

CONDITIONAL USE RESOLUTION NO. CU-548

WHEREAS, Walter N. Henning, pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), requested a Conditional Use to erect a 100' PCS Wireless Telephone Tower capable of accommodating up to three providers with multiple panel antennas, that will meet FAA/FCC requirements on under one acre zoned "SF-20" Single-Family described as:

A proposed lease area lying in and being a part of the North Twenty-six and seven-eighths (26 7/8) acres of Government Lot Number Five (5), Section One (1), Township, Twenty-seven (27) South, Range One (1) West, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 5; thence S 00 degrees 04'08" E, along the West line of said Lot 5, a distance of 156.10 feet; thence N 89 degrees 55'52" E a distance of 919.18 feet to the point of beginning; thence continuing N 89 degrees 55' 52" E a distance of 50.00 feet; thence S 00 degrees 04'08" E, parallel with said West line, a distance of 50.00 feet; thence S 89 degrees 55'52" W, a distance of 50.00 feet; thence N 00 degrees 04'08" W, parallel with said West Line, a distance of 50.00 feet to the point of beginning. Generally located approximately 950 feet east of West Street and 100 feet south of 29th Street North.

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 December 16, 1999, 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 Conditional Use application be approved to erect a 100' PCS Wireless Telephone Tower capable of accommodating up to three providers with multiple panel antennas, that will meet FAA/FCC requirements on under one acre zoned "SF-20" Single-Family described as:

A proposed lease area lying in and being a part of the North Twenty-six and seven-eighths (26 7/8) acres of Government Lot Number Five (5), Section One (1), Township, Twenty-seven (27) South, Range One (1) West, Sedgwick County, Kansas, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 5; thence S 00 degrees 04'08" E, along the West line of said Lot 5, a distance of 156.10 feet; thence N 89 degrees 55'52" E a distance of 919.18 feet to the point of beginning; thence continuing N 89 degrees 55' 52" E a distance of 50.00 feet; thence S 00 degrees 04'08" E, parallel with said West line, a distance of 50.00 feet; thence S 89 degrees 55'52" W, a distance of 50.00 feet; thence N 00 degrees 04'08" W, parallel with said West Line, a distance of 50.00 feet to the point of beginning. Generally located approximately 950 feet east of West Street and 100 feet south of 29th Street North.

subject to the following conditions:

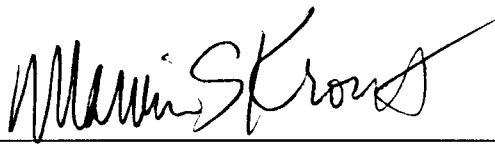
- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- B. The support structure shall be a "monopole" design, and the monopole shall be located as indicated on the site plan
- C. The color of the monopole shall be silver or gray or a similar unobtrusive color.
- D. There shall be no lighting of or on the monopole.
- E. The monopole shall not exceed 100 feet in height.
- F. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 30 feet.

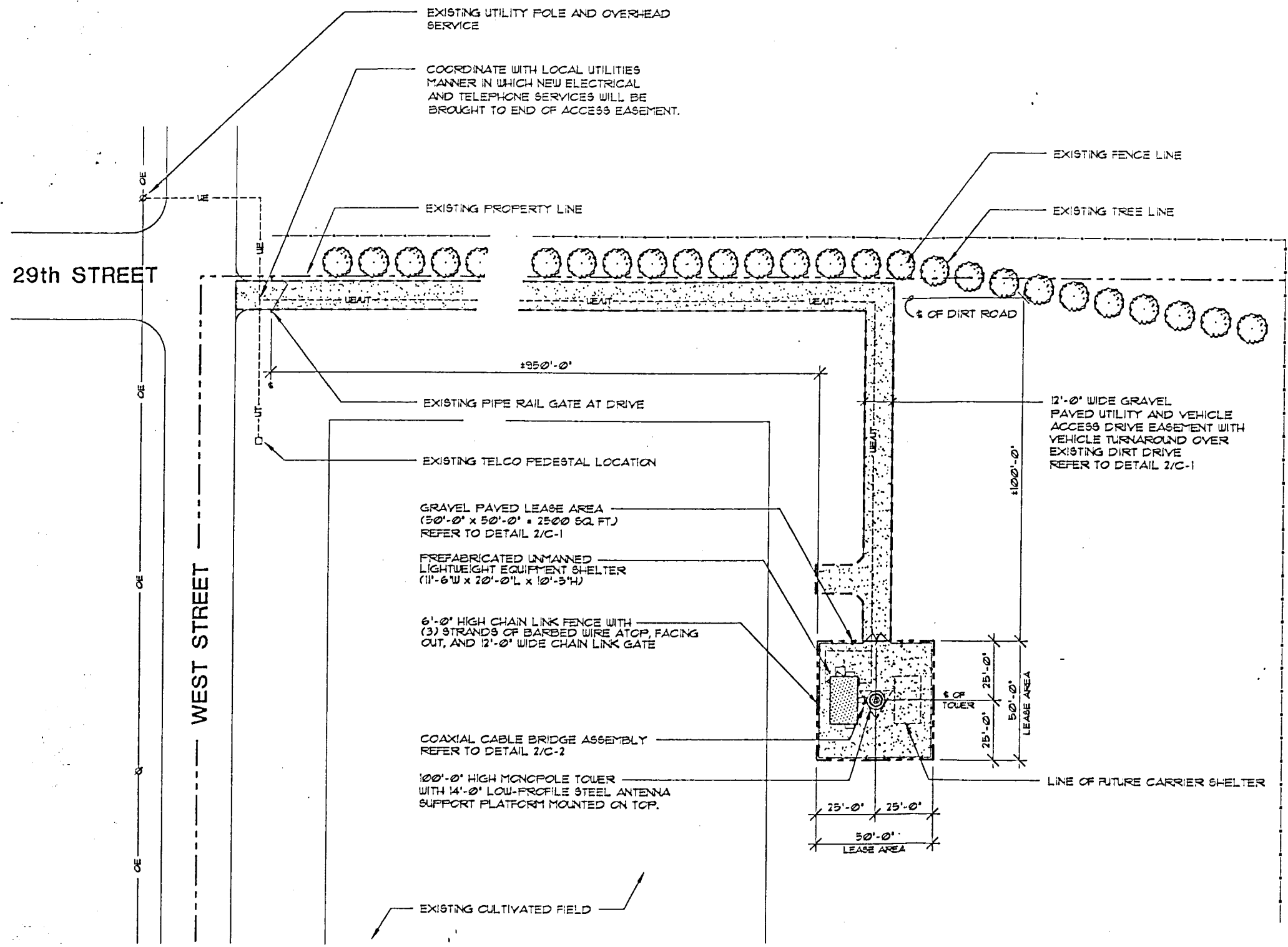
Adopted this 16th day of December, 1999. This resolution shall become effective on the fifteenth day after the date last noted above unless the matter is forwarded to the Governing Body for final action under the provisions of Section V-D.6. When any one or more of the exceptions listed in Section V-D.6 exist, this resolution with its conditions of approval shall be considered a recommendation of the MAPC to the Governing Body which shall then have final authority to approve, approve with conditions or modifications, or deny the Conditional Use application.

METROPOLITAN AREA PLANNING COMMISSION


Frank Garofalo, Chair

ATTEST:

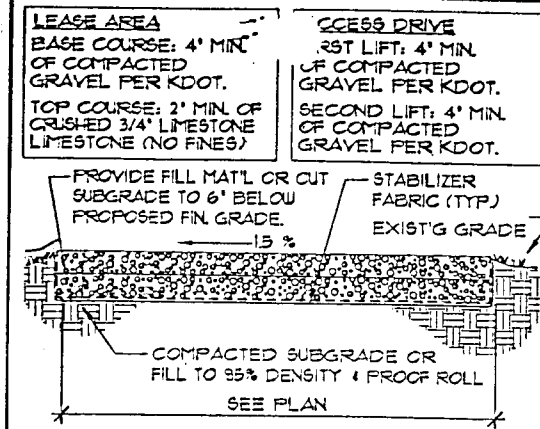

Marvin S. Krout, Secretary



GENERAL NOTE
 CONTRACTOR TO REMOVE ANY TREES, SHRUBS AND VEGETATION INSIDE THE ACCESS EASEMENT AND LEASE AREA AS WELL AS 5' OUTSIDE OF THE LEASE AREA. REPLACE REMOVED TREES WITH NEW TREES OF SIZE AND SPECIES AS REQUIRED PER LOCAL REGULATIONS.

SITE PLAN

APPROVED 1-11-00 BY SK



2 GRAVEL PAVING DETAIL NOT TO SCALE

- ELEVATIONS ARE ABOVE MEAN SEA LEVEL
- DO NOT SCALE DIMENSIONS FROM THIS DRAWING.
- ALL EXISTING RECORDED EASEMENTS ARE INDICATED ON THIS DRAWING TO THE BEST OF THE ARCHITECTS KNOWLEDGE PER VISUAL INSPECTION, SURVEY DRAWINGS, AND INFORMATION RECEIVED FROM AT&T/LUCENT. CONTRACTOR SHALL CALL 'KANSAS ONE-CALL' 1-800-344-7233 48 HOURS PRIOR TO START OF CONSTRUCTION TO HAVE UNDERGROUND UTILITIES LOCATED AND MARKED.
- NO SINGLE FAMILY PRIMARY RESIDENCE ON AN ADJACENT PROPERTY IS WITHIN 250'-0" OF THE MONOPOLE TOWER.
- ANY EXISTING SEPTIC FIELD, TANK, OR WELL IS NOT WITHIN 50'-0" OF THE LEASE AREA.
- ALL CONSTRUCTION SHALL CONFORM TO THE 1997 UNIFORM BUILDING CODE, NEC CODE, AND PER SEDGWICK COUNTY REQUIREMENTS

3 CONSTRUCTION NOTES

THIS DRAWING IS COPYRIGHTED AND IS THE SOLE PROPERTY OF PAL TELECOM GROUP, INC. IT IS PRODUCED FOR USE BY DYNE TOWER INTERNATIONAL CORPORATION. REPRODUCTION OR OTHER USE OF THIS DRAWING OR THE INFORMATION CONTAINED HEREIN WITHOUT THE WRITTEN PERMISSION OF PAL TELECOM GROUP, INC. IS PROHIBITED. ALL RIGHTS RESERVED. © 1998

LEGEND

EXISTING		NEW
—SAS—	SANITARY SEWER	—SAS—
—STS—	STORM SEWER	—STS—
—W—	WATER MAIN	—W—
⊙	SANITARY MANHOLE ELEVATIONS	⊙
⊙	STORM STRUCTURE ELEVATIONS	⊙
---	PROPERTY LINE & ROW	---
---	SURFACE DRAINAGE	---
○	LIGHT STANDARD	●
○	STREET LIGHT	●
672.75	SPOT ELEVATION	672.75
672	CONTOUR	672
—G—G—	GAS MAIN	—G—G—
⊙	MANHOLE	⊙
○	CATCH BASIN	●
○	FIRE HYDRANT	●
---	EASEMENT LINE	---
---	FENCE	---
---UE/UT---	BURIED UTILITY LINE	---UE/UT---
⊙	UTILITY POLE	⊙
—CE/OT—	OVERHEAD UTILITY LINE	—CE/OT—
	BUILDING	

DYNE TOWER INTERNATIONAL CORPORATION
 2546 S. LEONINE STREET
 WICHITA, KS 67217
 (316) 945-4562
 Fax: (316) 945-4593

**SITE WI-028-03
HENNING**

2920 N. WEST STREET
 WICHITA
 SEDGWICK COUNTY
 KANSAS 67204

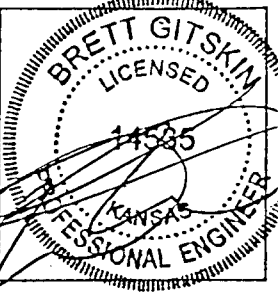
PAL TELECOM GROUP
 PROJECT MANAGEMENT
 ARCHITECTURE
 ENGINEERING
 CONSTRUCTION

PAL TELECOM GROUP, INC.
 CHICAGO · CLEVELAND · DALLAS · SAN FRANCISCO

369 WEST 37TH MAWR
 CHICAGO, IL 60631
 773 883-4200
 Fax 773 883-3241

PROJECT MANAGER: RCC
 PREPARED BY: RCC
 APPROVED BY: AJA

10-18-99	REVISED FOR ZONING REVIEW
10-12-99	ISSUED FOR ZONING REVIEW
10-4-99	REVISED LEASE EXHIBIT
10-1-99	LEASE EXHIBIT



SHEET NAME
SITE PLAN

SHEET NUMBER
C-1

PAL PROJECT NUMBER
92606

STAFF REPORT

MAPC, 12/16/99

CASE NUMBER: CU-548

APPLICANT/AGENT: Walter N. Henning (owner/applicant); Divine Towers International and Ferris Consulting (agents)

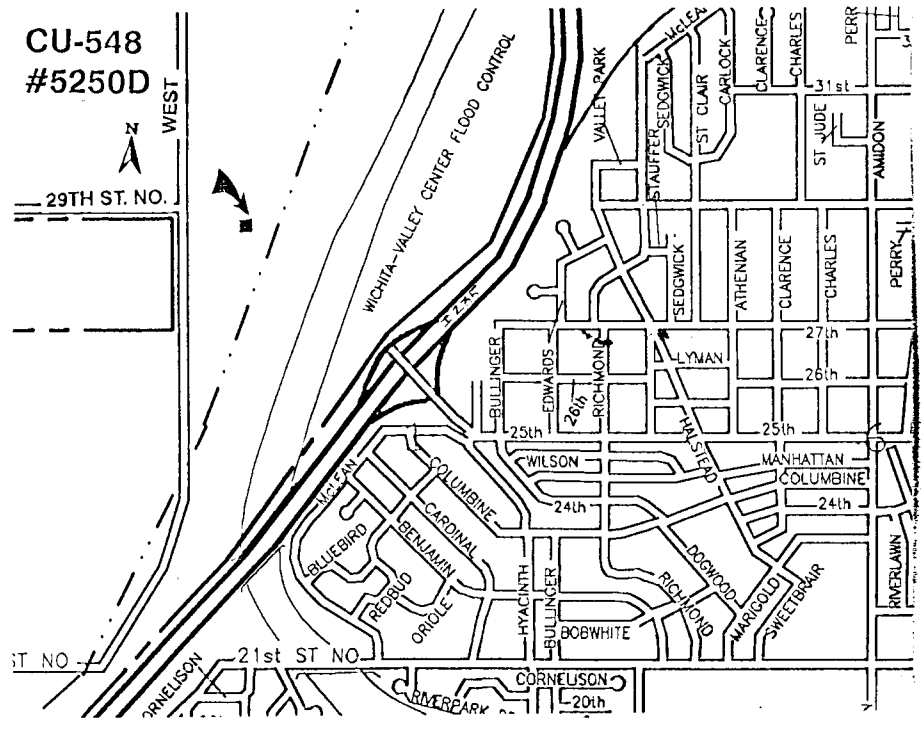
REQUEST: Conditional Use to permit a commercial communication tower

CURRENT ZONING: SF-20, Single-family Residential

SITE SIZE: 2,500 square feet

LOCATION: Approximately 950 feet east of West Street and 100 feet south of 29th Street North

PROPOSED USE: Commercial communications tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 100-foot commercial communications monopole for use by AT&T Wireless Services. The monopole will be sited on a 2,500 square foot area located approximately 950 feet east of West Street and 100 feet south of 29th Street North. Access to the site is to be from West Street. The applicant's site plan (attached) depicts a 50-foot by 50-foot compound enclosed by a chain link fence. Within the enclosure would be the monopole and an equipment shelter. The monopole would be constructed so as to be able to accommodate up to three carriers.

The applicant's justification for the request (attached) indicates this site is necessary for AT&T Wireless Services to provide continuous coverage west of the city in areas around I-235 and 29th Street North. Since this is a largely undeveloped area, there are not any buildings of sufficient height which might provide alternative support structures on which to locate antennas. According to a letter from an aviation consultant, this site complies with the Federal Aviation Administration hazard standards, and should not be a hazard for aircraft.

The closest existing tower is approximately 1 mile to the east. AT&T Wireless Services indicated that they are willing to rebuild this tower but that the owner (USD 259) would not allow for reconstruction of the tower. Planning staff subsequently contacted USD 259, and they indicated a willingness to reconsider allowing AT&T Wireless Services to reconstruct the tower and co-locate at their site, subject to legal opinion that this will not jeopardize the financing and approval of the Public Building Commission, both of which are expected shortly.

The nearest residentially developed properties to the site are located approximately ½ mile to the east on property zoned "SF-6". These residential properties are buffered from the site by I-235, the Big Ditch, and the Arkansas River. Immediately south of the site is property zoned "SF-20" and used for agriculture. Further to the south across the Big Ditch and I-235 are more residentially developed properties located approximately 1 mile away. Property west of the site is zoned "LC", "SF-6", and "SF-20" and is used primarily for sand mining and sludge disposal. Property to the north is zoned "LI" and "SF-20" and is used for a construction landfill, sand mining, and an asphalt plant.

There currently is a commercial communication tower study ongoing by the city and county. That study is focusing on possible alternatives to the construction of new tower structures. Due to the undeveloped nature of the property in the vicinity of this site, none of the study's alternatives to new towers is likely to be applicable in this case. This application was reviewed by a professional radio frequency engineer consulting with planning staff, and the engineer recommended that AT&T Wireless Services demonstrate why they cannot co-locate their antennas on AM radio antennas located 0.9 miles east of the applicant's search ring (report attached). The engineer

also noted that these AM radio antennas are actually closer to the center of the applicant's search ring than the proposed tower. While not noted in the engineer's report, the tower owned by USD 259 is located exactly at the center of the applicant's search ring.

CASE HISTORY: The site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"LI" & "SF-20"	Construction landfill, sand mining, asphalt plant
SOUTH:	"SF-20"	Agriculture
EAST:	"SF-6"	Single family residences
WEST:	"LC", "SF-20" & "SF-6"	Sand mining, sludge disposal

PUBLIC SERVICES: No municipally supplied public services are required. The site has access to West Street, a two-lane arterial that carried, in 1996, approximately 970 vehicles per day.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "Agriculture" (20 acre minimum lot size) development. The update for the Plan, now in progress, shows this area is expected to urbanize after the year 2010. 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. Section III.D.6.g. of the zoning code lists five conditions that commercial communications towers are subject to meeting: unobtrusive paint scheme, no nighttime lighting of the tower except for aircraft warning lighting, no advertising, demonstrate that an effort has been made to co-locate on an existing tower, and willingness to provide space for other communication towers.

RECOMMENDATION: The location of the applicant's proposed monopole is sufficiently buffered from existing residential properties, which should mitigate the negative visual impact of this monopole on residential properties to the east and south; although, future residential development in the area (expected after 2010) could be negatively impacted by the visual impact of the 100 foot monopole. In this case, options for co-location rather than new tower construction are apparently available, and according to planning staff's radio frequency engineering consultant, the applicant has not successfully demonstrated that these co-location options have been fully explored, as required by Section III.D.6.g. of the Unified Zoning Code. Based upon information available prior to the public hearings, planning staff recommends that the request be DENIED. However, if in the opinion of the Planning Commission the application should be approved, planning staff recommends that the approval be subject to the following conditions, which are intended to preserve the option to either raise or lower the height of the monopole in the future, and to minimize the visual impact.

- A. The Conditional Use shall be in effect for 5 years from the date of final approval. The applicant shall submit an application for extension of the Conditional Use if the use needs to be extended beyond the 5 year period.
- B. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met.
- C. The support structure shall be a "monopole" design, and the monopole shall be located as indicated on the site plan
- D. The monopole placed on the site shall be designed and constructed, and certified by a registered engineer, such that if it collapses, it will fall within the area on which the tower is located.
- E. The color of the monopole shall be silver or gray or a similar unobtrusive color.
- F. There shall be no lighting of or on the monopole.
- G. The monopole shall not exceed 100 feet in height.
- H. The antenna shall be placed as close as possible to the monopole, utilizing the "dual polarization" or similar method.
- I. The monopole and its foundation shall be designed and constructed in such a manner that permits future height extensions of up to 30 feet.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the land immediately adjacent to the site is suburban, with primarily industrial and agricultural uses. Future urban development is not expected in the immediate vicinity of the site until after 2010.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-20, Single-family Residential. Commercial communication towers are uses that may be permitted, subject to conditions, in this district. The site could be developed with single family residences if a commercial communications tower is not constructed. Constructing the tower likely will hinder the development of single family residences in and around the site due to the negative visual impact of the tower.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site is currently undeveloped. The closest residentially developed properties are located at least ½ mile away and are buffered from the site by I-235, the Big Ditch, and the Arkansas River; however, the negative visual impact of the proposed 100 foot monopole could detrimentally affect the suitability of surrounding property for future development.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: 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. In

this case, options are apparently available to provide cellular phone service to this area at a reasonable cost by co-locating at one of two existing tower sites. The applicant has not successfully demonstrated that these co-location options have been fully explored, as required by Section III.D.6.g. of the Unified Zoning Code.

5. Impact of the proposed development on community facilities: No impacts have been identified as municipally supplied services are not required.