

RESOLUTION NO. 87-1996

A RESOLUTION AUTHORIZING A RADIO COMMUNICATIONS TOWER ON PROPERTY ZONED "R" RURAL RESIDENTIAL DISTRICT ON CERTAIN LANDS LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED IN SECTION 17.C OF THE ZONING REGULATIONS ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SEDGWICK COUNTY, KANSAS, DECEMBER 12, 1984, AND SUBSEQUENTLY AMENDED.

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 17.C of the Zoning Regulations, a Conditional Use permit to allow a radio communications tower on property zoned "R" Rural Residential, legally described below:

Case No. CU-392

A Conditional Use Permit to allow a radio communications tower, 1/2 mile west of Seneca on the south side of 63rd Street South. Described as:

The east half of the property at "all that part of the east half of the northwest quarter Section 31-28-1E of the 6th P.M. Sedgwick County, Kansas, lying north of the north line of the right-of-way of the Wichita- Valley Center Flood Control Project".

SUBJECT TO THE FOLLOWING CONDITIONS

- A. One communications tower shall be erected on the subject property at a maximum height of 450 feet. The tower shall be located a minimum of 225

feet from adjoining property lines.

- B. The tower shall be painted, per FAA requirements, with seven bands of alternating aviation orange and white with the top and bottom bands being aviation orange.
- C. There shall be no nighttime lighting of or on the tower, except for aircraft warning lights or similar emergency warning lights required by applicable agencies.
- D. No commercial advertising signs shall be allowed on the tower or the accessory building.
- E. The owner, or any subsequent owner, of the tower shall reasonably accommodate other mobile phone company antennas on this tower so as to avoid having a proliferation of towers which are not fully utilized. An unreasonable charge would be a user fee that is as high or higher than the cost of developing another separate tower.
- F. Only one (1) accessory building for the housing of related electronic equipment is permitted on the application area. The accessory building shall not contain plumbing facilities. If and when the communications tower is removed from this property, the accessory building shall also be removed.
- G. The application area shall be fenced with a chainlink fence which has a minimum height of 6 feet.
- H. Any violation of the foregoing conditions shall render this Conditional Use Permit to be null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such conditional use permit shall be entered in the official zoning atlas on file in the Office of the County Zoning Administrator and in the Office 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:

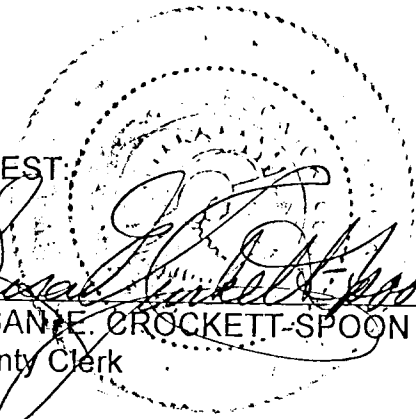
BETSY GWIN	<u>yes</u>	
PAUL W. HANCOCK	<u>yes</u>	<u>yes</u>
THOMAS G. WINTERS	<u>yes</u>	<u>yes</u>
MELODY C. MILLER	<u>yes</u>	<u>yes</u>
MARK F. SCHROEDER	<u>yes</u>	<u>yes</u>

DATED this 24th day of April, 1996.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas Winters
THOMAS G. WINTERS, Chairman

ATTEST:


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

APPROVED AS TO FORM ONLY:

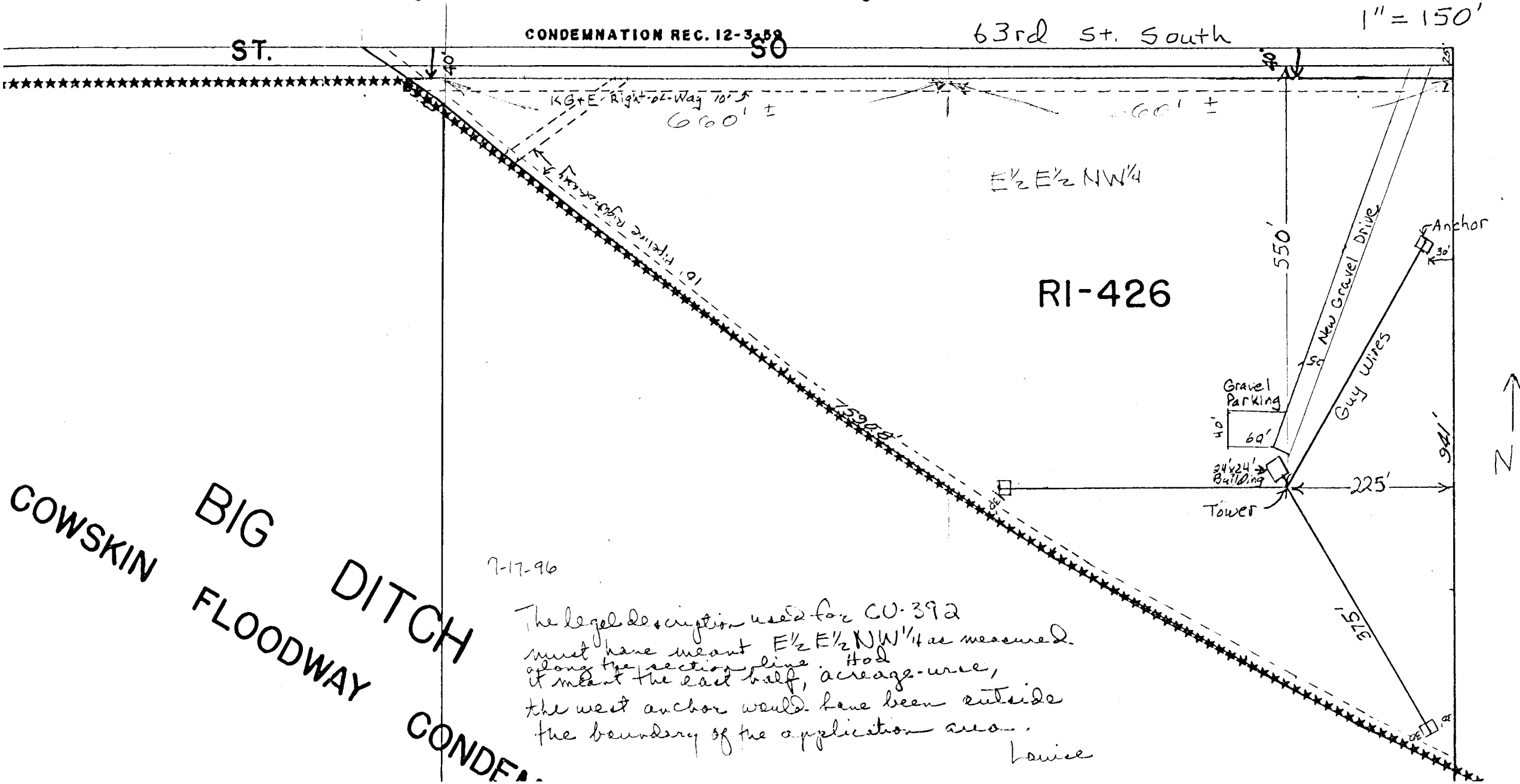
David Brown
Assistant County Counselor

HAYSVILLE AREA

SEC. 31, TWP. 28S, R.1E.

R1
122

NW 1/4



STAFF REPORT

Haysville PC March 14, 1996

MAPC March 28, 1996

CASE NUMBER: CU - 392

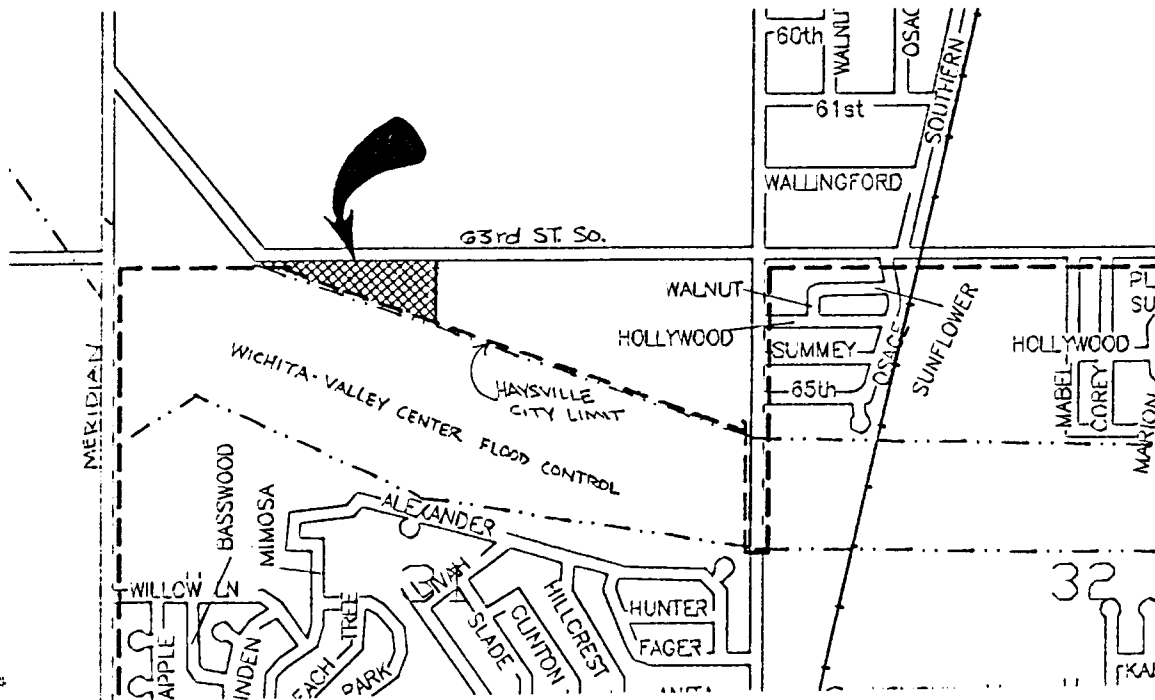
APPLICANT/AGENT: W. F. Simmons (property owner)/Gateway Communications (leasee) c/o Gary Renberger and Randall E. Schrag

REQUEST: Conditional Use Permit to allow a radio communications tower

CURRENT ZONING: "R" Rural Residential

SITE SIZE: 9.5 acres

LOCATION: 1/2 mile west of Seneca on the south side of 63rd Street South



BACKGROUND: W.F. Simmons (property owner) requests a conditional use permit for a radio communications tower on a 9.5 acre tract located in an area 1/2 mile west of Seneca on the south side of 63rd Street South. The property is used for agricultural purposes and is zoned "R" Rural Residential.

The subject property is located within the Haysville Zoning Area of Influence. The surrounding area is characterized by agricultural uses and scattered farm homes. The proposed facility would be located 550 feet south of 63rd Street South and approximately 1/2 mile west of Seneca, and would be located more than 225 feet from any adjoining property lines. The proposed communication tower pad site is 600 feet away from the closest dwelling.

The applicant proposes a 450 feet high tower and a 24' x 24' equipment shelter for paging and cellular communication services. It has been indicated that the tower is designed to withstand 80 mph sustained winds. The tower includes guy wires and is designed to collapse within the area bounded by the anchors if the tower fails. Therefore, if it fails it will not collapse on any adjoining property. The tower would emit radio frequencies which are sent by antennas on the tower and controlled by the FCC. According to the applicant, any electric and magnetic fields (EMFs) generated by the facility would be contained within the building housing the communication equipment and would not be measurable from adjoining properties. No EMFs would be emitted from the tower.

It has also been indicated that the tower would have no impact upon television reception for residents in the area. The Federal Aviation Administration has reviewed the applicants application for the tower and has made a finding that the proposed construction would not exceed FAA obstruction standards and would not be a hazard to air navigation. The proposed site is located within the Airport Hazard Overlay Zone, but the height of the tower is within acceptable limits.

CASE HISTORY: This area was zoned "R" Rural Residential as part of countywide zoning in 1984.

ADJACENT ZONING AND LAND USE:

NORTH:	'R'	Agricultural uses
SOUTH:	'R'	Wichita-Valley Center Floodcontrol Feature
EAST:	'R'	Agricultural uses, farm home
WEST:	'R'	Wichita-Valley Center Floodcontrol Feature

PUBLIC SERVICES: Municipal water services are not required for the proposed use.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for future growth of Haysville. Haysville Comprehensive Plan identifies this area for future residential development.

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

- A. One communications tower shall be erected on the subject property at a maximum height of 450 feet. The tower shall be located a minimum of 225 feet from adjoining property lines.
- B. The tower shall be painted, per FAA requirements, with seven bands of alternating aviation orange and white with the top and bottom bands being aviation orange.
- C. There shall be no nighttime lighting of or on the tower, except for aircraft warning lights or similar emergency warning lights required by applicable agencies.
- D. No commercial advertising signs shall be allowed on the tower or the accessory building.
- E. The owner, or any subsequent owner, of the tower shall reasonably accommodate other mobile phone company antennas on this tower so as to avoid having a proliferation of towers which are not fully utilized. An unreasonable charge would be a user fee that is as high or higher than the cost of developing another separate tower.
- F. Only one (1) accessory building for the housing of related electronic equipment is permitted on the application area. The accessory building shall not contain plumbing facilities. If and when the communications tower is removed from this property, the accessory building shall also be removed.
- G. The application area shall be fenced with a chainlink fence which has a minimum height of 6 feet.
- H. Any violation of the foregoing conditions shall render this Conditional Use Permit to be null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is characterized by agricultural operations and farm homes and should have a minimal impact upon the surrounding area.
2. The suitability of the subject property for the uses to which it has been restricted: With the recommended conditions of approval, the proposed tower should not have a detrimental impact upon nearby properties and is located far enough away from any structures that could otherwise be harmed by a collapse of the communication tower.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The Wichita-Sedgwick County comprehensive Plan does not specifically address the siting of communications towers. However, such facilities are generally considered appropriate in rural areas with low population densities.
4. Length of time subject property has remained vacant as zoned: The proposed tower does not require municipal services and will have a minimal impact upon traffic patterns in the area.