



Wichita-Sedgwick County Metropolitan Area Planning Department

April 16, 2017

Ferris Consulting
Attn: Greg Ferris
P.O. Box 573
Wichita, KS 67201

CM Distributors, Inc.,
Attn: Ted Maish, Jr.
1940 South Oliver Avenue
Wichita, KS 67218

APC Towers, LLC
Attn: Michael Short
8601 Six Forks Road
Raleigh, NC 27615

RE: CON2018-00004 - City request to approve a Conditional Use Permit to allow a 100-foot tall wireless communication facility (tower) on property located at the northeast corner of Mount Vernon Road and Oliver Avenue. (1940 South Oliver Avenue)

Dear Applicant:

At its regular meeting on **March 8, 2018**, the Wichita - Sedgwick County Metropolitan Area Planning Commission considered the above captioned request. The action of the MAPC was to **APPROVE** the request in accordance with the attached resolution.

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

Sincerely,

David L. Yearout, AICP
Principal Planner

Copies to: James Clendenin, Council Member District III, Mail Stop 1-13
Maddy Campbell, CSR District III, Mail Stop 1-135
Jeff Van Zandt, City Law, Mailstop 1-134
Julianne Kallman, Engineering, Mail Stop 1-71
MABCD

CONDITIONAL USE RESOLUTION NO. CON2018-00004

WHEREAS, CM Distributors, Inc. (Owner), by and through Ferris Consulting – Greg Ferris (agent and applicant), pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requests a Conditional Use for placement of a 100-foot tall wireless communication facility (tower) on property zoned LC, Limited Commercial District, on property located on the east side of Oliver Avenue and north of Mount Vernon Road, at 1940 South Oliver Avenue, and legally described as:

A portion of the C. M. Distributors tract described in Book 170, Page 328, as recorded in the Office of the County Clerk of Sedgwick County, Kansas, lying and being in the Northwest Quarter of Section 36, Township 27 South, Range 1 East of Sedgwick County, Kansas and being more particularly described as follows:

Commence at a 1/2" Open Top Pipe found marking the NW corner of Section 36; thence run along the section line S 00°49'04" E a distance of 2147.27 to a point; thence run N 89°10'56" E a distance of 49.13 to an 1" Open Top Pipe found along the easterly right-of-way of S Oliver Street; thence leaving said right-of-way run S 17°35'40" E for a distance of 210.38 feet to a 5/8" rebar set and the POINT OF BEGINNING; thence N 89°05'21" E a distance of 45.00 feet to a 5/8" rebar set; thence S 00°54'39" E a distance of 45.00 feet to a 5/8" rebar set; thence S 89°05'21" W a distance of 40.00 feet to a 5/8" rebar set; thence N 45°54'39" W a distance of 7.07 feet to a 5/8" rebar set; thence N 00°54'39" W a distance of 40.00 feet to the POINT OF BEGINNING. Said described parcel contains (2012.5 sq. ft.) 0.046 acres, more or less.

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 March 8, 2018, 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 100-foot tall wireless communication facility (tower) on property zoned LC, Limited Commercial District, on property located on the east side of Oliver Avenue and north of Mount Vernon Road, at 1940 South Oliver Avenue, and legally described as:

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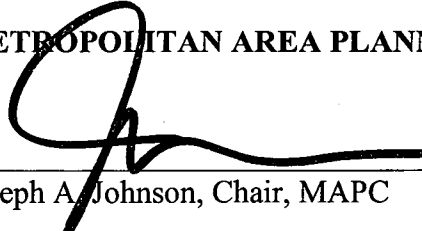
Oliver Street; thence leaving said right-of-way run S 17°35'40" E for a distance of 210.38 feet to a 5/8" rebar set and the POINT OF BEGINNING; thence N 89°05'21" E a distance of 45.00 feet to a 5/8" rebar set; thence S 00°54'39" E a distance of 45.00 feet to a 5/8" rebar set; thence S 89°05'21" W a distance of 40.00 feet to a 5/8" rebar set; thence N 45°54'39" W a distance of 7.07 feet to a 5/8" rebar set; thence N 00°54'39" W a distance of 40.00 feet to the POINT OF BEGINNING. Said described parcel contains (2012.5 sq. ft.) 0.046 acres, more or less.

Subject to the following conditions:

1. 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.
2. 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.
3. The support structure shall be no taller than 100 feet in height, plus an additional five (5) feet for lightning suppression equipment.
4. The equipment compound shall be screened with a six (6) foot tall solid screening fence.
5. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use and prior to the issuance of the Conditional Use Resolution.
6. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
7. 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 Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
8. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
9. If the Zoning Administrator finds that there is a violation of 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 that the Conditional Use is null and void.

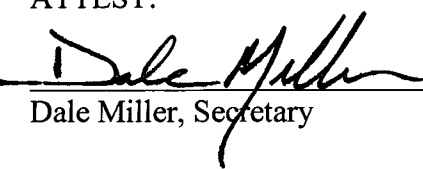
Adopted this 8th Day of March, 2018

METROPOLITAN AREA PLANNING COMMISSION



Joseph A. Johnson, Chair, MAPC

ATTEST:



Dale Miller, Secretary



STAFF REPORT

MAPC February 15, 2018
DAB III March 7, 2018

CASE NUMBER: CON2018-00004

APPLICANT/AGENT: CM Distributors Inc. (Ted Maish, Jr.) (Owner); Ferris Consulting – Greg Ferris (Agent); APC Towers, LLC – Michael Short (Tower Owner)

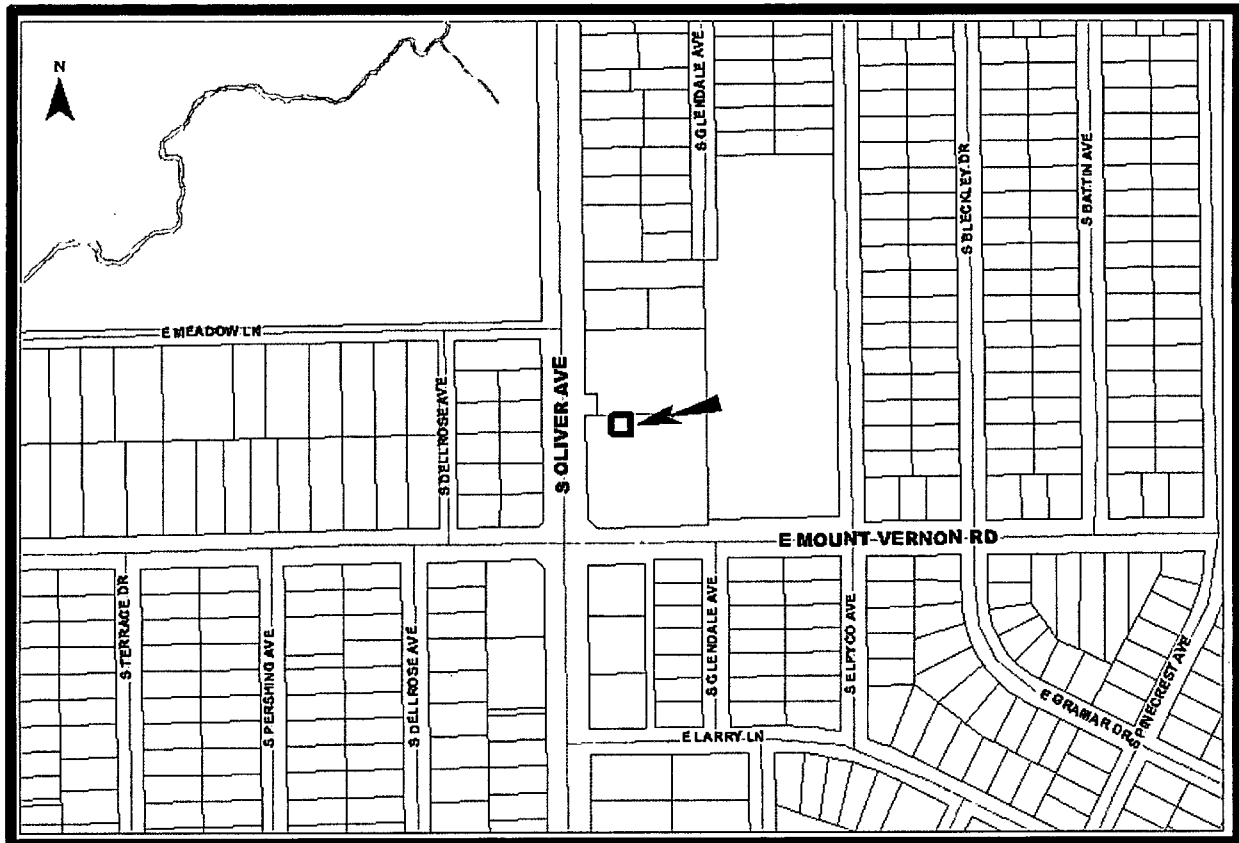
REQUEST: Conditional Use for a Wireless Communication Facility (T-Mobile)

CURRENT ZONING: LC Limited Commercial

SITE SIZE: Less than 1 acre

LOCATION: East side of South Oliver Avenue on the north side of Mount Vernon Road. (1940 South Oliver)

PROPOSED USE: 100-foot tall wireless communication facility



BACKGROUND: The applicant is requesting a Conditional Use to allow the placement of a 100-foot tall cell tower for T-Mobile on property located south of Taft Avenue on the east side of Custer Avenue, just north of Kellogg Avenue. This property is zoned LC Limited Commercial (LC). This location is outside the area authorized for administrative approval of wireless communication facilities; therefore, the Unified Zoning Code requires a Conditional Use for a wireless communication in the LC District at the proposed location.

The lot in question is a leased portion of the land owned by the applicant which is dominated by the commercial building on the property. The leased area for the wireless communication tower, which is immediately on the west side of the building at the north property line, will result in the tower being screened from view to the east, but will be visible to the west and along Oliver Avenue and Mount Vernon Road. However, it is noted for the record that large power poles for the transmission lines for Westar are along the east side of Oliver in this immediate area and also dominate the viewscape along this traffic corridor.

The applicant has provided a site plan for this location that shows the location of the proposed 100-foot tower being within the 45-foot by 45-foot fenced compound, which is the lease area on this lot. A six-foot, wooden privacy fence will be used around the compound. Access to the lease site will be from a drive entrance onto Oliver Avenue to the east.

This will be a monopole structure of a neutral color, much like other towers within the community. The applicant has noted a small tower at Allen Elementary School to the east, which is not capable of addressing the carrier's needs. This tower is over 150 feet from any property zoned residential; which is to the east and west.

The character of the surrounding area is mixed. The two most dominant use is Allen Elementary School to the east. There are commercial properties to the north and south along Oliver Avenue. Some residential uses are on the west side of Oliver Avenue to the west of the property.

CASE HISTORY: The property was platted as Stewarts Addition to the City of Wichita in 1886. There are no other zoning actions on record for this property.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Commercial development
SOUTH:	LC	Commercial development
EAST:	TF-3	Allen Elementary School
WEST:	SF-5	Single-Family Residences

PUBLIC SERVICES: The proposed wireless communication facility will not require any municipal services. However, the subject property is a fully developable site with all municipal facilities. Oliver Avenue and Mount Vernon Road are four-lane streets with curb and gutters.

CONFORMANCE TO PLANS/POLICIES: The "Community Investments Plan 2015-2035" depicts this location as being generally "commercial". This particular use would not be out of character with the spirit and intent of the plan's acceptable uses for this location. This location is also within the designated "established central area" of the City of Wichita.

The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. The proposed cell tower meets the general intent of the plan and the Conditional Use as recommended meets the spirit and intent of supporting expansion of coverage for this industry within the community.

The combined conclusion for conformance to the Plans and Policies is this request complies with the overall spirit and intent to accommodate both the expansion of wireless communication capabilities within the City, while honoring the introduction of this type of use at this location by requiring the conditional use approval process and applying all the supplementary regulations to the property to mitigate the impacts associated with the new development.

RECOMMENDATION: Based upon the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. 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.
- B. 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.
- C. The support structure shall be no taller than 100 feet in height, plus an additional five (5) feet for lightning suppression equipment.
- D. The equipment compound shall be screened with a six (6) foot tall solid screening fence.
- E. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use and prior to the issuance of the Conditional Use Resolution.
- F. The site shall be developed in general conformance with the approved site plans. 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 Metropolitan Area Building and Construction Department 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. If the Zoning Administrator finds that there is a violation of 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 that the Conditional Use is 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 mixed. The most dominant use is the Allen Elementary School east of the subject property. Commercial uses dominate the east side of Oliver Avenue. There are residential uses on the west side of Oliver. As noted, the Oliver Avenue corridor is also dominated by the electric transmission line.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC Limited Commercial. The proposed wireless communication facility will not impact the continued commercial use of the property.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Wireless Communication Master Plan outlines the guidelines for locating Wireless Communication Facilities. As noted above, the proposed cell tower meets the general intent of the plans and policies. The Conditional Use as recommended meets the spirit and intent of supporting expansion of coverage for this industry within the community.

Attachments:

Site Plan

