59'36"E, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 41.00 feet; thence N37°00'24"W, perpendicular to the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition, 25.15 feet; thence continue N37°00'24"W, 17.40 feet; thence S52°59'36"W, parallel with the the southeast common lot line of Lot 1, Block A, said Schulte Country Storage Addition, and the northwest common lot line of Lot 1, Block A, said Schulte Country Store Addition 77.87 feet; thence N02°15'24"W, perpendicular to the north line of Lot 1, Block A , said Schulte Country Storage Addition, 18.26 feet to the Point of Beginning.; generally located north of MacArthur Road and northwest of Kansas Highway K-42.

SUBJECT TO THE FOLLOWING PROVISIONS:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met. This 50-foot (x) 50-foot lease area for the wireless communication facility and its 100-foot tall galvanized steel monopole shall also meet all the criteria of an FAA airspace study.
- 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. This will include providing a copy of the recorded proposed 15-foot access and utility easement to the Metropolitan Area Building and Construction Department and Planning.
- C. The support structure shall be a monopole design, as shown on the elevation and that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 100 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. Evergreens will be planted a minimum size of 5-foot at the time of their planting, but be taller than 15 feet when mature and planted on 15-foot centers. The site plan must identify the all utility and or access easements. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the City of Wichita Engineer with any required plans, including drainage, for review and approval of the site.
- G. The proposed monopole will be allowed to exceed Protective Overlay #78 20-foot height limitation. All other provisions of Protective Overlay will remain in effect.

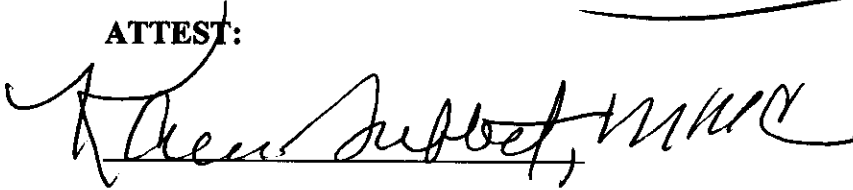
H. If the Zoning Administrator finds that there is a violation of any of the amended provisions of Protective Overlay #78, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the amended portions of Protective Overlay is null and void.

SECTION 2. That upon the taking effect of this ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita -Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.


Carl Brewer, Mayor

ATTEST:



Karen Sablett, City Clerk



Approved as to form: 
Sharon Dickgraft, Interim City Attorney

**City of Wichita
City Council Meeting
February 10, 2015**

TO: Mayor and City Council

SUBJECT: ZON2014-00028 – Request to Amend Protective Overlay #78 to Allow a Wireless Communication Facility with a 100-Foot Monopole on GC General Commercial on Property Generally Located North of MacArthur Road and Northwest of Kansas Highway K-42 (District IV)

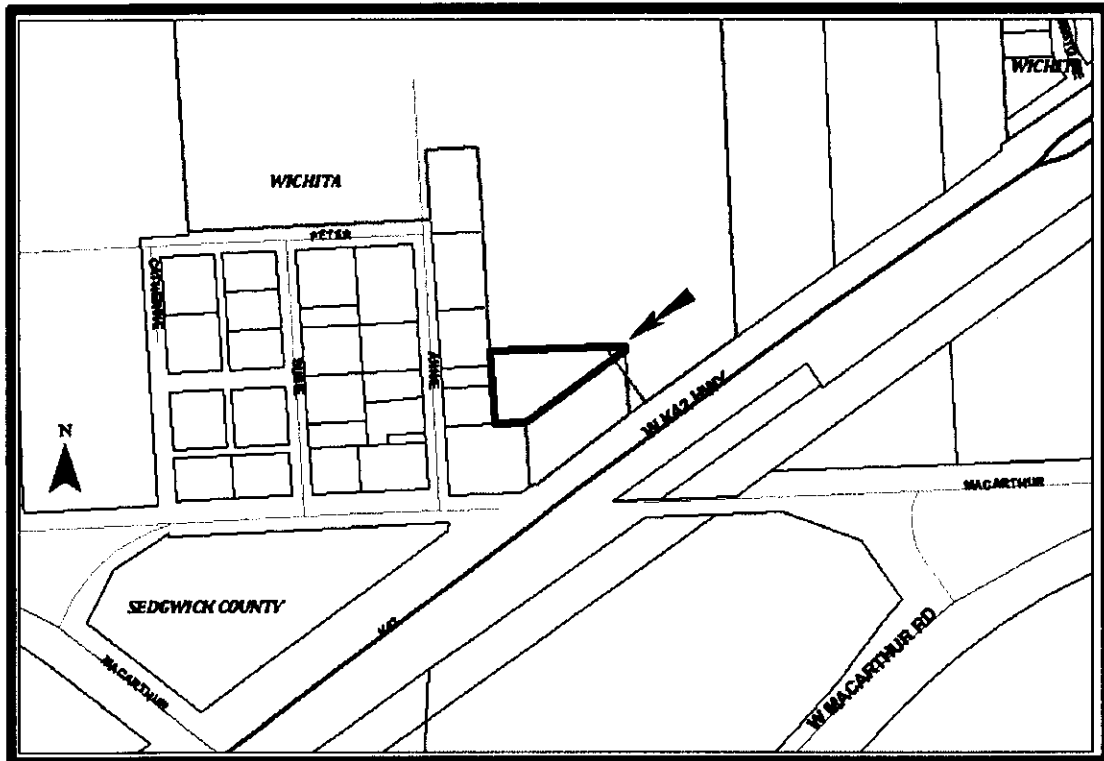
INITIATED BY: Metropolitan Area Planning Department *JLS*

AGENDA: Planning (Consent)

MAPC Recommendation: The MAPC recommended approval of the request (8-0).

DAB Recommendation: District Advisory Board IV did not oppose the request (no vote).

MAPD Staff Recommendation: The Metropolitan Area Planning Department staff recommended approval of the request.



Background: The applicant, Spire Wireless, is seeking to amend Protective Overlay PO #78 to permit the construction of a wireless communication facility with a 100-foot tall, galvanized steel, monopole tower within a 35-foot (x) 50-foot lease site on GC General Commercial zoned property; Lot 1, Block A, Schulte Country Storage Addition. Spire Wireless is a new provider to the area and it proposes to provide 4G service to the area. PO #78 confines the uses on the subject site to what is permitted in the LC Limited Commercial zoning district (with some prohibited uses) and a self-storage warehouse with supplemental use regulations. PO #78 also has a building height restriction of 20 feet, which the proposed 100-foot tall tower exceeds. A wireless communication facility with a tower is not listed as a prohibited use, however a wireless communication facility in all zoning districts is subject to the standards of the "Wireless Communication Master Plan," thus the following considerations.

The GC zoned lease site is located north of MacArthur Road and northwest of Kansas State Highway K-42. Because of the site's close proximity (approximately 1-1/2 miles southwest of the end of a runway) to the Wichita Mid-Continent Airport, it is located within Airport Hazard Zone B, which has a maximum structural height of 75 feet or less. Although the Wireless Communication Master Plan permits maximum structural height of 120 feet in the GC zoning district, the Airport Hazard Zone maximum height is the standard that must be addressed. The Wichita Mid-Continent Airport Authority has provided a copy of the FAA review of this airspace application and determined that there is no hazard to air navigation associated with this proposed structure up to a maximum height of 115 feet above ground level at the coordinates provided. The Airport Authority would not oppose this structure as long as it meets the criteria identified in the attached airspace study. The subject site is located within the Wichita city limits, but is not shown as a property eligible for consideration of an Administrative Permit, thus an amendment to PO #78 is required to allow the proposed wireless communication facility. The amendment will also recognize that the proposed monopole is exempt from PO #78's 20-foot building height restriction.

Analysis: On November 20, 2014, the Metropolitan Area Planning Commission (MAPC) considered the request. There were no protests at the MAPC meeting. The MAPC voted 8-0 to approve the request.

On December 1, 2014, District Advisory Board (DAB) IV considered the request. The DAB IV members were not able to vote on this issue due to a lack of a quorum. The DAB members that were present expressed no opposition to the request and instructed Planning to forward the case to City Council. There were no protests against the request at the DAB IV meeting.

Planning staff has received no valid protest and received no calls protesting the request.

Financial Considerations: Approval of this request will not create any financial obligations for the City.

Legal Considerations: The Law Department has reviewed and approved the ordinance as to form.

Recommendation/Actions: It is recommended that the City Council concur with the findings of the MAPC and approve the zoning and place the ordinance on first reading (simple majority vote required).

Attachments:

- MAPC minutes
- DAB memo
- Ordinance