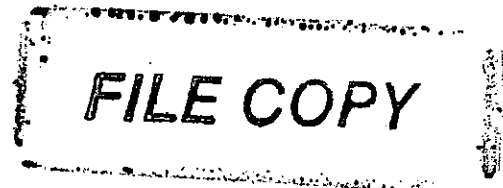




Wichita-Sedgwick County Metropolitan Area Planning Department

January 2, 2001

BRZ Investments Inc.,
%R. D. Wood
3540 W. Douglas
Suite 3
Wichita, KS 67203



RE: CON2000-00053 – Conditional Use for a wireless communication facility on property zoned “GC” General Commercial. Generally located north of Douglas and east of Kessler (3540 W. Douglas).

Dear Ladies and Gentlemen:

At its regular meeting on December 7, 2000, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE 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 four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides shade trees to be planted and maintained every 30 feet adjacent to the south side of the compound.

- F. Ground-level equipment shall be screened by an 8-foot high solid screening fence with densely planted evergreen vegetation along the south side of the compound.
- 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 applicant shall obtain FAA approval of 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 Director of Airport Engineering for the City of Wichita.
- J. If Unified School District 259, or its representative, has met all of the following three conditions this Conditional Use Application shall be considered void. 1) The District, or its representative, has received a building permit for the reconstruction of the existing tower at the Mayberry Middle School site by December 21, 2000. 2) The District, or its representative, has provided to Cricket Communications a lease, comparable to existing leases in the Wichita area, for collocation on this tower at a lease rate competitive with existing Cricket Communications lease rates in the Wichita area by December 21, 2000. 3) The District, or its representative, will guarantee that the tower will be available for installation of all Cricket Communications and Lucent Technologies equipment by January 20, 2001.
- K. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- L. Any violation of the conditions of approval shall render the Conditional Use null and void.

This action was not accompanied by valid appeals or protest petitions, therefore, the action of the Planning Commission is FINAL. Enclosed is the signed Conditional Use Resolution.

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

Sincerely,



Scott Knebel
Senior Planner

SK/rs

cc: Ferris Consulting, %Greg Ferris, P. O. Box 573, Wichita, KS 67201
Horizon Telecommunication, 2546 S. Leonine, Wichita, KS 67217
Cricket Telecommunication, Robert C. Giguere, 6655 S. Lewis, Suite 350,
Tulsa, OK 74136
D.A.B. IV, Brian W. Silcott, Mail Stop 1-135
Bill Gale, City Council Member IV, Mail Stop 1-13
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
Randy Sparkman, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72
J. R. Cox, Office of Central Inspection, Mail Stop 1-72

CONDITIONAL USE RESOLUTION NO. CON-2000-00053

WHEREAS, BRZ Investments Inc., c/o R. D. Wood (Owner); Horizon Telecommunications, Inc. and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (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 to allow a 150-foot high monopole tower on 2,400 square feet zoned "GC" General Commercial described as:

LEASE AREA DESCRIPTION:

A proposed lease area lying in and being part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said Lot 1; Thence N 88 degrees 40'09"E, along the South line of said Lot 1, a distance of 97.78 feet; Thence N 00 degrees 23'32"W a distance of 91.37 feet to the point of beginning; Thence continuing N 00 degrees 23'32"W a distance of 40.00 feet; Thence N 89 degrees 55'11"E a distance of 60.00 feet; Thence S00 degrees 23'32"E a distance of 40.00 feet; Thence S 89 degrees 55'11"W a distance of 60.00 feet to the point of beginning. Containing 2400 square feet or 0.055 acres, more or less. Generally located north of Douglas as east of Kessler (3540 W. Douglas).

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 7, 2000, 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 to allow a 150-foot high monopole tower on 2,400 square feet zoned "GC" General Commercial described as:

LEASE AREA DESCRIPTION:

A proposed lease area lying in and being part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southwest corner of said Lot 1; Thence N 88 degrees 40'09"E, along the South line of said Lot 1, a distance of 97.78 feet; Thence N 00 degrees 23'32"W a distance of 91.37 feet to the point of beginning; Thence continuing N 00 degrees 23'32"W a distance of 40.00 feet; Thence N 89 degrees 55'11"E a distance of 60.00 feet; Thence S00 degrees 23'32"E a distance of 40.00 feet; Thence S 89 degrees 55'11"W a distance of 60.00 feet to the point of beginning. Containing 2400 square feet or 0.055

acres, more or less. Generally located north of Douglas as east of Kessler (3540 W. Douglas).

subject to the following conditions:

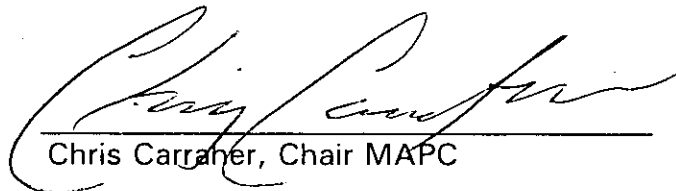
- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use by the 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 four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides shade trees to be planted and maintained every 30 feet adjacent to the south side of the compound.
- F. Ground-level equipment shall be screened by an 8-foot high solid screening fence with densely planted evergreen vegetation along the south side of the compound.
- 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 applicant shall obtain FAA approval of 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 Director of Airport Engineering for the City of Wichita.
- J. If Unified School District 259, or its representative, has met all of the following three conditions this Conditional Use Application shall be considered void. 1) The District, or its representative, has received a building permit for the reconstruction of the existing tower at the Mayberry Middle School site by December 21, 2000. 2) The District, or its representative, has provided to Cricket Communications a lease, comparable to existing leases in the Wichita area, for collocation on this tower at a lease rate competitive with existing Cricket Communications lease rates

in the Wichita area by December 21, 2000. 3) The District, or its representative, will guarantee that the tower will be available for installation of all Cricket Communications and Lucent Technologies equipment by January 20, 2001.

- K. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- L. Any violation of the conditions of approval shall render the Conditional Use null and void.

Adopted this 7th day of December, 2000. 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



Chris Carragher, Chair MAPC

ATTEST:



Marvin S. Krout, Secretary

STAFF REPORT

DAB IV, December 6, 2000

MAPC, December 7, 2000

CASE NUMBER: CON2000-00053

APPLICANT/AGENT: BRZ Investments Inc. c/o R. D. Wood (Owner); Horizon Telecommunications, Inc. and Cricket Communications, Inc. (Applicants); Ferris Consulting c/o Greg Ferris (Agent)

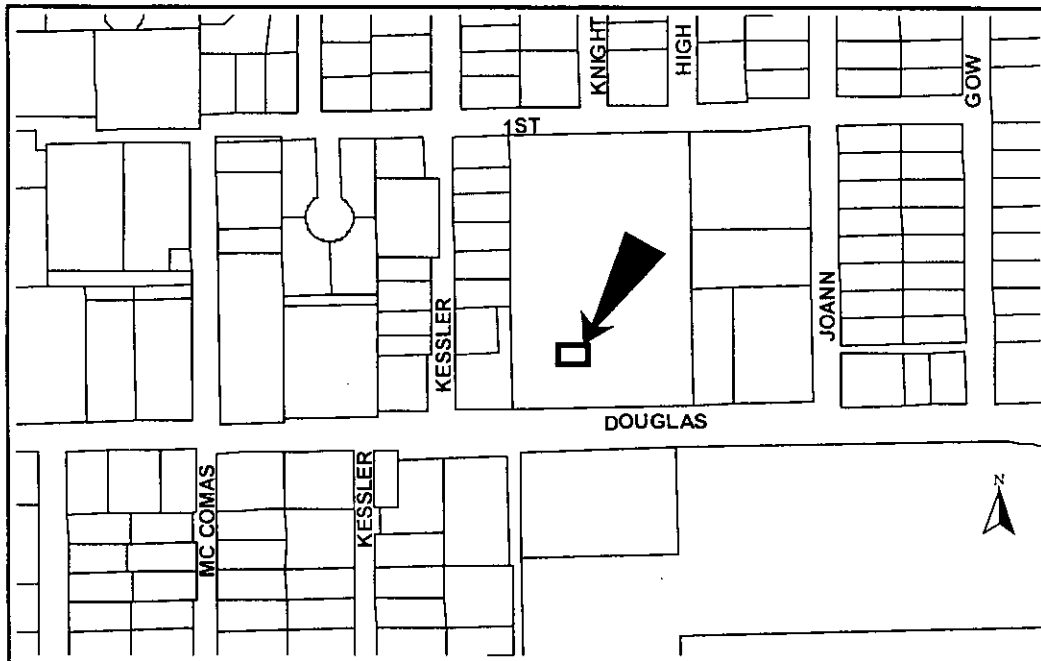
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "GC" General Commercial

SITE SIZE: 2,400 square feet

LOCATION: North of Douglas and east of Kessler (3540 W. Douglas)

PROPOSED USE: 150-foot high monopole tower



BACKGROUND: The owner is seeking a Conditional Use to permit the construction of a 150-foot high monopole tower (see attached elevation rendering) by Horizon Telecommunications, Inc. for use by Cricket Communications, Inc. The proposed site is zoned "GC" General Commercial. The Unified Zoning Code permits Wireless Communication Facilities up to 150 feet in height in the "GC" General Commercial zoning district with an Administrative Permit; however, the request for an Administrative Permit at this location was denied due to its lack of conformance with the Wireless Communication Master Plan. Therefore, the applicant is appealing that decision to the MAPC through this request for a Conditional Use.

The proposed tower would be sited on a 2,400 square foot area located north of Douglas and east of Kessler (3540 W. Douglas) in front of the storage units at Douglas Storage. The site plan (attached) depicts an 60-foot by 40-foot compound with the tower located in the center of the compound and the ground-level communication equipment located in the western portion of the compound. The site plan depicts a wrought iron fence around the entire compound with densely planted evergreens along the south side of the compound.

The character of the surrounding area is that of mixed use, with commercial development along Douglas, residential development to the north, and institutional uses to the south. The properties east and west of the site are zoned "GC" General Commercial and "LC" Limited Commercial and are developed with varied commercial uses, including the self-storage warehouses on the parent tract of the subject property. The properties north of the site are zoned "SF-6" Single-Family Residential and "TF-3" Two-Family Residential and are developed with duplexes and single-family residences. The properties south of the site are zoned "SF-6" Single-Family Residential and are developed with an armory, a park, and a school.

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). The justification for the request (attached) indicates that existing commercial towers located north of the site are not suitable for use, in the case of the AM radio tower, or do not have sufficient height and cannot be extended in height, in the case of the Fox television tower.

The application also indicates that an existing self-support lattice tower at the Mayberry School site to the south had not been made available to be rebuilt as of the date of application (see attached correspondence). Correspondence with school district staff (see attached) indicates that the school district is in the process of making their towers available for reconstruction. Additionally, temporary structures such as "cellular on wheels" could be used in the interim to provide limited service to the area while issues involving the availability of the school tower are resolved.

CASE HISTORY: The site is platted as the Powell's 10th Addition, which was recorded on December 5, 1985.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-6" & "TF-3"	Single-family & duplexes
SOUTH:	"SF-6"	Armory, school, park
EAST:	"GC" & "LC"	Various commercial businesses
WEST:	"GC" & "LC"	Various commercial businesses

PUBLIC SERVICES: No municipally-supplied utility services are required. Access to the site is proposed from Douglas, a four-lane arterial street.

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. First, the proposed facility does not utilize existing towers in the area. The school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, the proposed facility is not placed in an area where trees and/or buildings obscure some or all of the facility from the view. The facility is proposed to be placed at the front of the warehouse facility in full view from Douglas. Third, equipment cabinets are not proposed to be located indoors. Warehouse space is available on the site for the indoor storage of equipment. 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 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least four wireless service providers.
- E. A landscape plan shall be submitted for approval by the Planning Director that provides shade trees to be planted and maintained every 30 feet adjacent to the south side of the compound.
- F. Ground-level equipment shall be housed within the existing storage building structures.
- 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 applicant shall obtain FAA approval of 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 Director of Airport Engineering for the City of Wichita.
- J. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- K. 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 that of mixed use, with commercial development along Douglas, residential development to the north, and institutional uses to the south. The properties east and west of the site are zoned "GC" General Commercial and "LC" Limited Commercial and are developed with varied commercial uses, including the self-storage warehouses on the parent tract of the subject property. The properties north of the site are zoned "SF-6" Single-Family Residential and "TF-3" Two-Family Residential and are developed with

duplexes and single-family residences. The properties south of the site are zoned "SF-6" Single-Family Residential and are developed with an armory, a park, and a school.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "GC" General Commercial, and has been developed with an commercial use. Wireless communication facilities up to 150 feet in height in the "GC" district may be permitted with an Administrative Permit, but must conform to the guidelines of the Wireless Communication Master Plan. A Conditional Use may be granted to permit a wireless communication facility in the "GC" district that does not conform to the guidelines of the Wireless Communication Plan; however, the facility should conform to the guidelines as much as possible.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Existing landscaping on the site does not adequately 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 wireless communication facility does not conform to the guidelines of the Wireless Communication Master Plan. First, the proposed facility does not utilize existing towers in the area. The school district has indicated that it is in the process of making its towers available for reconstruction, and approving a new tower to be constructed at the proposed location would lead to an unnecessary proliferation of towers in the area, especially when interim solutions such as "cellular on wheels" are available. Second, the proposed facility is not placed in an area where trees and/or buildings obscure some or all of the facility from the view. The facility is proposed to be placed at the front of the warehouse facility in full view from Douglas. Third, equipment cabinets are not proposed to be located indoors. Warehouse space is available on the site for the indoor storage of equipment.
5. Impact of the proposed development on community facilities: Access to the site is proposed to be from Douglas, a four-lane arterial street, so no negative impacts on community facilities are anticipated.

Telecommunication Services

Dynatek

PROJECT:
**DOUGLAS
STORAGE**

PROJECT NO.:
ICT037

DRAWING
ELEVATION

DATE: 8/24/00

SCALE: 1/8"

DRAWN BY: R W G

cricket
communications

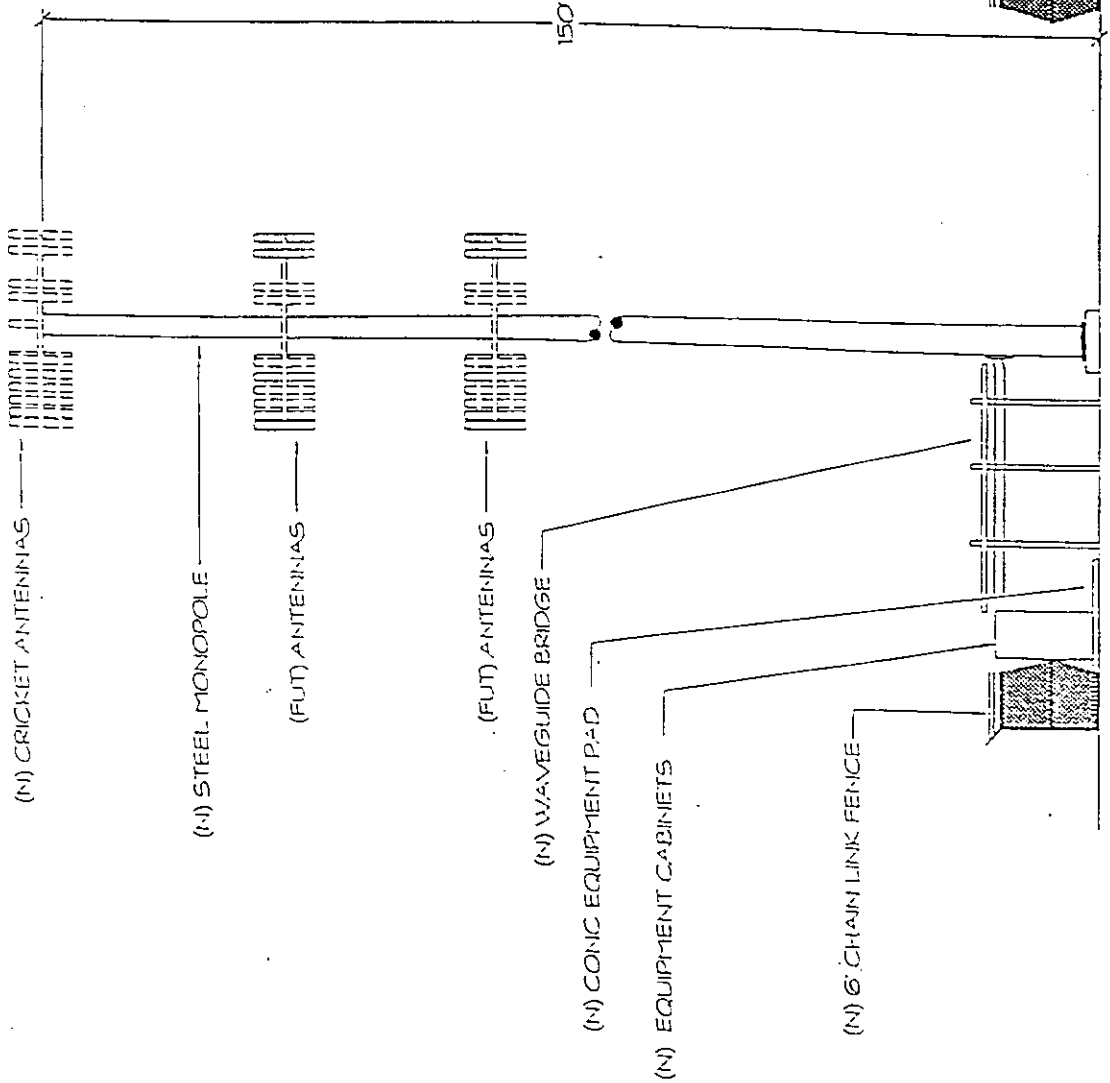


LUCIENT TECHNOLOGIES

A2

SITE PLAN

APPROVED 1-2-01 BY SK



1/8"

ELEVATION

A PROPOSED LEASE AREA IN PART OF LOT 1
 POWELL'S 10TH ADDITION WICHITA, SEDGWICK COUNTY, KANSAS
 SITE KS20B / ICT097 DOUGLAS STORAGE

LEGAL DESCRIPTIONS

PARCEL TRACT DESCRIPTION
 Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas.

LEASE AREA DESCRIPTION
 A proposed lease area lying in and being part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, being more particularly described as follows: Commencing at the Southeast corner of said Lot 1; Thence N88°40'00"E, along the South line of said Lot 1, a distance of 87.78 feet; Thence N00°23'32"W a distance of 81.37 feet to the point of beginning; Thence continuing N00°23'32"W a distance of 40.00 feet; Thence N88°50'11"E a distance of 80.00 feet; Thence S00°23'32"E a distance of 40.00 feet; Thence S88°50'11"W a distance of 80.00 feet to the point of beginning. Containing 2400 square feet or 0.055 acres, more or less.

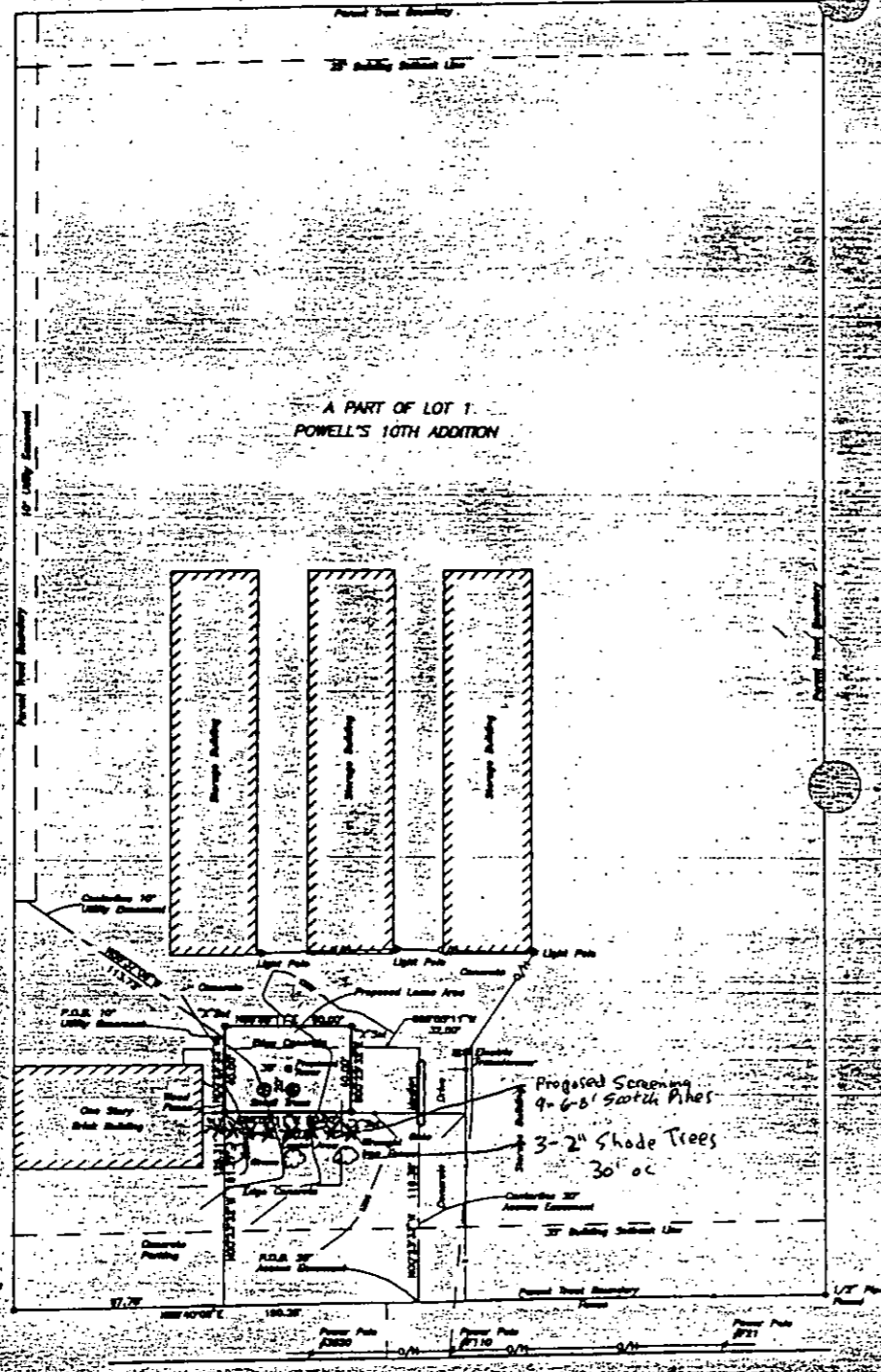
ACCESS EASEMENT DESCRIPTION
 A Twenty foot (20') wide easement for ingress and egress crossing a part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, the easement being more particularly described as follows: Commencing at the Southeast corner of said Lot 1; Thence N88°40'00"E, along the South line of said Lot 1, a distance of 190.28 feet to the point of beginning; Thence N00°23'32"W a distance of 118.30 feet; Thence S88°50'11"W a distance of 32.00 feet to an ending point on the East line of the above described lease area, said point being 10.00 feet S00°23'32"E of the Northwest corner of said lease area. Containing of 151.85 linear feet.

UTILITY EASEMENT DESCRIPTION
 A Ten foot (10') wide easement for utility purposes crossing a part of Lot One (1), Powell's 10th Addition, Wichita, Sedgwick County, Kansas, the easement being more particularly described as follows: Commencing at the Southeast corner of said Lot 1; Thence N88°40'00"E, along the South line of said Lot 1, a distance of 87.78 feet; Thence N00°23'32"W a distance of 123.31 feet to a point on the East line of the above described lease area and the point of beginning; Thence N88°50'11"W a distance of 113.73 feet to an ending point on the South line of an existing 10' utility easement. Containing of 113.73 linear feet.

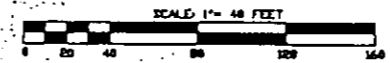
I, Kenneth E. Hunt, Kansas Registered Land Surveyor No. 1081, do hereby state that this survey represents a careful survey made by me or under my supervision and is true and correct to the best of my knowledge and belief.



Kenneth E. Hunt, PLS#1081



LEASE AREA: 2400 SQUARE FEET OR 0.055 ACRES
 ACCESS EASEMENT: 151.85 LINEAR FEET
 UTILITY EASEMENT: 113.73 LINEAR FEET

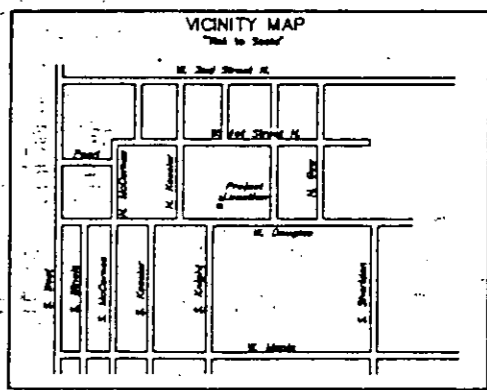


SITE PLAN

APPROVED 12/28/10 BY *[Signature]*

LEASE CORNER ELEVATIONS

SW LEASE AREA: 1308.5'	SE LEASE AREA: 1308.6'
NW LEASE AREA: 1307.5'	NE LEASE AREA: 1308.6'



LEGEND

—	BUY LINE	—	POWER POLE
—	OVERHEAD ELECTRIC	—	TELEPHONE POLE
—	U/S ELECTRIC	—	ADD GAS SET
—	GAS LINE	—	AS HIGH BOX SET
—	TELEPHONE LINE	—	SANITARY SEWER MANHOLE
—	FENCE	—	WATER METER
		—	PIPELINE MARKER

TOWER COORDINATES

NADES / NAD83	LONGITUDE: 97°23'04.10"	ELEVATION: 1307.5'
LAITUDE: 37°41'03.81"		
NADES / NAD83	LONGITUDE: 97°23'02.85"	ELEVATION: 1307.0'
LAITUDE: 37°41'03.78"		

- NOTES
1. Surveyor was not provided with a Title Commitment Policy or Title Report. Surveyor not at all responsible of errors may be shown herein. Surveyor provided no additional research regarding encumbrances and no liability is assumed herein.
 2. Bearings shown herein are based on the Kansas State Plane Coordinate System, South Zone, NAD83 Datum.
 3. The elevations shown herein are based on the NAVD83 Datum.
 4. The latitude and longitude shown herein are based on the NAD83 Datum and meet or exceed the minimum requirements for a PCO/FAA 3C survey which is defined as plus or minus 50 feet horizontal and plus or minus 20 feet vertical. This information was established and determined by GPS Observations on 8/28/09.
 5. This survey does not provide any determination concerning wetlands, flood lines, tree stumps or any other environmental issues. Such matters should be directed to an expert consultant.
 6. There may be additional buried or underground utilities in the area which the surveyor is unaware of and no liability for such is assumed herein.
 7. This is not a Boundary Survey.

cons3

HORIZON TELECOMMUNICATIONS, INC.

1	ADD EASEMENT	NO/28/10	JKH
REV	REVISION	DATE	BY

CRICKET COMMUNICATIONS, INC.
 WICHITA, KANSAS

Prepared by
 P&K Professional Land Survey, P.C.
 700 Royal Lane, Tulsa, Okla. 74106 (918) 584-8878

SURVEYED BY: BAH	SCALE: 1"=40'	FIELD BOOK: 10
DRAWN BY: BAH	DATE: 8/23/09	PAGE: 1/23
APPROVED BY: KDH	JOB #: 0832	SHEET: 1 OF 1