



Wichita-Sedgwick County Metropolitan Area Planning Department

October 8, 2001

City of Wichita
Property Management
Director
1-134

FILE COPY

RE: CON2001-41 – Conditional Use for a wireless communication facility a 150-foot high monopole tower on property zoned “TF-3” Two-Family Residential. Generally located south of Pawnee and west of Broadway.

Dear Ladies and Gentleman:

At its regular meeting on October 2, 2001, the Wichita City Council considered the above-captioned request. The action of the City Council was to APPROVE subject to the conditions stated in the letter dated August 13, 2001.

Enclosed is a signed copy of the above-referenced Conditional Use Resolution. If you have any questions concerning this case, please contact our office.

Sincerely,

Scott Knebel
Senior Planner

SK/rs

Cc: Nordyke Ventures, LLC, %Mark Nordyke, 8900 Woodcrest Circle, Wichita, KS 67206
Cricket Communications, Inc., %Doug Smith, 6655 S. Lewis Ave Suite 200,
Tulsa OK 74136
Ferris Consulting, %Greg Ferris, P O Box 573, Wichita, KS 67201
Austin Miller, %Kim Edgington, 355 N. Waco, Suite 200, Wichita, KS 67202
Mark Michaelis, Michaelis Real Estate #4, P. O. Box 247, Wichita, KS 67201
Earl G. Powell, 1506 N. Evergreen, Wichita, KS 67212
Phil Lambke, City Council Member, District III, Mail Stop 1-13

Resolution no. 01-424
CON2001-00041

A RESOLUTION AUTHORIZING A CONDITIONAL USE TO PERMIT A WIRELESS COMMUNICATION FACILITY ON PROPERTY ZONED "TF-3" TWO-FAMILY RESIDENTIAL, LOCATED SOUTH OF PAWNEE AND WEST OF BROADWAY IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY ORDINANCE NO. 44-975, AS AMENDED.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. 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 to permit a wireless communication facility on property zoned "TF-3" Two-Family Residential legally described below:

Case No. CON2001-00041

A Conditional Use Permit to permit a wireless communication facility on property zoned "TF-3" Two-Family Residential described as:

That part of the Northeast Quarter of Section 5, Township 28 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas described as commencing at the Northeast corner thereof; thence south 90 degrees West, along the North line of said NE/4, 135 feet; thence South 00 degrees West, 282.90 feet for place of beginning; Thence South 36 degrees 35'54" East, 36.51 feet; thence South 25 Degrees 50'37" West, 60.35 feet; thence North 20 degrees 48'31" West, 44.51 feet; thence North 25 degrees 50'37" East, 24.13'; thence North 36 degrees 35'54" West, 10.44 feet; thence North 53 degrees 24'06" East, 20 feet to the place of beginning. Located on south of Pawnee and west of Broadway.

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 monopole shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless

service providers.

- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. 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.
- 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 and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

SECTION 2. That upon the taking effect of this Resolution, the notation of such Conditional Use permit 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 3. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

ADOPTED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS,
this date OCT 2 2001

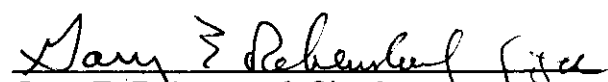


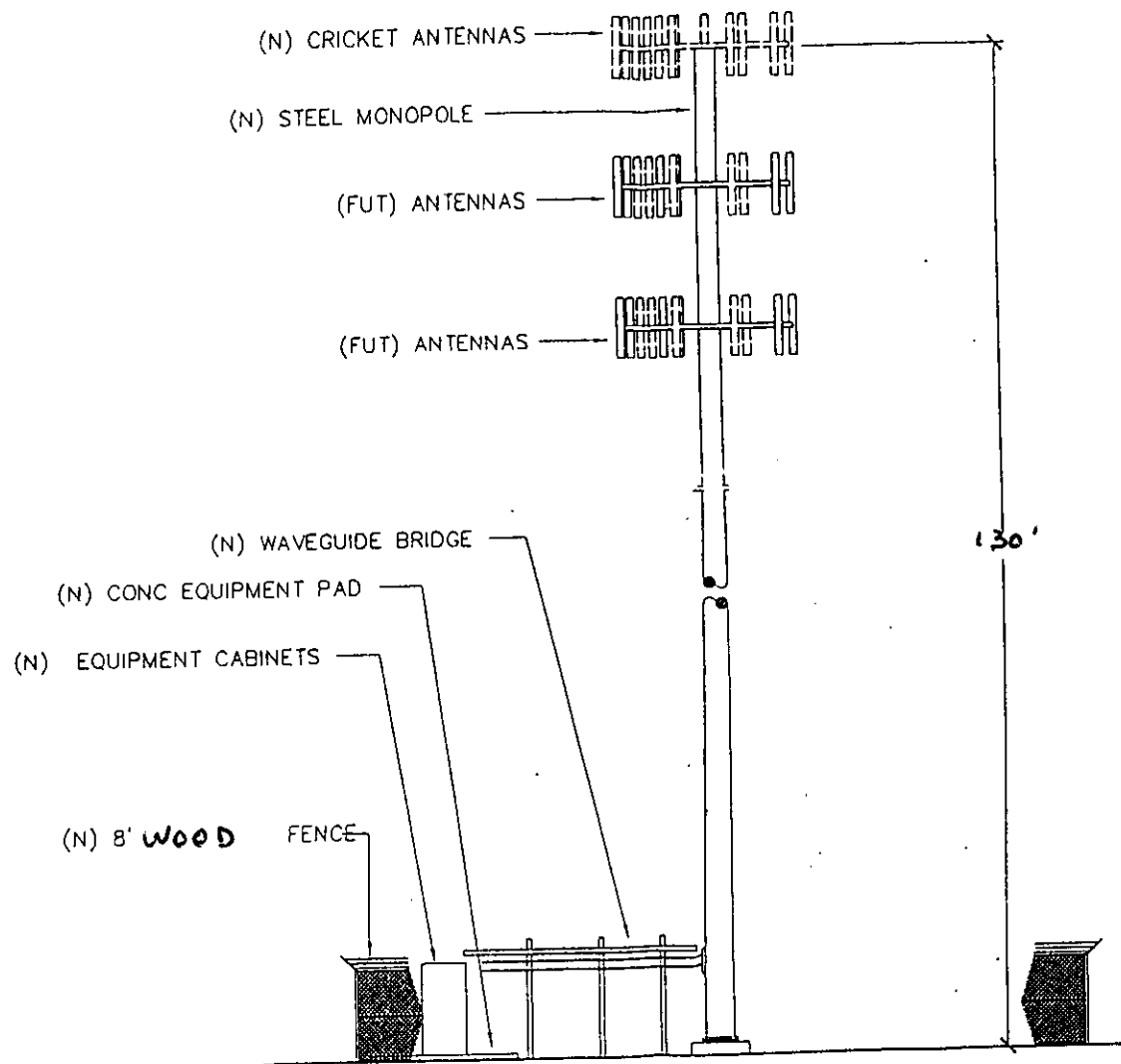
ATTEST:


Pat Burnett, City Clerk


Bob Knight, Mayor

Approved as to form:


Gary E. Rebenstorf, City Attorney



TOWER NOTE:
TOWER & TOWER FOUNDATION
DESIGNED BY TOWER MFR.

CON2001-00041
SITE PLAN

APPROVED 10-8-01 BY SK

SUNSET

MARKET

GARDENS

ADDIITON

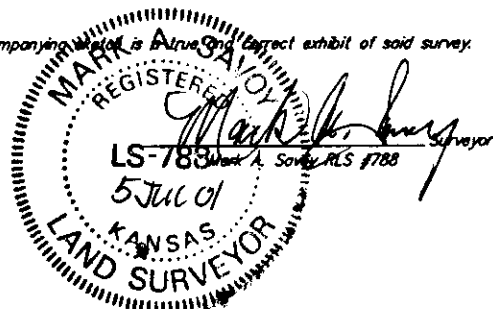
HILBISH & HETTINGERS
ADDITIONState of Kansas)
Sedgwick County)

We, Savoy, Ruggles & Bohm, P.A., Surveyors in aforesaid county and state do hereby certify that, under the supervision of the undersigned, we did on this 2nd day of July, 2001, perform a survey of the following described property:

That part of the NE1/4 of Sec. 5, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as commencing at the N.E. corner thereof; thence S90°W, along the north line of said NE1/4, 135 feet; thence S00°W, 282.90 feet for a place of beginning; thence S36°35'54"E, 36.51 feet; thence S25°50'37"W, 60.35 feet; thence N20°48'31"W, 44.51 feet; thence N25°50'37"E, 24.13 feet; thence N36°35'54"W, 10.44 feet; thence N53°24'06"E, 20 feet to the place of beginning.

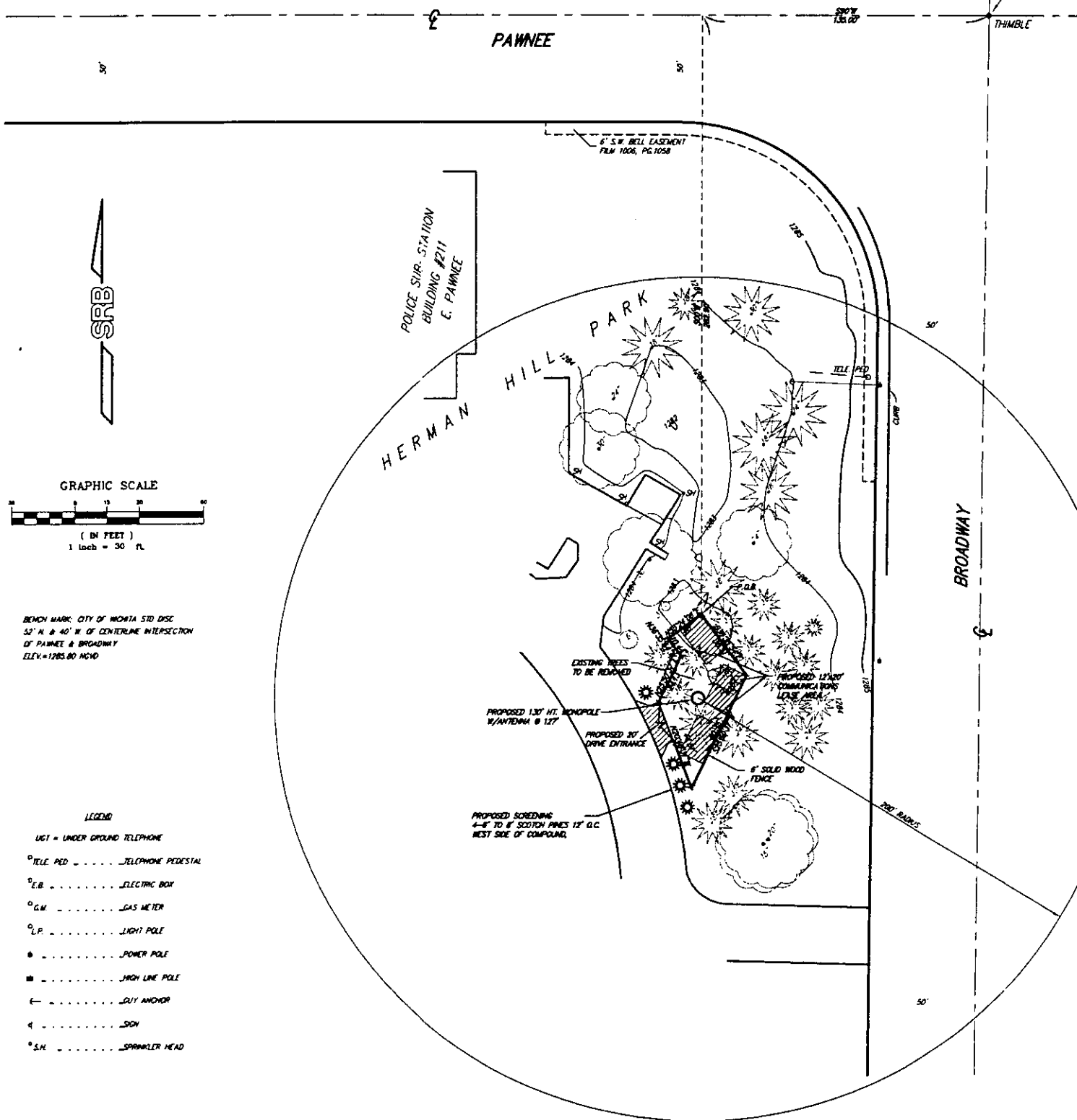
There are no buildings on said parcel. There are no encroachments on said parcel by buildings on the adjacent parcels.

The accompanying map is a true and correct exhibit of said survey.



NOTES:

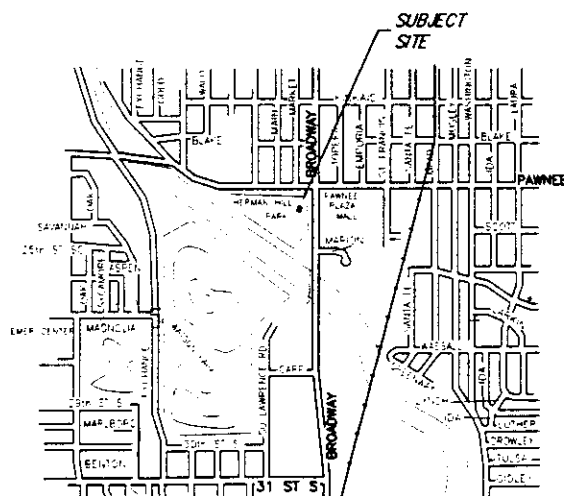
- 1) FLOOD ZONE DESIGNATION: According to the FEMA/FIRM Community Panel No. 200328 0025 B, effective May 15, 1986; the property shown hereon is located in Zone B, an area between limits of the 100-year flood and 500-year flood.



BENCH MARK: CITY OF WICHITA STD DISC
52" H. & 40" W. OF CENTERLINE INTERSECTION
OF PAMNEE & BROADWAY
ELEV. = 1285.80 MVD

LEGEND

- UGT = UNDER GROUND TELEPHONE
TELE. PED. = TELEPHONE PEDESTAL
E.B. = ELECTRIC BOX
G.M. = GAS METER
L.P. = LIGHT POLE
P. = POWER POLE
H.L.P. = HIGH LINE POLE
GUY ANCHOR
SIGN
S.H. = SPRINKLER HEAD



NEIGHBORHOOD MAP
N.T.S.

LOT 1

CON7001-00041
SITE PLAN

APPROVED 10-8-01 BY SK

**NORDYKE VENTURES
WICHITA, KANSAS**

SRB 824 NORTH MAIN WICHITA, KANSAS 67203 316-254-8000
FAX 316-254-8021
http://www.srb.com E-mail: srb@srb.com

**SAVOY, RUGGLES & BOHM, P.A.
ENGINEERING & SURVEYING**

PROJECT NUMBER
D17D1875A

DESIGN DRAWN R.C. UTILITY REVIEW W.A.S. DATE 28 JUN 01 REVISED 2 JUL 01

DWG FILE: D17D1875A-R.C.
PROJECT NO: D17D1875A

SHEET
1
OF
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**STAFF REPORT**

DAB III, August 7, 2001

MAPC, August 9, 2001

CASE NUMBER: CON2001-00041

APPLICANT/AGENT: City of Wichita (Owner); Nordyke Ventures, LLC c/o Mark Nordyke and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

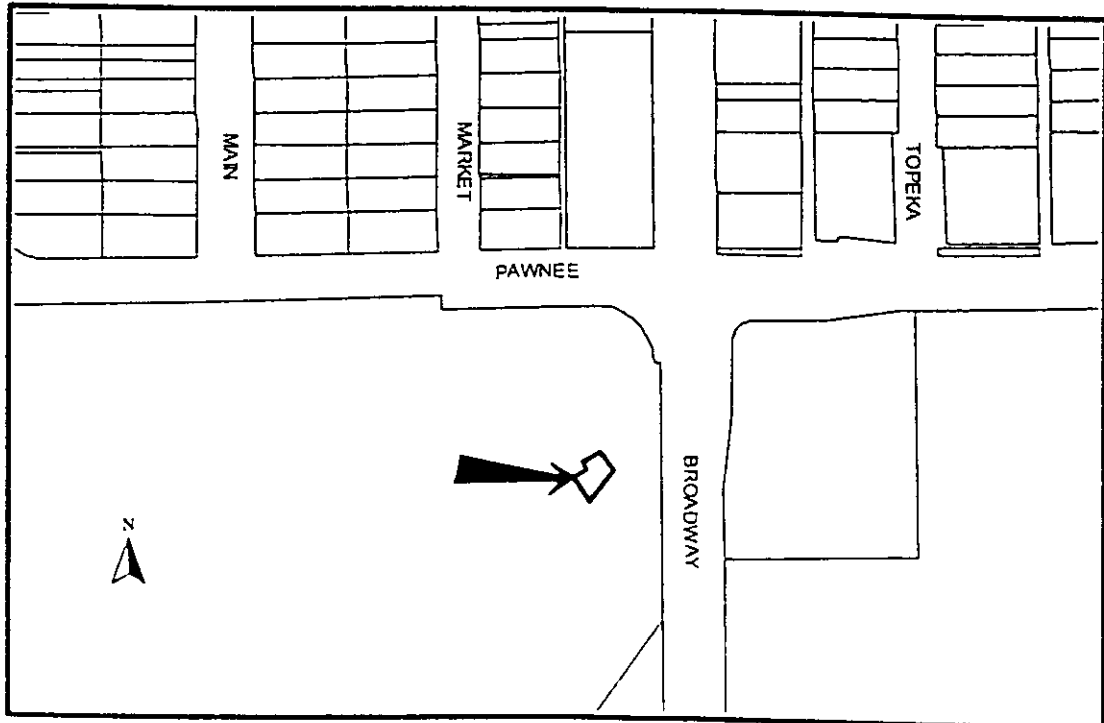
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "TF-3" Two-Family Residential

SITE SIZE: 3,600 square feet

LOCATION: South of Pawnee and west of Broadway

PROPOSED USE: ¹³⁰
~~150~~-foot high monopole tower



This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "TF-3" Two-Family Residential and is currently used as part of Herman Hill Park. Wireless communication facilities in excess of 65 feet in height in the "TF-3" district may be permitted with Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping surrounding the site would only partially obscure the view of the proposed tower, which would lead to a negative visual impact from the tower on nearby residential properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used at an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request.
5. Impact of the proposed development on community facilities: Access to the site is proposed to be through a 20-foot drive to a paved street in Herman Hill Park, so no negative impacts on community facilities are anticipated.

BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 130-foot high monopole tower (see attached Elevation) by Nordyke Ventures, LLC for use by Cricket Communications, Inc. The applicant has provided a list of reasons (see attached letter) why they feel their request conforms to the review criteria for a Conditional Use. The proposed site is zoned "TF-3" Two-Family Residential. Wireless Communication Facilities over 65 feet in height in the "TF-3" Two-Family Residential zoning district may be permitted with a Conditional Use.

The proposed monopole tower would be sited on an approximately 3,600 square foot area located south of Pawnee and west of Broadway in Herman Hill Park, south of the police substation (see attached site plan). The site plan shows a compound enclosed with an eight-foot high wood fence with the tower located in the center of the compound and the ground-level communication equipment located in the eastern portion of the compound. The site plan shows that access would be provided to the site through a 20-foot drive to a paved street in Herman Hill Park. Existing trees within the compound are proposed to be removed, and the site plan shows four six-to eight-foot scotch pines to be planted on the west side of the compound.

The character of the surrounding area is that of mixed uses with commercial uses to the north, south, and east; park land to the west; and residential uses to the northwest and northeast. The properties to the north, south, and east are zoned "GC" General Commercial. The properties to the west, northwest, and northeast are zoned "TF-3" Two-Family Residential.

The application indicates that the proposed tower is needed for part of a planned initial build-out of a wireless phone system by Cricket Communications, Inc. (see attached RF Engineering Evaluation and propagation plots). The justification (see attached letter) for the request indicates that an existing monopole tower located approximately 1/3 mile to the southeast does not provide sufficient height. The justification also indicates that reconstructing the existing monopole would cost more than constructing a new tower.

The applicant indicates that the 80-foot level on the existing tower is available to locate antennas for Cricket; however, if Cricket locates their antennas at a height of 80 feet, another tower will be required further to west. In reviewing Cricket's system, planning staff thinks that another tower likely will be required further to the west in the vicinity of Pawnee and Meridian even if the requested 130-foot high tower is constructed at Pawnee and Broadway. Based on this, planning staff requested that the applicant defer the request to allow time to examine the possibility of locating at the 80-foot level on the existing tower at Pawnee and St. Francis in combination with constructing a new tower near Pawnee and Meridian in an existing industrial area. At the time the staff report was prepared, the applicant would not agree to the deferral, and planning staff had yet to meet with the applicant to discuss this option.

planning staff expects that a single 130 foot tower at this location ~~will~~ ^{will} ~~satisfy~~ the applicant's needs and is waiting for the applicant to submit propagation plots to confirm this; however, ~~the~~ ^{planning staff} still thinks that the existing tower at the 80' height could be combined with a new tower in the industrial area near Pawnee and Meridian and is waiting for the applicant to submit propagation plots to the contrary

Another applicant submitted a Conditional Use request (CON2001-00039) for a 150-foot high monopole tower to be located approximately 1/3 mile to the southeast along St. Francis for the purpose of supporting a planned initial build-out of a wireless phone system by Cricket Communications, Inc.; therefore, planning staff contacted both applicants and requested documentation from Cricket that they would be locating on the respective towers. The applicant in this case provided an e-mail (attached) from the Site Acquisition Development Manager for Cricket indicating that Cricket would be locating on the tower if it is approved. Planning staff contacted Cricket to confirm this, and Cricket indicated that they intend to locate on the tower near Pawnee and Broadway rather than the St. Francis site and would attend the public hearings to state their position on this issue.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"GC" & "B"	Vehicle sales; residential
SOUTH:	"GC"	Vehicle sales
EAST:	"GC"	Retail; restaurant
WEST:	"TF-3"	Herman Hill Park

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed through a 20-foot drive to a paved street in Herman Hill Park.

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 does not conform to the guidelines of the Wireless Communication Master Plan. The proposed facility does not utilize existing towers in the area. There is an existing tower located approximately 1/3 mile southeast of the proposed tower that could be rebuilt or perhaps even used at an available 80-foot height. While the application indicates that the construction and demolition costs of a rebuilt tower are more costly than constructing a new tower, the applicant has not provided any documentation regarding the increased cost. Additionally, there is a possibility of using the existing tower at the available 80-foot in height in combination with a new tower in an existing industrial area near Pawnee and Meridian. Since planning staff request had not had the opportunity to explore this option with applicant at the time this report was prepared, planning staff finds that it is premature to approve the request. Based upon these factors and the information available prior to the public hearings, planning staff recommends that the request be DENIED; however, if the MAPC finds the request appropriate, planning staff recommends that the MAPC make appropriate findings and that approval be 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 monopole shall not exceed 130 feet in height and shall be designed and constructed to accommodate communication equipment for at least three wireless service providers.
- E. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 25% of the structure height and future loading expansions to accommodate communication equipment for at least four wireless service providers.
- F. 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.
- 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 and operated in compliance with all federal, state, and local rules and regulations.
- I. Any violation of the conditions of approval shall render the Conditional Use null and void.

