

R#63-1996

Published in The Daily Reporter on April 1, 1996

RESOLUTION NO.

A RESOLUTION AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A CELLULAR COMMUNICATIONS TOWER LOCATED ON THE EAST SIDE OF 343RD STREET WEST IN AN AREA BETWEEN U.S. 54 AND 15TH STREET SOUTH 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.

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 17.C of the Zoning Regulations, a conditional use permit to allow a cellular communications tower on property zoned 'R' Rural Residential District, legally described below:

Case No. CU-390

Conditional Use Permit for a cellular communications tower, Described as:

A tract in the SW Quarter of Section 26, T27S, R4W described as commencing at the SW corner of the above said quarter, the east along the south line of said quarter on a bearing of N88°28'50"E a distance of 949.6 feet, thence N00°47'00"E a distance of 987.00 feet, thence N35°48'27"W a distance of 210.33 feet to the point of beginning, thence N15°01'00"W a distance of 75 feet, thence S74°59'00"W a distance of 75 feet, thence S15°01'00"E a distance of 75 feet, thence N74°59'00" a distance of 75 feet to the point of beginning, said tract containing 0.13 acres more or less.

Generally located on the east side of 343rd Street West in an area between U.S. 54 and 15th Street south.

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. One monopole communications tower shall be erected on the subject property at a maximum height of 150 feet. The tower shall be located a minimum of 150 feet from adjoining property lines.
- B. The color of the tower shall be silver or grey or a similar unobtrusive color unless otherwise required by applicable agencies.
- 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.
- 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>Aye</u>
PAUL W. HANCOCK	<u>Aye</u>
THOMAS G. WINTERS	<u>Aye</u>
MELODY C. MILLER	<u>Aye</u>
MARK F. SCHROEDER	<u>Aye</u>

DATED this 27th day of March, 1996.

BOARD OF COUNTY COMMISSIONERS OF
SEDGWICK COUNTY, KANSAS

Thomas G. Winters
THOMAS G. WINTERS, Chairman

ATTEST:

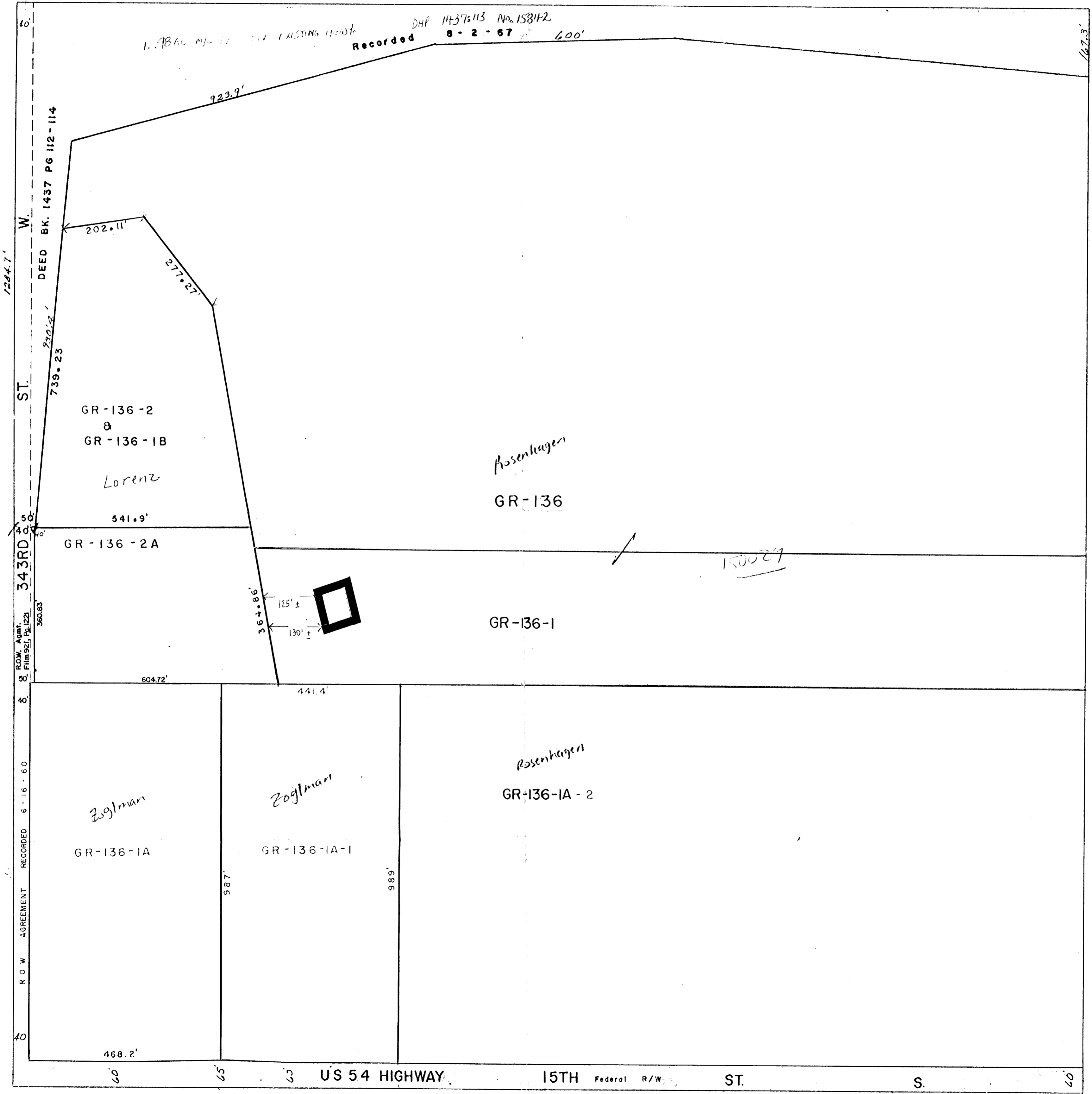
Susan E. Crockett-Spoon
SUSAN E. CROCKETT-SPOON
County Clerk

APPROVED AS TO FORM ONLY:

Susan E. Crockett-Spoon
Assistant County Counselor

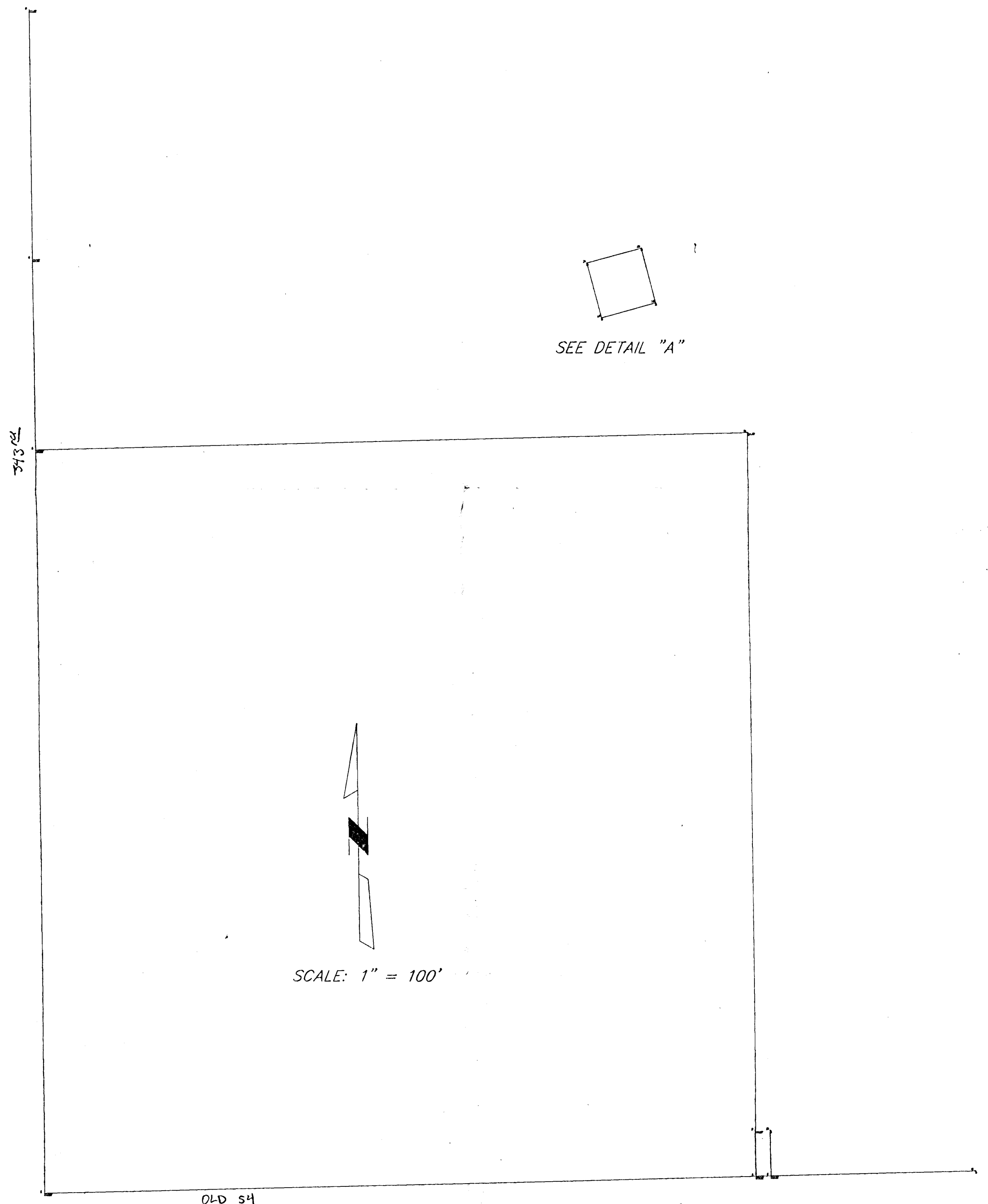
S.W. 1/4 SEC. 26. TWP. 27 S. R. 4 W.

GR 104



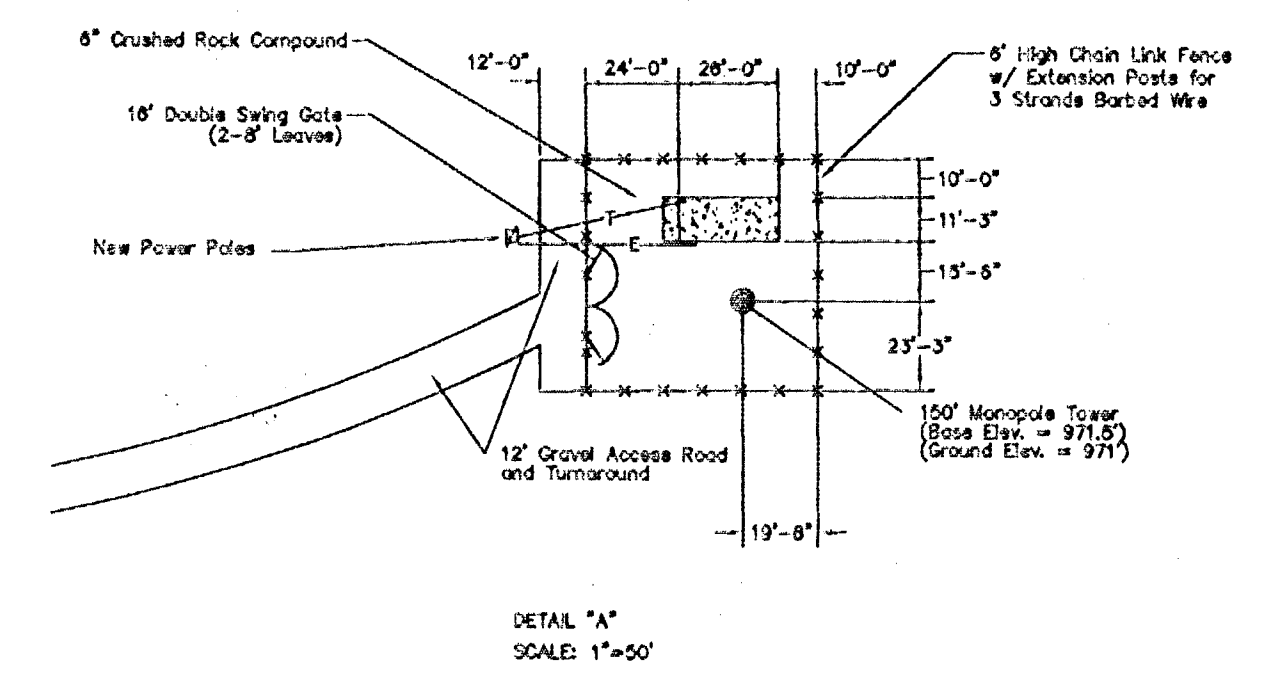
THIS SHEET PREPARED UNDER SUPERVISION OF SEDGWICK COUNTY CLERK

SURV. PLOT CADDD DES. DR. TR. CKD. APP. Lest Plot-Date: 01/12/96 Plot-Time: 9:54 A.M.



SCALE: 1" = 100'

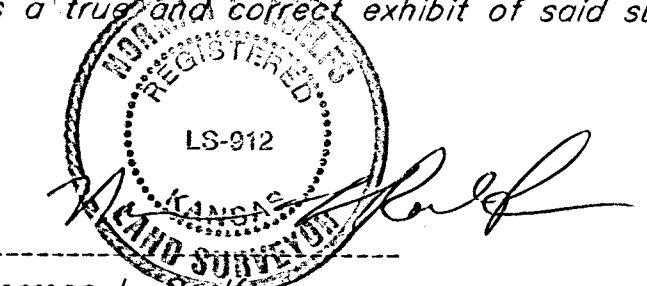
- GENERAL NOTES:**
1. COMPLY WITH ALL BUILDING CODES OF THE AUTHORITIES HAVING JURISDICTION.
 2. THE CONTRACT LIMIT IS THE LIMIT OF INGRESS/EGRESS EASEMENT, THE LEASED AREA, THE AREA REQUIRED FOR INSTALLATION OF UTILITIES, AND AS NOTED ON THESE DRAWINGS. CONFINE OPERATIONS TO AREAS WITHIN THE LIMITS INDICATED.
 3. PROVIDE FOR NEW TELEPHONE AND ELECTRICAL SERVICE FROM THE NEW BUILDING TO THE EXISTING SERVICES AS REQUIRED. COORDINATE WITH OWNER AND AUTHORITIES HAVING JURISDICTION.
 4. CONTRACTOR IS TO VERIFY THE TOWER ORIENTATION OF 4° TRUE NORTH FOR ONE FACE OF THE TOWER. COORDINATE WITH OWNER.
 5. CONTRACTOR IS TO VERIFY THE EXACT LOCATION OF ALL EXISTING UTILITIES.
 6. REVIEW THE SOIL REPORT ATTACHED.
 7. REMOVE TOP SOIL AS REQUIRED TO ACHIEVE SUBGRADES NECESSARY TO PROVIDE FOR FINISHED GRADES.
 8. PROVIDE FILL MATERIAL PER SPECIFICATIONS AS REQUIRED TO ACHIEVE PROPER SUBGRADES.
 9. STOCKPILE TOP SOIL FOR REUSE AS REQUIRED. COORDINATE THE SPREADING OF REMAINING TOPSOIL AND THE STOCKPILE LOCATION WITH THE OWNER.
 10. PROVIDE GRASS SEED AT ALL UNPAVED AREAS DISTURBED BY CONSTRUCTION. MATCH THE EXISTING GRASS TYPE AT THE SITE. PROVIDE TEMPORARY FENCING TO PROTECT SEEDED AREAS UNTIL GRASS IS WELL ESTABLISHED.
 11. THE CONTRACTOR IS TO LIMIT THE USE OF PREMISES TO CONSTRUCTION ACTIVITIES IN AREAS INDICATED.
 12. REPAIR ANY DAMAGE CAUSED BY CONSTRUCTION OPERATIONS. TAKE PRECAUTIONS NECESSARY TO PROTECT ADJACENT AREAS AND STRUCTURES DURING CONSTRUCTION.
 13. INSTALL SITE GROUNDING IN ACCORDANCE WITH DRAWINGS GROSST AND GROEXP.



State of Kansas } S.S.
County of Butler } S.S.

I, Norman L. Roells, a Registered Land Surveyor in the aforesaid county and state, do hereby certify that I did, on the 9th day of Jan., 1996, survey a tract in the SW⁴ of Section 26, T27S, R4W described as commencing at the SW corner of the above said quarter, the east along the south line of said quarter on a bearing of N88°28'50"E a distance of 949.6 feet, thence N00°47'00"E a distance of 987.00 feet, thence N35°48'27"W a distance of 210.33 feet to the point of beginning, thence N15°01'00"W a distance of 75 feet, thence S74°59'00"W a distance of 75 feet, thence S15°01'00"E a distance of 75 feet, thence N74°59'00"E a distance of 75 feet to the point of beginning, said tract containing 0.13 acres more or less.

In do hereby certify to SOUTHWESTERN BELL MOBILE SYSTEMS that the accompanying plat is a true and correct exhibit of said survey.



Norman L. Roells
Registered Land Surveyor
Kansas No. 912

SOUTHWESTERN BELL MOBILE SYSTEMS		
GARDEN PLAIN, KANSAS		
AMERICM1 SITE		
Booker ASSOCIATES INC.		OF KANSAS
Wichita	Kansas	
SCALE	DATE	DWG. NO. k98235



AGENDA ITEM NO. 7

STAFF REPORT

Cheney PC February 19, 1996
MAPC February 29, 1996

CASE NUMBER: CU-390

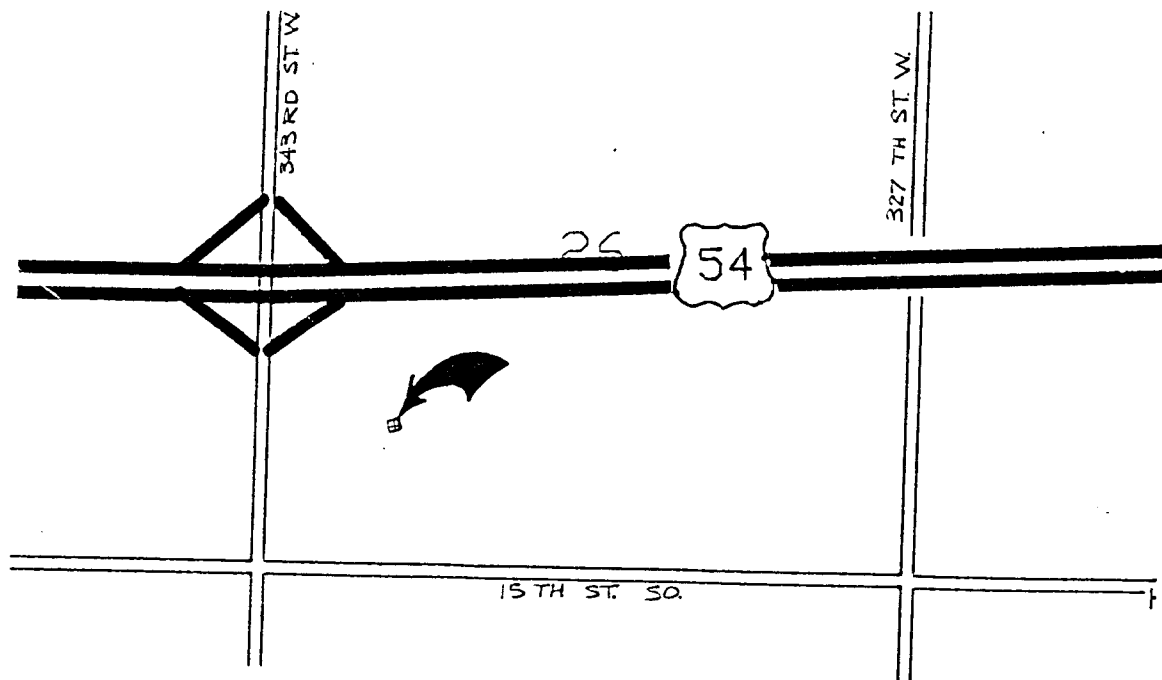
APPLICANT/AGENT: Raymond & Charlotte Rosenhagen (property owners) /
Southwestern Bell Mobile Systems c/o Paul Wrablica
(leasee)

REQUEST: Conditional Use Permit for a communications tower

CURRENT ZONING: 'R' Rural Residential

SITE SIZE: 0.13 acres

LOCATION: An area east of 343rd Street West in an area between
U.S. 54 and 15th Street South.



BACKGROUND: Southwestern Bell Mobile Systems (leasee) requests a Conditional Use Permit for a communications tower on a 0.13 acre tract located in an area east of 343rd Street West between U.S. 54 and 15th Street South. The property is used for agricultural purposes and zoned 'R' Rural Residential.

The subject property is located within the Cheney Zoning Area of Influence. The surrounding area is characterized by agricultural uses and scattered farm homes. The existing farm homes are located more than 500 feet to the south. Recently, several farm structures located to the west along the east side of 343rd Street were removed, and that area is currently vacant. The proposed facility would be located approximately 750 feet east of 343rd Street West and 1,150 feet north of 15th Street South, and would be located more than 150 feet from any adjoining property lines .

Southwestern Bell proposes a 150 foot high monopole tower and a 12' x 26' equipment shelter for cellular communication service. The proposed tower would include a 17' to 40' concrete underground pier to support the tower. Southwestern Bell representatives indicate that the tower is designed to withstand 80 mph sustained winds. The tower would emit radio frequencies which are sent by antennas on the tower and controlled by the FCC. According to Southwestern Bell representatives, 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. Southwestern Bell representatives also indicate that the tower would have no impact upon television reception for residents in the area.

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, Highway U.S. 54
SOUTH:	'R'	Agricultural uses, farm homes
EAST:	'R'	Agricultural uses
WEST:	'R'	Agricultural uses, farm home

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

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area for agricultural uses.

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 monopole communications tower shall be erected on the subject property at a maximum height of 150 feet. The tower shall be located a minimum of 150 feet from adjoining property lines.
- B. The color of the tower shall be silver or grey or a similar unobtrusive color unless otherwise required by applicable agencies.
- 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.
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- 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.

The staff 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. Extent to which removal of the restrictions will detrimentally affect nearby property: 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 Conformance of the requested change to adopted or recognized Plans/Policies: 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. Impact of the proposed development on community facilities: The proposed tower does not require municipal services and will have a minimal impact upon traffic patterns in the area.