

RESOLUTION NO. 216-03

A RESOLUTION APPROVING A CONDITIONAL USE TO PERMIT A 1,075-FOOT HIGH GUYED LATTICE TOWER ON 40 ACRES, LOCATED SOUTH OF 53RD STREET NORTH AND EAST OF 151ST STREET WEST; ON PROPERTY ZONED "RR" RURAL RESIDENTIAL, LOCATED WITHIN THE UNINCORPORATED AREA OF SEDGWICK COUNTY, KANSAS, UNDER THE AUTHORITY GRANTED BY 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 V-D of the Wichita Sedgwick County Unified Zoning Code, a conditional use for the land legally described herein is approved as follows:

Case No. CON2003-00023

A Conditional Use permitting a 1,075-foot high guyed lattice tower on property described as:

The Southwest Quarter of the Northwest Quarter of Section 23, Township 26 South, Range 2 West of the 6th P.M., Sedgwick County, Kansas. Generally located south of 53rd Street North and east of 151st Street West.

THE CONDITIONAL USE IS SUBJECT TO THE FOLLOWING CONDITIONS:

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met, except as modified by the following conditions.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use.
- C. The support structure shall be a "guyed lattice" tower and shall be 1,075 feet in height.
- D. The tower shall be lighted only with a dual lighting system consisting of red lights at night and white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- E. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
- F. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

SECTION II. That upon the taking effect of this Resolution, the notation of such Conditional Use 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.

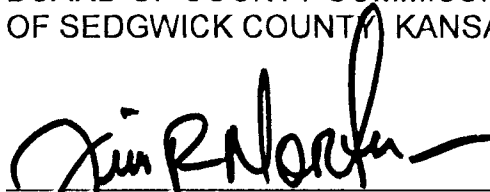
SECTION III. That this Resolution shall take effect and be in force from and after its adoption by the Governing Body.

Commissioners present and voting were:

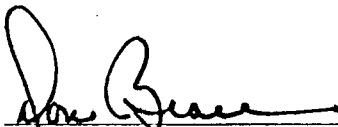
DAVE UNRUH	<u>aye</u>
TIM R. NORTON	<u>aye</u>
THOMAS G. WINTERS	<u>aye</u>
CAROLYN MCGINN	<u>aye</u>
BEN SCIORTINO	<u>aye</u>

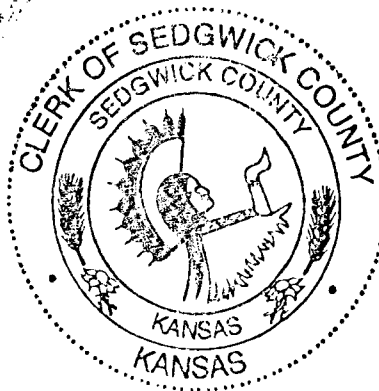
DATED this 3rd day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

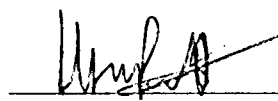

TIM R. NORTON, CHAIRMAN
Second District

ATTEST:


DON BRACE, County Clerk



APPROVED AS TO FORM:


ROBERT W. PARNACOTT,
Assistant County Counselor



AGENDA ITEM NO. 11

STAFF REPORT

Colwich, July 29, 2003

MAPC, August 7, 2003

CASE NUMBER: CON2003-00023

APPLICANT/AGENT: Wichita Television Corporation, Inc. (a.k.a. KSNW TV) c/o Dave Rickels (Owner/Applicant); Baughman Company c/o Russ Ewy (Agent)

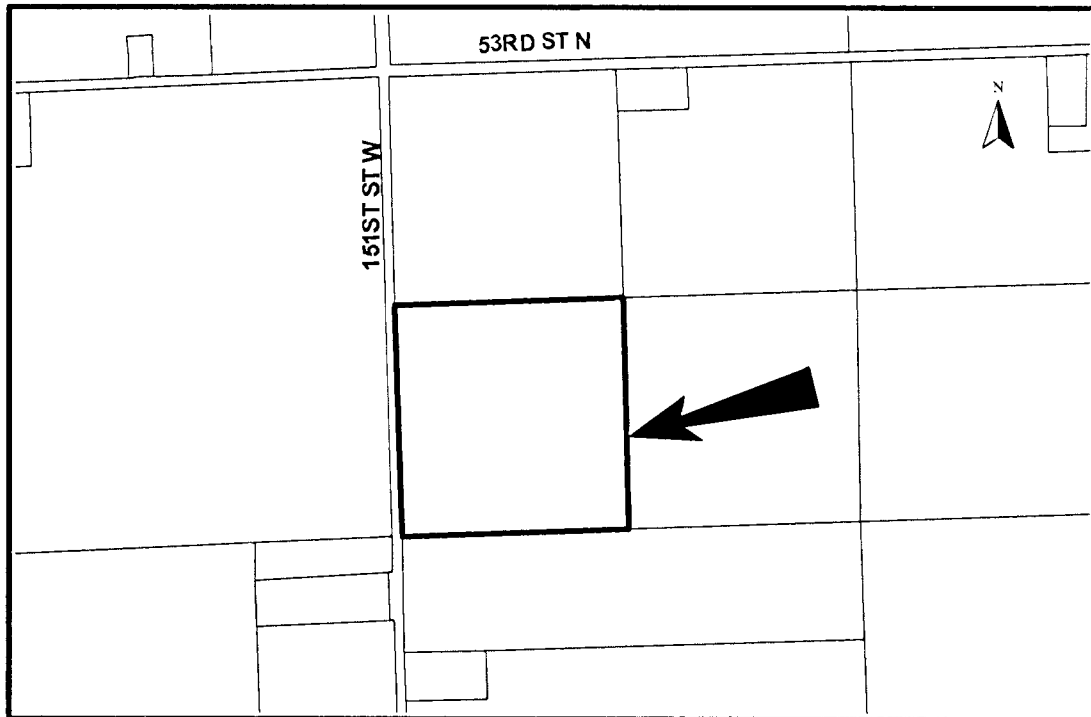
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: "RR" Rural Residential

SITE SIZE: 40 acres

LOCATION: South of 53rd Street North and east of 151st Street West

PROPOSED USE: 1,075-foot high guyed lattice tower



BACKGROUND: The applicant is seeking a Conditional Use to permit the construction of a 1,075-foot high guyed lattice tower (see attached "Site Exhibit") for use by KSNW television. The subject property is zoned "RR" Rural Residential and is located approximately ¼ mile south of 53rd Street North on the east side of 151st Street West. Wireless Communication Facilities over 65 feet in height in the "RR" Rural Residential zoning district may be permitted with a Conditional Use.

The subject property is located within the zoning area of influence of the City of Colwich. The Colwich Planning Commission will consider the Conditional Use request on July 29, 2003.

The applicant indicates (see attached letter dated June 27, 2003) that the proposed wireless communication facility is needed for KSNW to provide high definition digital television to south-central Kansas. The applicant indicates that the existing radio and television towers in the area are not capable of supporting the required antennas and equipment to support high definition digital television.

The character of the surrounding area is rural (see attached "Aerial Exhibit") with numerous radio and television towers located in the immediate vicinity. The surrounding properties are zoned "RR" Rural Residential and are used for primarily for agriculture. The nearest residence is located approximately ¼ mile southwest of the proposed tower.

The tower is proposed to be located on a 40 acre tract as shown on the attached "Site Exhibit." Access to the site is proposed via an existing gravel drive to 151st Street West. The tower is proposed to be located near the center of the tract and approximately 100 feet north of an existing television tower on the tract that will remain. The existing equipment building on the tract will be used with no new equipment buildings proposed.

Section IV-C.5.b. of the Unified Zoning Code requires a 1,075-foot setback for the tower from the all property lines; however, the tower is proposed to be set back approximately 530 feet from the nearest property line to the south. The setback requirement can be waived through approval of the Conditional Use request, and planning staff recommends waiving the setback requirement since the proposed tower cannot be located on the subject property in compliance with the setback requirement.

Federal Aviation Administration (FAA) regulations (see attached) require aircraft warning lights on the tower since the height of the tower exceeds 200 feet. Flashing white obstructions lights will be required on the tower; however, FAA regulations permit a dual lighting system consisting of red lights at night and flashing white lights only during the day to limit the impact on urban development in the general vicinity. Section III-D.6.g.(5) of the Unified Zoning Code prohibits strobe lighting such as the flashing white lights required by the FAA; however, Section V-D.6. of the Unified Zoning Code allows the Board of County Commissioners to modify Supplementary Use Regulations (such as the

strobe lighting prohibition) upon receiving a favorable recommendation from the MAPC. Planning staff recommends that the Board of County Commissioners modify the lighting requirement to comply with the FAA regulations and permit a dual lighting system .

CASE HISTORY: The subject property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Agriculture, radio/television tower
SOUTH:	"RR"	Agriculture
EAST:	"RR"	Agriculture
WEST:	"RR"	Agriculture

PUBLIC SERVICES: No municipally-supplied public services are required. The site has access to 151st Street West, an unpaved township road.

CONFORMANCE TO PLANS/POLICIES: The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. The Location Guidelines of the Wireless Communication Master Plan indicate that new facilities should be located: 1) on multi-story buildings or other structures; 2) on existing poles in street rights-of-way, parking lots, or athletic fields; 3) on existing towers for personal wireless services, AM/FM radio, television, school district microwave antennas, and private dispatch systems; 4) in wooded areas; 5) on identified city and county properties; or 6) on highway light standards, sign structures, and electrical support structures. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area; 2) minimize the height, mass, or proportion; 3) minimize the silhouette; 4) use colors, textures, and materials that blend in with the existing environment; 5) be concealed or disguised as a flagpole, clock tower, or church steeple; 6) be placed in areas where trees and/or buildings obscure some or all of the facility; 7) be placed on walls or roofs of buildings; 8) be screened through landscaping, walls, and/or fencing; and 9) painting towers red and white instead of using strobe lighting. Since the time the Wireless Communication Master Plan was adopted, the FAA changed their regulations to require day-time strobe lighting for towers in excess of 200 feet in height; whereas, when the plan was adopted, the FAA allowed painting towers red and white instead of using strobe lighting. The Unified Zoning Code requires wireless communication facilities to comply with a compatibility height standard of one foot of setback for each foot of structure height from adjoining properties zoned "TF-3" or more restrictive. This compatibility height standard can be reduced or waived through a Conditional Use or a Zoning Adjustment.

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

- A. All requirements of Section III.D.6.g. of the Unified Zoning Code shall be met, except as modified by the following conditions.
- B. The applicant shall obtain all permits necessary to construct the wireless communication facility, and the wireless communication facility shall be erected within one year of approval of the Conditional Use.
- C. The support structure shall be a “guyed lattice” tower and shall be 1,075 feet in height.
- D. The tower shall be lighted only with a dual lighting system consisting of red lights at night and white flashing lights during the day that conforms with FAA regulations. The applicant shall submit a copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- E. Approval of the Conditional Use constitutes a waiver of the Compatibility Height Standard for the wireless communication facility.
- F. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- H. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The character of the surrounding area is rural with numerous radio and television towers located in the immediate vicinity. The surrounding properties are zoned “RR” Rural Residential and are used primarily for agriculture. The proposed tower is consistent with the zoning, uses, and character of the area.
- 2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned “RR” Rural Residential and is currently used for a television tower. A Conditional Use may be granted to permit a wireless communication facility in the “RR” Rural Residential zoning district; however, the facility should conform to the guidelines of the Wireless Communication Plan as much as possible. The proposed facility conforms to most of the plan’s guidelines.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating an additional television tower on the subject property should not create adverse impacts on surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility conforms to the Wireless Communication Master Plan since the existing towers in the vicinity cannot accommodate the communication needs of the applicant and the most logical location for a tall television tower is in an area where numerous tall radio and television towers currently exist.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower does not detrimentally impact the operation of airports in the vicinity.