

Published in The Daily Reporter on February 7th, ¹⁹⁹⁷ 1996

RESOLUTION NO.

A RESOLUTION AUTHORIZING A CONDITIONAL USE ON PROPERTY ZONED "RR" RURAL RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-D, AS ADOPTED BY RESOLUTION NO. 46-1996.

FILE COPY

BE IT RESOLVED BY THE GOVERNING BODY OF SEDGWICK COUNTY, KANSAS.

SECTION I. 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 Unified Zoning Code, a Conditional Use Permit to allow a Commercial Communication Tower on property zoned "RR" Rural Residential, legally described below:

Case No. CU-400

Conditional Use Permit to allow a Commercial communications Tower on property described as:

Section 33, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas. Beginning 1018 feet North and 390 feet East of the SW corner of the SE 1/4 to RR Right-of-Way, thence Southeasterly along RR Right-of-Way to point East of Beginning, thence West to beginning, and all of the South 1/2 of the SE 1/4 lying North and East of RR Right-of-Way and 1/2 of the vacated Mid-Val RR Right-of-Way, except that condemned by A-29459 for the floodway. Generally located 1/4 mile north of 71st Street South, 1/8 mile east of Ida Street.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. The tower shall be located as indicated on the approved site plan.

2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 5 acre application area on which the tower is located.
3. Up to three accessory buildings/cabinets up to 400 square feet each for housing electronic equipment is permitted on the application area. The accessory buildings/cabinets shall not contain plumbing facilities. If and when the communications tower is removed from the site, the accessory buildings/cabinets shall also be removed. The tower shall be removed if not in use for a continuous period of two years.
4. The tower and accessory structures shall be fenced with chainlink fence which has a minimum height of 6 feet.
5. The color of the tower shall be silver or gray or a similar unobtrusive color unless painted otherwise to avoid the use of strobe lighting or if otherwise required by applicable governmental agencies.
6. There shall not be any nighttime lighting of or on the tower except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Strobe lights are not permitted unless those agencies specifically require their use.
7. No commercial advertising signs shall be allowed on the tower or accessory structures.
8. The tower shall not exceed 488 feet in height.
9. In order to minimize the proliferation of towers, this tower shall be designed and constructed to accommodate at least one additional platform for at least one other cellular carrier to be able to lease.

SECTION II. 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 III. That this Resolution shall take effect and be in force from and after its adoption and publication in the official county paper.

Commissioners present and voting were:

BETSY GWIN	<u>Absent</u>
PAUL W. HANCOCK	<u>Yes</u>
THOMAS G. WINTERS	<u>Yes</u>
MELODY C. MILLER	<u>Yes</u>
MARK F. SCHROEDER	<u>Yes</u>

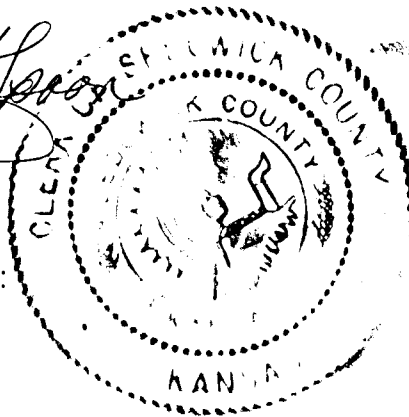
DATED this 21st day of August, 1996.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters
THOMAS G. WINTERS, Chairman

ATTEST:

Susan E. Crockett-Spoon
SUSAN E. CROCKETT-SPOON
County Clerk



APPROVED AS TO FORM ONLY:

Richard Keaton
Assistant County Counselor

COW
CONDEN

Part of RI-451

978'

100'

500'

Part of
RI-451

RI-451-1

1323.3'

RI-452-17
165'

RI-452-17A
165'

x Site

132'

RI-452-16

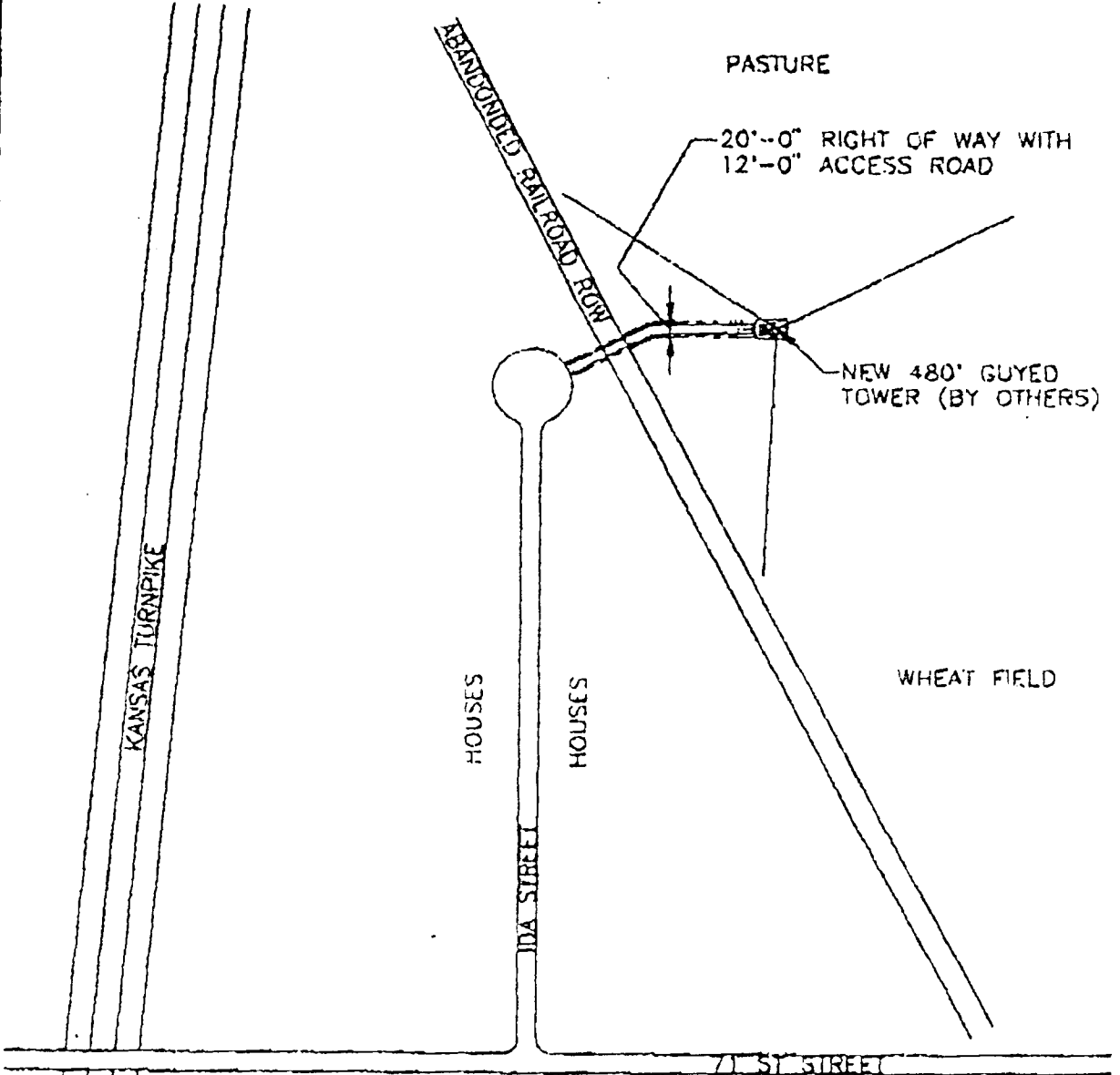
AVE.

66'

RI-452-7
330'

109'

MIDLAND
RELOCATED



BLACK & VEATCH		<i>10-7-96</i>		<i>Paul Black</i>							
ENGINEER	DRAWN	A	06/06/96	CONCEPT DRAWING							
CHECKED	DATE 06/06/96	NO	DATE	REVISIONS AND RECORD OF ISSUE		BY	CHK	APP	FLM		

**SPRINT SPECTRUM
CONCEPTUAL SITE LAYOUT**

PROJECT	DRAWING NUMBER	REV
25660		A

BLOOD TOWER
WICHITA, KANSAS MARKET SITE 05

CODE	W1005-4
AREA	

STAFF REPORT

July 11, 1996 MAPC
June 27, 1996 Haysville

CASE NUMBER: CU-400

APPLICANT/AGENT: Gerald Blood (property owners) / M & P Rental, tower owner / SBA, Inc., Robert Herlihy (agent) / Sprint Spectrum L.P. (leasee)

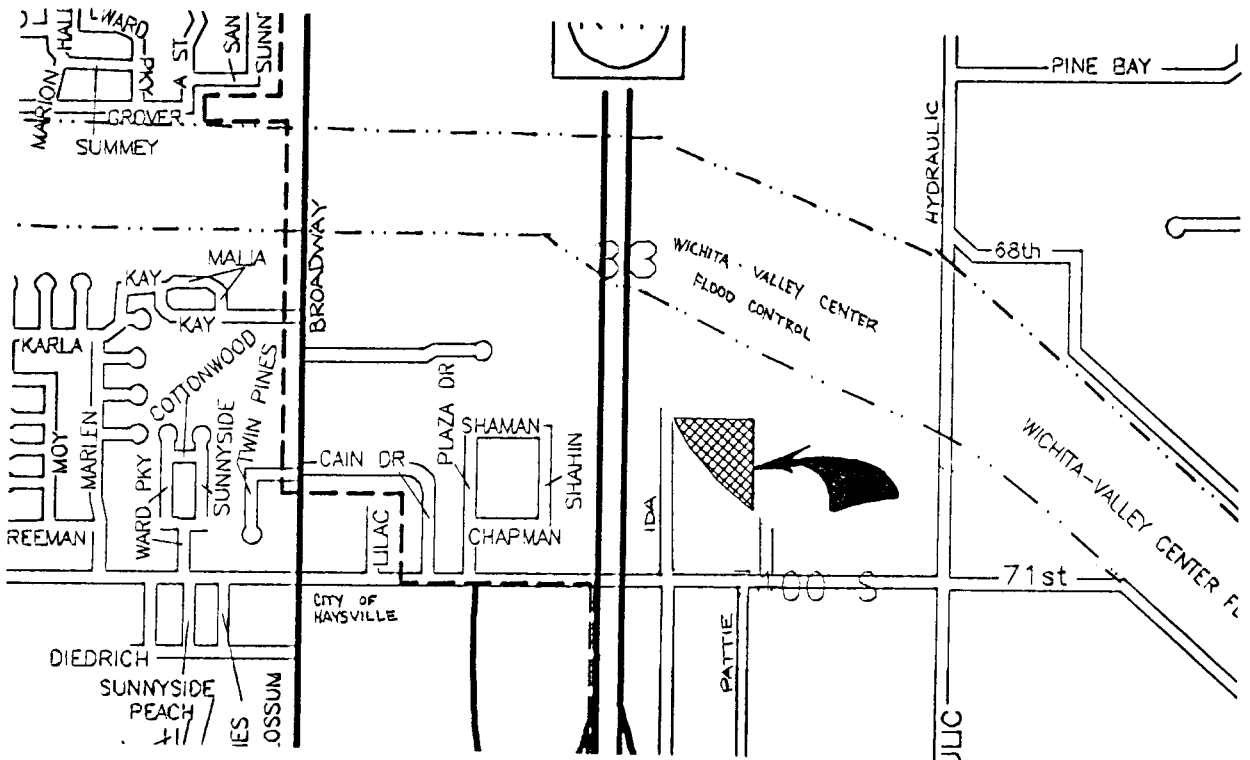
REQUEST: Conditional Use to permit the construction of a commercial communications tower

CURRENT ZONING: RR, Rural Residential

SITE SIZE: 5 acres

LOCATION: 1/4 mile north of 71st. St. South, 1/8 mile east of Ida Street

PROPOSED USE: Commercial Communication Tower



BACKGROUND: The applicant requests approval of a "conditional use" to permit the construction of a commercial communication tower, three pair of antennae and related accessory buildings on a 5 acre site zoned RR, Rural Residential. The zoning code allows commercial communication towers in the RR district only as a condition use. The application area is located approximately one-quarter mile north of 71st. Street South, one-eighth mile east of Ida Street. All of the land adjacent to the application area is zoned SF-20 or RR, and is being used for residential (approximately one-eighth mile from the proposed site) or agricultural purposes. An abandoned railroad right-of-way separates the proposed tower site from nearby residential uses. The applicant's site plan indicates they plan to use Ida Street and a private drive across the abandoned railroad right-of-way to gain access to the tower site. Ida is a paved, two lane residential type road. A 520 foot tall communication tower, owned by M & P Rental, already exists on the west side of Ida, approximately one-eight mile north of 71st. Street South. (This existing M & P tower is located approximately 1/8 mile south and 1/8 mile west of the application area.)

Sprint Spectrum Limited Partnership is developing a nationwide personal communication service system, including cellular phones. Currently, Sprint anticipates the need for 30 sites in the Wichita trading area. By co-locating their antennae on existing towers or roof top locations, they have been able to minimize the need to build new towers. At this point, they anticipate the need to construct four new towers. This application is one of three pending requests. If approved, this tower would provide antennae platform space for Sprint's overall system.

The applicant is proposing to construct a guyed tower 488 feet tall, including the lightning suppressor. This tower is designed to collapse in on itself should there be a structural failure. The tower would be located on a 5 acre site within a 30 feet by 30 feet compound enclosed by a fence (see attached site plan). Within the fence would also be two accessory structures to house electronic equipment. This tower would provide coverage for an eight mile radius. The applicant indicates they attempted to work with M & P Rental to co-locate on their existing tower, however only two spaces are left. Sprint needs three spaces. M & P owners indicate they have four other companies looking for tower space in this area as this location provides optimum coverage for customers traveling I-35, between Wichita and Wellington. So, according to M & P Rental representatives, there is a need for additional tower space.

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH: RR, Rural Residential; Agriculture, Residences
SOUTH: SF-20, Single Family; Agriculture, Residences

EAST: RR, Rural Residential; Agriculture
WEST: SF-20, Single Family; Abandoned RR R-O-W, Residences

PUBLIC SERVICES: Except for telephone and electrical service, no public services are required.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as "Agriculture." The plan does not speak specifically to telephone or cellular phone service, however there is a statement indicating the need to provide the highest quality utility services to the public at a reasonable cost. The zoning code lists five conditions towers are subject to: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrate an effort has been made to co-locate on an existing tower and willingness to provide space for other communication towers.

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

1. The tower shall be located as indicated on the approve site plan.
2. The tower placed on the site shall be designed such that if it collapses, it will fall within the 5 acre application area on which the tower is located.
3. Up to three accessory buildings/cabinets up to 400 square feet each for housing electronic equipment is permitted on the application area. The accessory buildings/cabinets shall not contain plumbing facilities. If and when the communications tower is removed from the site, the accessory buildings/cabinets shall also be removed. The tower shall be removed if not in use for a continuous period of two years.
4. The tower and accessory structures shall be fenced with chainlink fence which has a minimum height of 6 feet.
5. The color of the tower shall be silver or gray or a similar unobtrusive color unless painted otherwise to avoid the use of strobe lighting or if otherwise required by applicable governmental agencies.
6. There shall not be any nighttime lighting of or on the tower except for aircraft warning lights or similar emergency warning lights required by applicable governmental agencies. Strobe lights are not permitted unless those agencies specifically require their use.

7. No commercial advertising signs shall be allowed on the tower or accessory structures.
8. The tower shall not exceed 488 feet in height.
9. In order to minimize the proliferation of towers, this tower shall be designed and constructed to accommodate at least one additional platform for at least one other cellular carrier to be able to lease.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All of the land adjacent to the application area is zoned SF-20, Single Family or RR, Rural Residential, and is used for agricultural or residential purposes, except for the existing communication tower. There are homes located south and west of the proposed tower. There is an abandoned railroad right-of-way separating the tower site from the homes. The overall character is an even mix of agricultural uses and large lot residences. An existing communication tower is located approximately 1,000 feet southwest of the application area.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR, Rural Residential which permits as a conditional use commercial communication towers. Given the existence of the mix of large lot homes and agricultural uses, the property is properly zoned and the allowed uses are appropriate. The proposed tower is a suitable use at this location provided it complies with code required conditions.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: A tower already exists within 1,000 feet of the application area. Based on information on hand at the time this report was prepared, staff has not been able to identify any detrimental impact this request might have on nearby property other than the visual impact of a second tower in this area. The applicant's indicate their signal does not interfere with radio or television reception.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If the applicant cannot co-locate on an existing tower, and cannot build a new tower, then Sprint would have gaps in their Wichita service area. These gaps would result in an inconvenience to Sprint cellular phone customers and a potential loss of competitiveness for the company.
5. Conformance of the requested change to adopted or recognized Plans/Policies: The plan does not speak specifically to cellular towers, but does generally indicate a need to provide the highest quality utilities at reasonable cost.

6. Impact of the proposed development on community facilities: No negative impact on community facilities identified.