



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

October 9, 2018

Cox Communications Kansas, LLC  
Attn: Dean Janda  
9025 Peachtree Dunwoody Road  
Atlanta, GA 30328

Michael Baker International  
Attn: Wayne Frank  
Phoenix Tower II, 2929 North Central  
Phoenix, AZ 85012

Garver, LLC  
Attn: Will Clevenger  
8535 East 21<sup>st</sup> Street North, Suite 130  
Wichita, KS 67206

**RE: CON2018-00031 - County request to grant a Conditional Use Permit to allow an unmanned telecommunications facility (Utility, Major) near 21<sup>st</sup> Street North and 167<sup>th</sup> Street West.**

At its regular meeting on August 23, 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: MABCD - Kelly Dixon  
David Dennis, BOCC District III, County Mail Stop Room #320  
Justin Waggoner, Assistant County Counselor, Mail Stop #349

**CONDITIONAL USE RESOLUTION NO. CON2018-00031**

**WHEREAS**, Cox Communications Kansas, LLC, by Dean Janda (applicant), and Michael Baker International by Wayne Frank and Garver, LLC, by Will Clevenger (agents) 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 a Major Utility facility on property zoned LC Limited Commercial (LC), on property located on the east side of 167<sup>th</sup> Street West and south of 21<sup>st</sup> Street North, Wichita, Kansas, and legally described as:

That part of Lot 1, Block 1, Burbank Addition, Sedgwick County, Kansas, described as beginning at the southwest corner thereof; thence East along the south line of said Lot 1, 601.01 feet to the southeast corner of said Lot 1; thence North along the east line of said Lot 1, 175.00 feet; thence West, parallel with said south line, 228.00 feet; thence South, parallel with said east line, 145.00 feet to a point 30.00 feet north of said south line; thence West, parallel with said south line, 373.05 feet to the west line of said Lot 1; thence South along said west line, 30.00 feet to the place of beginning., Sedgwick County, Kansas.

**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 August 23, 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 Major Utility facility on property zoned LC Limited Commercial (LC), on property located on the east side of 167<sup>th</sup> Street West and south of 21<sup>st</sup> Street North, Wichita, Kansas, and legally described as:

That part of Lot 1, Block 1, Burbank Addition, Sedgwick County, Kansas, described as beginning at the southwest corner thereof; thence East along the south line of said Lot 1, 601.01 feet to the southeast corner of said Lot 1; thence North along the east line of said Lot 1, 175.00 feet; thence West, parallel with said south line, 228.00 feet; thence South, parallel with said east line, 145.00 feet to a point 30.00 feet north of said south line; thence West, parallel with said south line, 373.05 feet to the west line of said Lot 1; thence South along said west line, 30.00 feet to the place of beginning., Sedgwick County, Kansas.

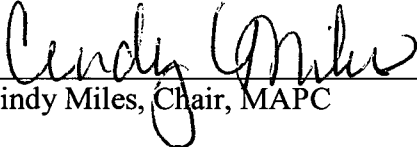
Subject to the following conditions:

1. A final site plan consistent with the spirit and intent of the submitted plan with this application shall be approved by the Director of the Metropolitan Area Planning Department addressing in detail the extent and use of the property prior to use of the property as an unmanned telecommunications facility.
2. The development shall comply with the screening requirements as found in Article IV(B) of the Unified Zoning Code.

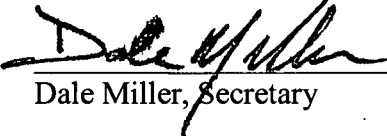
3. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Codes Department.
4. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, may declare the Conditional Use null and void.

Adopted this 23<sup>rd</sup> Day of AUGUST, 2018

**METROPOLITAN AREA PLANNING COMMISSION**

  
Cindy Miles, Chair, MAPC

ATTEST:

  
Dale Miller, Secretary

**STAFF REPORT**  
MAPC August 23, 2018  
CAB III August 6, 2018

CASE NUMBER: CON2018-00031

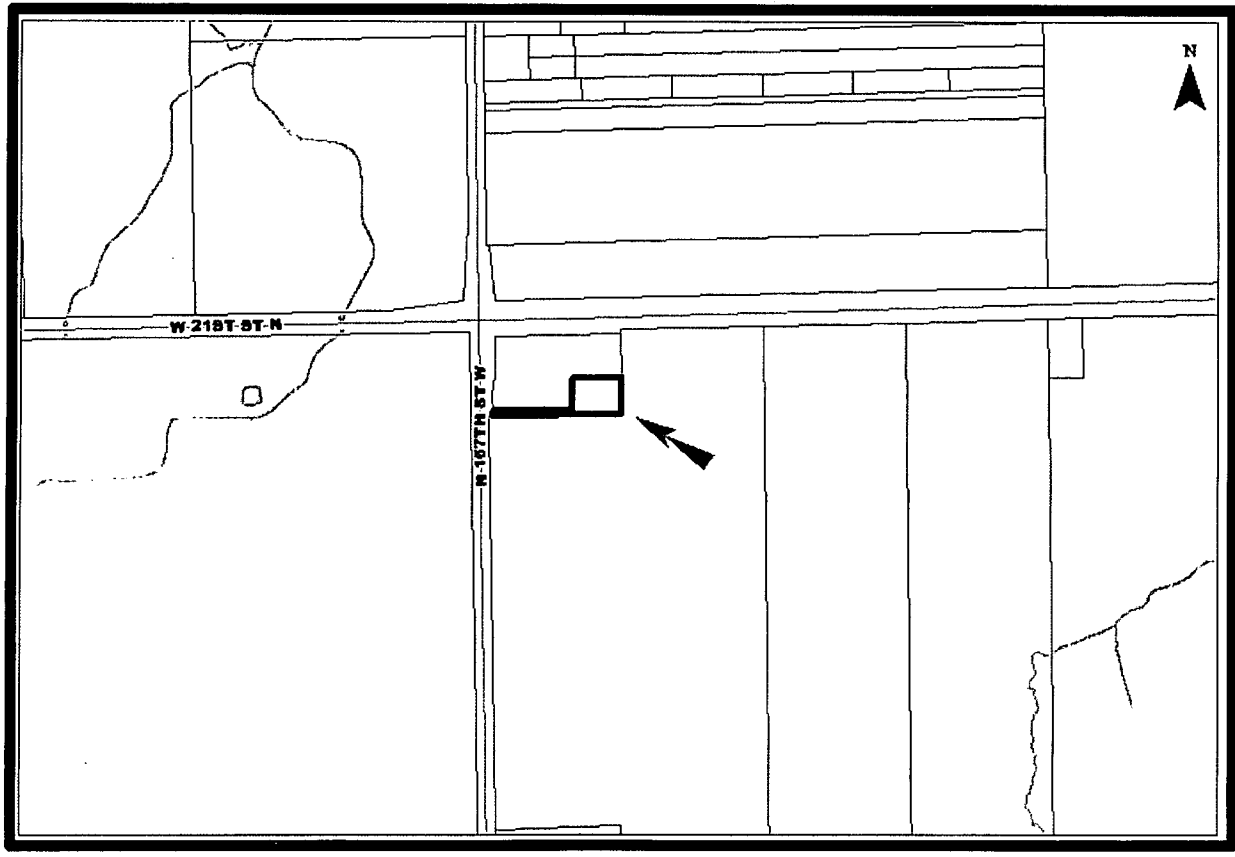
APPLICANT/AGENT: Cox Communications Kansas, LLC - Dean Janda (Owner/Applicant),  
Michael Baker International - Wayne Frank (Agent)

REQUEST: Conditional Use for an unmanned telecommunications facility (Utility,  
Major)

CURRENT ZONING: LC Limited Commercial District

SITE SIZE: 1.17 acres

LOCATION: Generally located on the east side of South 167<sup>th</sup> Street West and  
approximately south of west 21<sup>st</sup> Street North



**BACKGROUND:** The applicant is requesting a Conditional Use to permit construction of an unmanned telecommunications facility southeast of the intersection of North 167<sup>th</sup> Street West and West 21<sup>st</sup> Street North. The property is zoned LC Limited Commercial (LC) and is located west of Wichita and south of Colwich. The proposed use is classified by the Unified Zoning Code (UZC) as “Utility, Major”, which requires a Conditional Use in the LC Limited Commercial zoning district.

The subject property was part of the rezoning to LC Limited Commercial of the entire 5.1-acre tract at the southeast corner of 21<sup>st</sup> Street North and 167<sup>th</sup> Street West in 1996. The rezoning was approved by Sedgwick County subject to a Protective Overlay that established a number of uses that were prohibited on this property. A “Utility, Major” use is not one of the prohibited uses. The plat of this property, “Burbank Addition”, was approved in 2000 as a single lot subdivision. The Lot Split which created the subject property was approved in 2012.

A supporting drawing was submitted with the application showing the manner in which the property will be developed for this use. Access will come from 167<sup>th</sup> Street West with the utility services being extended into the facility (natural gas, fiber optic cable, and electric) all being installed underground. The compound area (which is essentially 175 feet by 228 feet) will be secured by a chain-linked fence and gated at the drive entrance. A parking lot will be constructed south of the unmanned telecommunications building, which will house facilities for the switching services being managed through the fiber optic cabling. The building will have plumbing services, as the site plan shows a location of some onsite wastewater usage. This will require approval of the appropriate Sedgwick County officials as part of the building permit.

The area surrounding this property is mostly zoned RR Rural Residential. The land immediately to the north is zoned LC Limited Commercial, as discussed above. There is a home approximately ½-mile to the south on 167<sup>th</sup> Street West, and a house on the south side of 21<sup>st</sup> Street North approximately ¼-mile to the west. Otherwise, the surrounding lands are used for agricultural purposes, mostly in crops.

**CASE HISTORY:** As noted above, the property was rezoned to LC Limited Commercial by Sedgwick County in 1996 and was platted into a single lot in 2000. The Lot Split which created the land now owned by the applicant and the subject of this case was approved in 2012. A Protective Overlay was approved as part of the rezoning in 1996. That Protective Overlay does not preclude the establishment of the use requested in the case.

**ADJACENT ZONING AND LAND USE:**

NORTH:	LC	Vacant
SOUTH:	RR	Agricultural
EAST:	RR	Agricultural
WEST:	RR	Agricultural

**PUBLIC SERVICES:** 167<sup>th</sup> Street West is a paved, two-lane, rural road with open ditches in front of the subject property. There are no public water or public sewer facilities on the property.

**CONFORMANCE TO PLANS/POLICIES:** The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as “Rural” on the Future Growth Map Concept Map and is within the Rural Growth Area for the City of Wichita. While no imminent future development of this area is envisioned, the overall intent of the Plan for these areas is to recognize and support uses that enhance and support the continued expansion and prosperity of the rural area. This use enhances the telecommunication infrastructure in the area, which is consistent with the Plan.

**RECOMMENDATION:** Based upon the information available at the time the staff report was completed, staff recommends the requested conditional use for an unmanned telecommunications facility (Utility, Major) be **APPROVED**, subject to the following conditions:

1. A final site plan consistent with the spirit and intent of the submitted plan with this application shall be approved by the Director of the Metropolitan Area Planning Department addressing in detail the extent and use of the property prior to use of the property as an unmanned telecommunications facility.
2. All permits and approvals shall be obtained, with copies placed on file with the Metropolitan Area Building and Codes Department.
3. If the Zoning Administrator finds there is a violation of any provision or condition of the Conditional Use, or any other provision of the Unified Zoning Code (UZC), the Zoning Administrator shall enforce all remedies of Section VIII of the UZC, and with the concurrence of the Planning Director, may 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 area is predominately a rural residential neighborhood with agricultural uses also existing. The other LC Limited Commercial zoning to the north is subject to a Protective Overlay with use restrictions and is presently vacant and being used agriculturally.
2. The suitability of the subject property for the uses to which it has been restricted: The property is presently zoned LC Limited Commercial (LC) and this use is consistent with the purposes of that zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The limitations on the use of the property provide adequate protections for nearby properties. Once this use is established on this portion of the commercially zoned property, the extent of other future uses is more limited.
4. Length of time the property has been vacant as currently zoned: The property has been undeveloped and used agriculturally since the rezoning in 1996.
6. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Wichita-Sedgwick County Comprehensive Plan, the *Community Investments Plan*, identifies the site as "Rural" on the Future Growth Map Concept Map and is within the Rural Growth Area for the City of Wichita. While no imminent future development of this area is envisioned, the overall intent of the Plan for these areas is to recognize and support uses that enhance and support the continued expansion and prosperity of the rural area. This use enhances the telecommunication infrastructure in the area, which is consistent with the Plan.
7. Impact of the proposed development on community facilities: Granting the conditional use for the unmanned telecommunications facility would not have any impact on community facilities or resources. The roads are adequate to carry traffic demands for this facility.

Staff Report Attachments:

1. Site Plan

# SITE PLAN

## Conditional Use - Burbank Addition

# SITE PLAN

APPROVED MAPC BY 8/23/18  
CON 2018-00031

21ST ST. N.

Northwest corner of Sec. 10, T27S, R2W

### CONDITIONAL USE

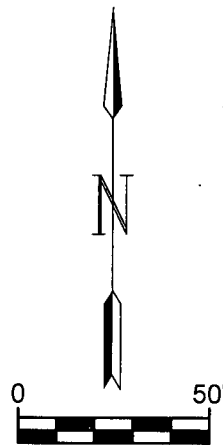
Request to allow a utility, major.  
All improvements shown on-site are proposed.

### APPLICANT

Cox Communications Kansas, LLC  
6205 Peachtree Dunwoody Rd  
Atlanta, GA 30328-4524

### LEGAL DESCRIPTION

That part of Lot 1, Block 1, Burbank Addition, Sedgwick County, Kansas, described as beginning at the southwest corner thereof; thence East along the south line of said Lot 1, 601.01 feet to the southeast corner of said Lot 1; thence North along the east line of said Lot 1, 175.00 feet; thence West, parallel with said south line, 228.00 feet; thence South, parallel with said east line, 145.00 feet to a point 30.00 feet north of said south line; thence West, parallel with said south line, 373.05 feet to the west line of said Lot 1; thence South along said west line, 30.00 feet to the place of beginning.



425.04'

167TH ST. W.  
(ASPHALT)

60'

Southwest corner of Lot 1, Block 1, Burbank Addition

100' FRONT BUILDING SETBACK (PLATTED)

PROPOSED GAS  
373.05'

10' UTILITY EASEMENT (PLATTED)

PROPOSED UNDERGROUND ELECTRIC

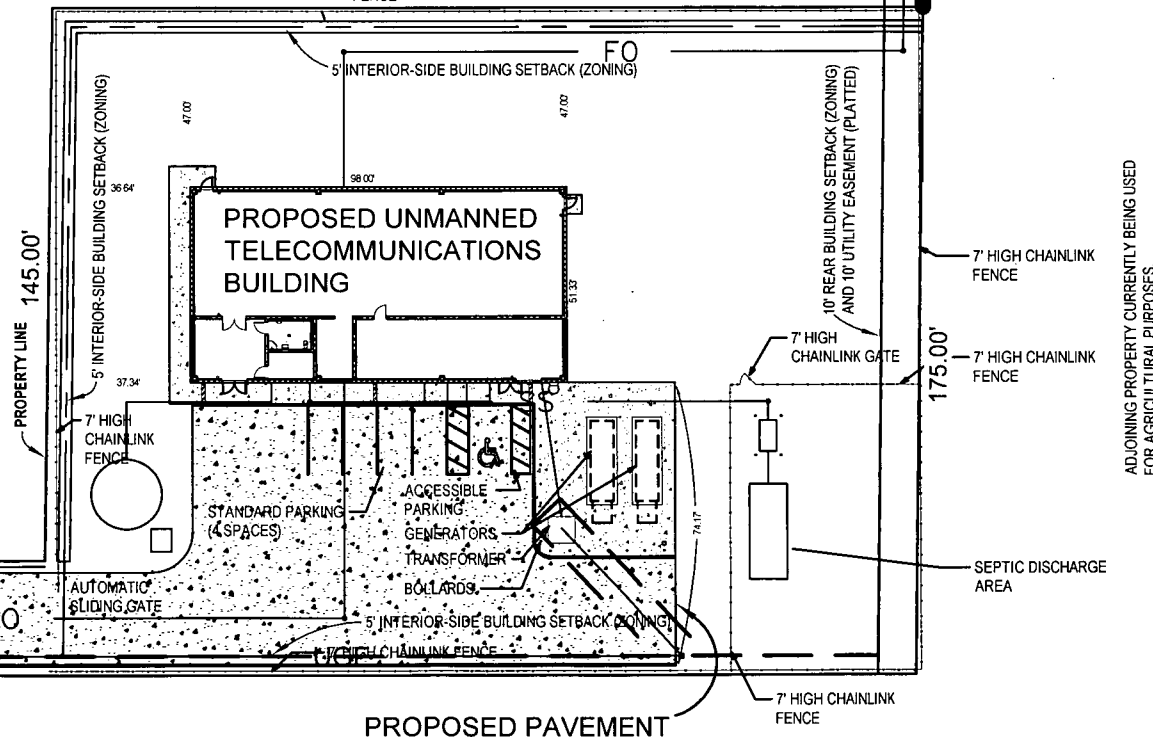
601.01'

ADJOINING PROPERTY CURRENTLY BEING USED FOR AGRICULTURAL PURPOSES.

LOT 1, BLOCK 1

ADJOINING PROPERTY CURRENTLY BEING USED FOR AGRICULTURAL PURPOSES.

7' HIGH CHAINLINK FENCE 228.00'



ADJOINING PROPERTY CURRENTLY BEING USED FOR AGRICULTURAL PURPOSES.

DWG FILE: 18266027 SITE PLAN  
PROJECT NO. 18266027  
JULY 11, 2018



GARVER  
924 N. Main Street  
Wichita, KS 67203  
(316) 264-8008  
www.GarverUSA.com