



**FILE COPY**

**Wichita-Sedgwick County Metropolitan Area Planning Department**

November 18, 2005

Marsha Meyersick  
M & L Land Co., LLC  
15901 E. 77th  
Benton, KS 67017

**RE: CON2005-43 – Sedgwick County Conditional Use to permit a Wireless Communication Facility on property zoned “RR” Rural Residential. Generally located approximately 450 feet north of Highway 254 and east of 127th Street East approximately 1,530 feet. (District I)**

Dear Ladies and Gentlemen:

At its regular meeting on October 20, 2005, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the conditions stated in the enclosed resolution.

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

Sincerely,

A handwritten signature in cursive script that reads 'Dale Miller'.

Dale Miller, Manager  
Current Plans Division

DLM/rms

Cc: Curtis Holland, Cingular Wireless, 6201 College Blvd Ste 500, Overland Park KS 66211  
Mark Clark, 525 N. Main, Room 227, Wichita, KS 67203  
Dave Unruh, County Commissioner District I, Mail Stop, County Room 320  
Glen Wiltse, County Code Enforcement, 1144 S. Seneca, Wichita, KS 67213

APPROVED, subject to the following conditions:

- A. All requirements of Section III.D.6g. 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 with a maximum of 195 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures: for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for 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 the Conditional Use null and void.

**CONDITIONAL USE RESOLUTION NO. CON2005-00043**

**WHEREAS**, M & L Land Company (Marsha Meyersick) and Cingular Wireless (Curtis Holland); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use to permit a Wireless Communication Facility on approximately 1/2 acre zoned "RR" Rural Residential described as:

A 100 foot by 100 foot tract of land situated in the East Half of the Southwest Quarter of Section 11, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of said Section 11, said point bears South 01 degrees 17'07" East, a distance of 2643.20 feet from the Northwest corner of the Southwest Quarter of said Section 11; thence North 69 degrees 38'07" East, a distance of 1571.52 feet to the POINT OF BEGINNING of said 100 foot by 100 foot tract; thence North 90 degrees 00'00" East, a distance of 100.00 feet; thence South 00 degrees 00'00" East, a distance of 100.00 feet; thence South 90 degrees 00'00" West, a distance of 100.00 feet; thence North 00 degrees 00'00" West, a distance of 100.00 feet to the POINT OF BEGINNING. Generally located approximately 450 feet north of Highway 254 and east of 127th Street East approximately 1,530 feet.

**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 20, 2005, 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 Wireless Communication Facility on property zoned "LC" Limited Commercial described as:

A 100 foot by 100 foot tract of land situated in the East Half of the Southwest Quarter of Section 11, Township 26 South, Range 2 East of the 6th P.M., Sedgwick County, Kansas, more particularly described as follows:

Commencing at the Southwest corner of said Section 11, said point bears South 01 degrees 17'07" East, a distance of 2643.20 feet from the Northwest corner of the Southwest Quarter of said Section 11; thence North 69 degrees 38'07" East, a distance of 1571.52 feet to the POINT OF BEGINNING of said 100 foot by 100 foot tract; thence North 90 degrees 00'00" East, a distance of 100.00 feet; thence South 00 degrees 00'00" East, a distance of 100.00 feet; thence South 90 degrees 00'00" West, a distance of 100.00 feet; thence North 00 degrees 00'00" West, a distance of 100.00 feet to the POINT OF BEGINNING. Generally located approximately 450 feet north of Highway 254 and east of 127th Street East approximately 1,530 feet.

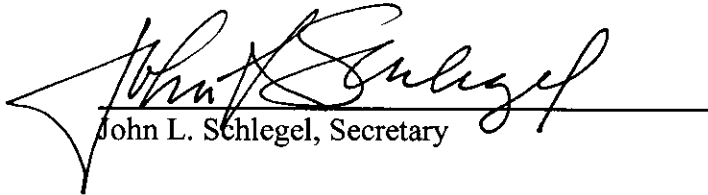
Adopted this 20TH DAY of OCTOBER, 2005. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 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



Harold Warner, Jr., Chair MAPC

ATTEST:



John L. Schlegel, Secretary

**STAFF REPORT**  
MAPC 10-20-05

**CASE NUMBER:** CON2005-00043

**APPLICANT/AGENT:** M&L Land Company (Marsha Meyersick) and Cingular Wireless (Curtis Holland)

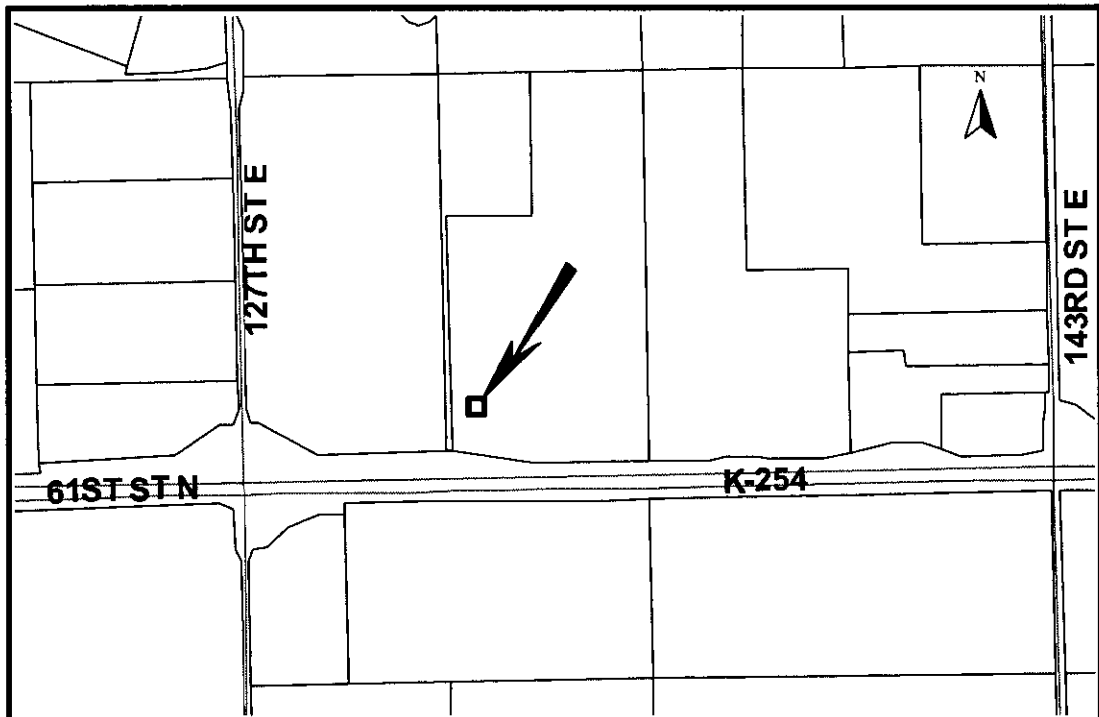
**REQUEST:** Conditional Use to permit a Wireless Communication Facility

**CURRENT ZONING:** RR Rural Residential

**SITE SIZE:** Approximately ½ acre

**LOCATION:** Approximately 450 feet north of Highway 254 and east of 127<sup>th</sup> Street East approximately 1,530 feet.

**PROPOSED USE:** Wireless Communication Facility



**BACKGROUND:** The applicant's are seeking a Conditional Use to permit a 195-foot tall lattice wireless communications facility. The application area is zoned RR Rural Residential, is 100 feet by 100 feet square in size and is located approximately 450 feet north of Highway 254 and 1,530 feet east of 127<sup>th</sup> Street East. The property owners' own the 62 acres surrounding the application area. The application area is unplatted. Within the 100 by 100 square-foot application area the applicant proposes to construct a 60-foot by 60-foot fenced compound that would contain the self-support tower, equipment shelter and accessory equipment. Access to the site is via a gravel frontage road located on the north side of Highway.

The applicant indicates they need a tower in this general area in order to improve customer service for Cingular Wireless, specifically in building coverage between Greenwich and 159<sup>th</sup> streets, and between 77<sup>th</sup> and 45<sup>th</sup> streets north. There are not any structures located within 1,000 feet of the proposed facilities. The applicant indicates that closest existing tower is located approximately three miles to the southwest of the application area with another existing tower located over four miles to the east. Neither one of these structures are located in the target service area in a way that will effectively address the company's service delivery objectives.

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: RR Rural Residential; agriculture  
SOUTH: RR Rural Residential; agriculture  
EAST: RR Rural Residential; agriculture  
WEST: RR Rural Residential; agriculture

**PUBLIC SERVICES:** The site does not have access to sewer or water services, nor does the use need them. Access to the site is via a gravel frontage road.

**CONFORMANCE TO PLANS/POLICIES:** The *2030 Wichita-Sedgwick County Comprehensive Plan* depicts this site as appropriate for "rural" uses. The rural category is intended for those lands located outside of the 2030 urban growth areas for the incorporated cities of located within Sedgwick County. Recommended uses include agriculture and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. *The Wichita-Sedgwick County Unified Zoning Code* requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The *Wireless Communication Master Plan* contains location and height guidelines, design guidelines and co-location requirements that have been incorporated in *The Wichita-Sedgwick County Unified Zoning Code* as Supplemental Use Regulation g. In general, the Wireless Plan promotes a wireless system that minimizes the height and number of support structures necessary to provided effective services.

**RECOMMENDATION:** The main focus of the “Wireless Communication Mater Plan” is to encourage effective wireless service while minimizing the number and height of support towers, and the visibility of the equipment needed to provide the service. The plan includes design guidelines that indicate: co-location is preferred to new construction; the character of the area should be preserved as much as possible; minimize the height, mass or proportion of the facilities and minimize the silhouette presented by the support structures and antenna arrays. To that end a monopole support structure has generally been found to be more consistent with the plan’s recommendations than a lattice tower. The plan states that monopoles are favored over lattice-type structures to a height of at least 150 feet. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following Conditional Use restrictions:

- A. All requirements of Section III.D.6g. 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 with a maximum of 195 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding “objects affecting navigable airspace” and “impacts to terminal instrument procedures: for the proposed facility, and shall comply with all FAA conditions of approval. The applicant shall submit a copy of FAA approval to the MAPC and County Code Enforcement prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plan and elevation drawings. All improvements shall be completed before operational.
- F. The site shall be developed and operated in compliance with all federal, state and local rules and regulations.
- G. If the Zoning Administrator finds that there is a violation for 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 the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The properties surrounding the application area are zoned RR Rural Residential and primarily used for agricultural purposes. The character of the area is rural with increasing development pressure due to its proximity to Highway 254 and growth pressure from the cities of Wichita, Bel Aire and Kechi.

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 currently used for agriculture. The site could continue to be used for agricultural uses or for large-lot residential uses permitted by the RR district or other uses permitted by right in that zoning district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects on properties in the area should be minimized by the recommended conditions of approval.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: According to the applicant, approval would improve wireless services specifically for Cingular customers and for other public carriers needing to improve service in the area who could utilize the proposed wireless facilities. Denial would presumably cause the property owner a loss of income and potentially limit wireless service in the area identified as being deficient in service.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita-Sedgwick County Comprehensive Plan depicts this site as appropriate for "rural" uses. The rural category is intended for those lands located outside of the 2030 urban growth areas for the incorporated cities of located within Sedgwick County. Recommended uses include agriculture and rural based uses that are no more offensive than those agricultural uses commonly found in Sedgwick County. The Unified Zoning Code requires wireless facilities to be setback one foot for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. The application appears to comply adopted policies.
6. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed facility does not detrimentally impact community facilities.

