



Wichita-Sedgwick County Metropolitan Area Planning Department

November 17, 2008

Richard Tade
505 Tennessee St.
Apt 406
Memphis, TN 38103

RE: CON2008-00032 - City Conditional Use request for a wireless communication facility in LC Limited Commercial zoning, generally located south of Kellogg Street, midway between Grove Street and Hillside Avenue, on the west side of Erie Avenue.

Dear Ladies and Gentlemen:

At its regular meeting on **November 4, 2008**, the Wichita City Council considered the above captioned request. The action of the City Council was to **APPROVE** the request subject to the following conditions:

- A. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- 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 by the MAPC or governing body, as applicable.
- C. The support structure shall be a "monopole" design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is

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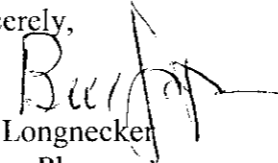
November 17, 2008

needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.

- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- 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.

If you have any questions concerning this application, please contact our office at 268-4421.

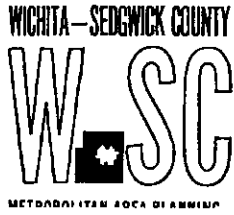
Sincerely,



Bill Longnecker
Senior Planner
Current Plans Division

WL:mc

Copies to: Ferris Consulting, % Greg Ferris, P O Box 573, Wichita, KS 67201
Sheri Proctor, 7 Stevie Court, Wichita, KS 67052
College Hill, Celia Gorlich, 402 S. Crestway St., Wichita, KS 67208
East Front, Tom Fox, 250 S. Erie St., Wichita, KS 67211
Hilltop Assoc. of Neighborhood Development, Matthew Foley, 4235 E. Bayley St.,
Wichita, KS 67218
Longview, Judy Heggy, 532 S. Roosevelt, Wichita, KS 67218
Schweiter East, Ray Darlington, 1019 S. Clifton, Wichita, KS 67211
Sunnyside, Maria Bustamante, 646 S. Spruce, Wichita, KS 67211
WCC I, Lavonta Williams, Mail Stop 1-13
N.A. I, Lashonda Porter, Mail Stop 1-135
Julianne Kallman, Engineering, Mail Stop 1-72



STAFF REPORT

MAPC July 24, 2008

DAB I August 4, 2008

CASE NUMBER: CON2008-00032

OWNERS/APPLICANTS: Richard and Vickie Tade (owners), T-Mobile LLC (applicant), Ferris Consulting, c/o Greg Ferris (agent)

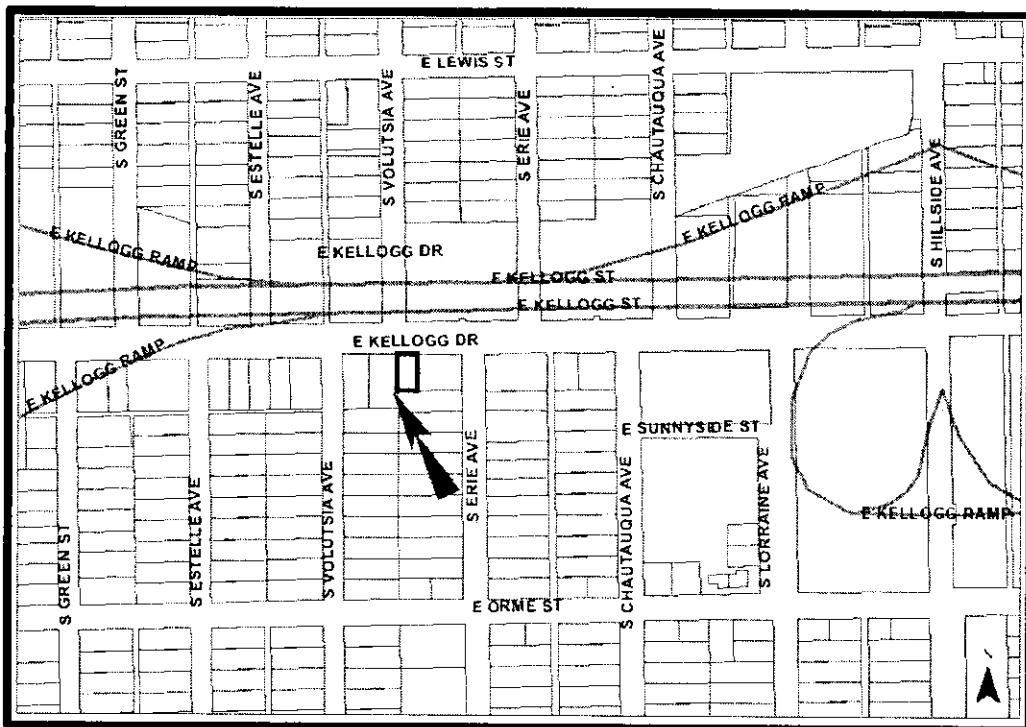
REQUEST: Conditional Use for a wireless communication facility

CURRENT ZONING: LC Limited Commercial ("LC")

SITE SIZE: 0.08-acres

LOCATION: Generally located south of Kellogg Drive, midway between Grove Street and Hillside Avenue, on the west side of Erie (WCC #1)

PROPOSED USE: 120-foot monopole, wireless cell phone tower



BACKGROUND: The applicant, T-Mobile Central, LLC, is seeking a Conditional Use to permit the construction of a 120-foot high, galvanized steel, monopole cell phone tower. The 50-foot (x) 80.5-foot LC Limited Commercial ("LC") zoned tower site is located on the western 50 feet of Lots 1 (except the north 12 feet for street right-of-way, ROW), 3, 5 and 7, Block 4, Sunny-Side Addition. This is vacant land. The site abuts the south side of the US 54/Kellogg Street road system. The "Amended Wireless Communication Facility Ordinance" (adopted by the WCC 4-08-08 & BoCC 4-9-08), permits new wireless communication facilities 120 feet in height in the LC zoning district as an Administrative Permit, if the site is identified as a "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map" and it complies with the 1/1 compatibility height standards (Art IV, Sec IV-C, 5b). The site is not identified on the "Facility Map," thus it is not eligible of an Administrative Permit, but it may be considered for a Conditional Use. It appears to meet the compatibility height standards

The applicant's RF Engineer has provided (see attached letter #1) a letter that states that the proposed facility is needed to both provide, extend and improve phone service in this section of Wichita. The RF Engineer has also stated that the proposed tower will provide capacity relief for existing T-Mobile Towers in the area. The RF Engineer states that the high volume of use has caused the area to experience failed access, because of a lack of facilities in the general area. The wireless facilities map provided by the applicant shows the existing facilities in the area. There is a tower located northwest of the site at Kansas and 2nd Streets, a T-Mobile facility (the closet facility to the proposed site) located west of the site at Waterman and Ellis, a T-Mobile facility located east of the site around Lincoln and Oliver Streets, and another T-Mobile facility located southeast of the site around Harry Street and Vassar Street. The map does not show the recently approved CON2008-25, 150-foot T-Mobile Tower located southwest of the site in Linwood Park, south of Harry and west of I-135. Other than that the map is in general agreement with the case map generated by City IT. The applicant has provided current and desired coverage maps.

The agent has provided a letter that states that T-Mobile had approached K-DOT and proposed replacing an existing light pole in the US 54/Kellogg Street with a monopole that would allow them to attach their lights, but were rebuffed. The agent has also stated that T-Mobile had contacted the high raise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers. The "Wireless Communication Plan" encourages contact with such public and private agencies as K-DOT, KTA and KG&E in regards to location on light standards, sign structures and electric support structures for new wireless communication facilities. It also encourages location on multi-story buildings.

The site plan shows the general area where the tower will be located it shows a 6-8-foot wooden fence around a 40-foot (x) 85-foot site, the area where T-Mobile is going to locate its equipment ("T-Mobile Lease Area), proposed landscaping, and a proposed 15-foot access and utility easement onto Eire Avenue. It does not indicate if the easement has any type of all weather surface on it. The site plan shows no light poles, ground lighting, power poles, cabinets, equipment or buildings located within the fenced-in area.

The area around the site is developed as a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development (“PUD”). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the newest in 2004) is zoned mostly TF-3 Duplex Residential (“TF-3”), with a few residences located in B Multi-family Residential (“B”), PUD and LC zoning.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to pose no hazard to air navigation or interferes with other radio/communication frequencies. The applicant has not provided an analysis of airspace in the area, which must be provided to staff prior to building permits being issued. The applicant has not provided any proposed lighting of the tower, except to say it will not have strobes. Tower lighting must meet the FAA requirements for aircraft warning. The proposed galvanized surface of the tower will blend into the sky more readily than a red or white paint, which meets the intent of the “Design Guidelines” of the “Wireless Communication Master Plan.” The proposed tower must allow co-location for three (3) other providers. The applicant has not indicated if the tower will have a triangular “top hat” antenna array. The UZC recommends antennas mounted flush to the support structure over triangular “top hat” antenna arrays, however it also recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers.

CASE HISTORY: The Sunnyside Addition was filed with the Register of Deeds December 14, 1886. The platted alley, abutting the west side of the site, has been vacated.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|----------|---|
| NORTH: | TF-3 | US 54/Kellogg Street and frontage road, single-family residences |
| SOUTH: | LC, TF-3 | single-family residences |
| EAST: | LC, TF-3 | Vacant lots, duplex, single –family residences, local retail |
| WEST: | LC, TF-3 | Office warehouse, single-family residences, City owned right-of-way |

PUBLIC SERVICES: No municipally supplied public services are required. The applicant will extend electrical and phone service to the site. The site has access (and proposes access)) to Erie Avenue, a paved two-lane residential street. It also abuts the south side of the US 54/Kellogg Street paved, two-lane frontage road. The US 54/Kellogg Street ROW is classified as a Freeway and Urban Expressway. The 2030 Transportation Plan shows no change to the current status of these streets.

CONFORMANCE TO PLANS/POLICIES: Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & BoCC 4-9-08) and its “Properties Eligeble for an

Administrative Permit for a Wireless Communication Facility Map”, the site is not identified on is not eligible of an Administrative Permit, but it may be considered for a Conditional Use.

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 requires a Conditional Use for new undisguised ground mounted facilities 120 feet in height in the LC zoning district and requires that they comply with the compatibility setback standards; the site appears to meets those setback standards. The Design Guidelines of the Wireless Communication Master Plan indicate that new facilities should: 1) preserve the pre-existing character of the area as much as possible. The tower site will be abutting US 54/Kellogg which has several tall light pole towers located in its ROW, which means the proposed tower will not be entirely out of character with the existing light poles being already established. The tower will also extend and improved phone service in this section of Wichita. The site is located within 105, 150 and 160 feet of three single-family residences, the closest is owned by the applicant and all are zoned LC; 2) Minimize the height, mass, or proportion. The tower is similar in height, mass and proportion to other T-Mobile towers in the area; 3) Minimize the silhouette; monopoles are favored over lattice type structures for up to 150-feet and antennas mounted flush to the support structure over triangular “top hat” antenna arrays. The 120-foot tower is a monopole, but if it uses a triangular “top hat” antenna arrays, the Plan recognizes that the triangular “top hat” antenna’s signal travels further than the flush mounted antennas, therefore reducing the number of needed towers; 4) Use colors, textures, and materials that blend in with the existing environment. The monopole tower will have a galvanized surface, which will blend into the sky more readily than red or white paint; 5) Conceal or disguise as a flagpole, clock tower, or church steeple. The tower does not meet this criteria, but the applicant did contact K-DOT to inquire about replacing an existing light tower with the proposed communication tower and allow lights to be placed on it to illuminate US 54/Kellogg; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. There are existing mature trees in the immediate neighborhood around the site, plus the proposed landscaping and solid fencing will help to “hide” the site; 7) Be placed on walls or roofs of buildings. The application attempted to do this via contacting the manager of the high rise condominium structure at the corner of Douglas Avenue and Rutan Street, but was told that they did not lease space to wireless carriers; 8) Be screened through landscaping, walls, and/or fencing. Proposed landscaping and solid fencing will help to “hide” the site; and 9) Painting towers red and white instead of using strobe lighting. The applicant has stated that there will be no strobes and that it will be a galvanized steel finish. NOTE: Since the time the Wireless Communication Master Plan was first adopted, the FAA changed their regulations to require daytime strobe lighting; whereas, when the plan was adopted, the FAA allowed painted towers red and white instead of using strobe lighting.

The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan designates this area as appropriate for “Urban Residential” development. The Urban Residential category includes all housing types found in the municipality. Entry into residential areas is typically the final part of the business plan of most personal wireless providers. The facilities’ maps generated by the applicant and City IT/GIS services show the existing facilities in the area, some of which are in residential areas, thus the proposed site is not introducing a new use to the large area.

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 Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- 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 by the MAPC or governing body, as applicable.
- C. The support structure shall be a “monopole” design that generally conforms to the approved site elevation and that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
- D. The support structure shall not exceed 120 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- E. The tower shall conform to FAA regulations in regards to analysis of airspace in the area, which includes conformation that the height of the tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies. The applicant shall submit a current copy of FAA approval to the MAPD and the Code Enforcement Office prior to the issuance of a building permit.
- F. The 0.08-acre tower site shall be developed in general conformance with the approved revised site and landscape plan. These plans must show dimension control, parking, all light poles, lights, power poles, cabinets, equipment or buildings within the fenced in site or in the immediate area if it is to be used by the site. The site plan must identify the utility access easement as being current or proposed. If it is proposed it must be recorded. If a surface is needed for the drive/access easement, it must be approved by the Zoning Administrator. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- G. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Storm Water Engineer with any required plans for review and approval of the site.
- 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.

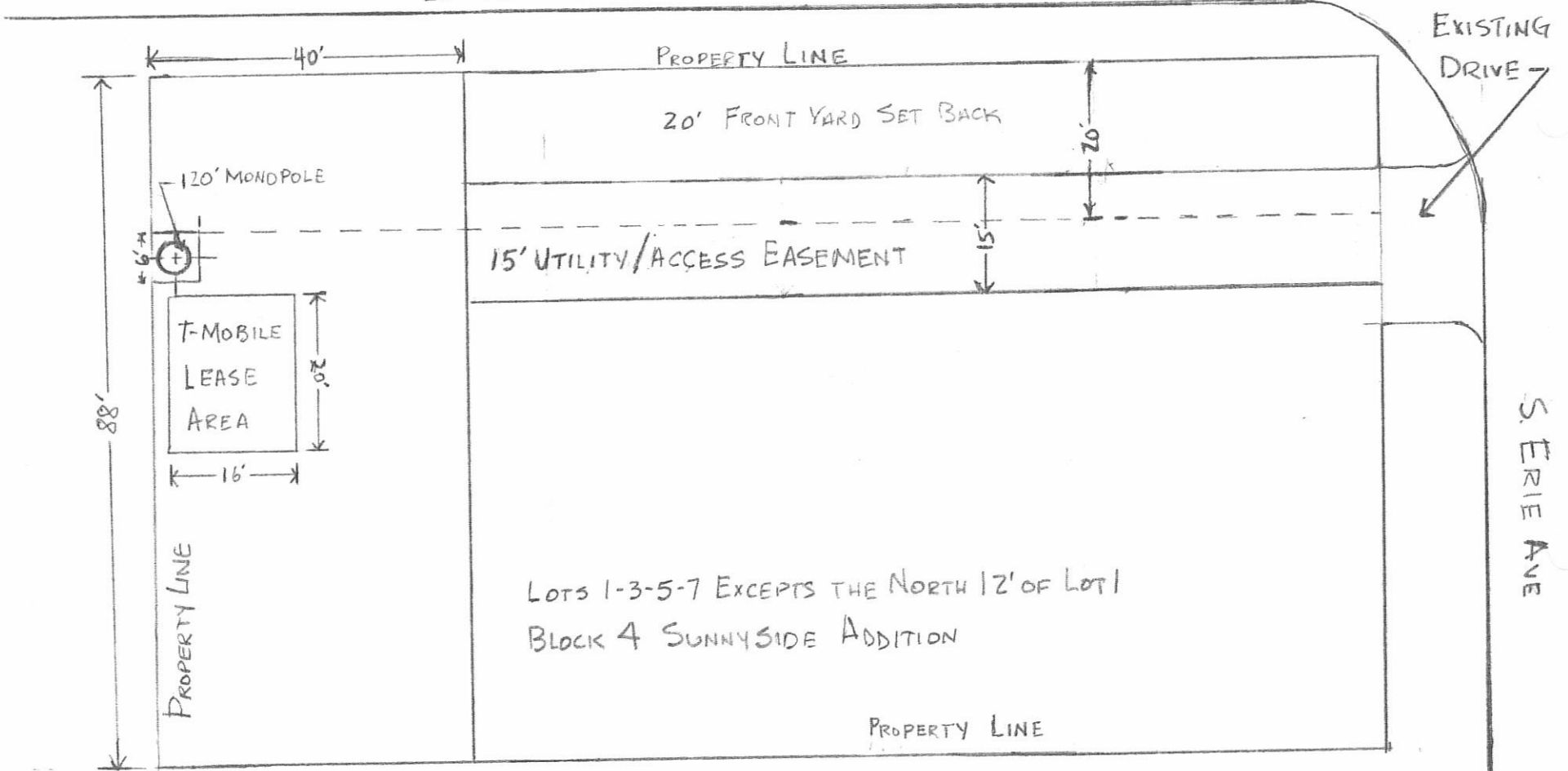
This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is a mostly single-family residential neighborhood, tucked behind small local retail, some vacant land, a dance studio, a small office warehouse and a school. The nonresidential uses (built 1959, 1960 and 2004) are zoned LC and abut the US 54/Kellogg Street frontage street, which marks the north end of the area. There are several large light poles in the US 54/Kellogg ROW. The school (built 1917) is part of a PUD Planned Unit Development (“PUD”). The residential neighborhood (built mostly in the 1920s, but also in the 1930s and 1940s, with the oldest being built in 1885 and the

newest in 2004) is zoned mostly TF-3 Duplex Residential ("TF-3"), with a few residences located in B Multi-family Residential ("B"), PUD and LC zoning.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC and is currently vacant. It could be developed as small retail, office or residential. The US 54/Kellogg frontage road provides limited access for retail, while at the same time makes it a possible site for a small multi-family development. Its close (separated by frontage road) proximity to US 54/Kellogg makes it less desirable for single-family residential. A Conditional Use may be granted to permit a wireless communication facility in the LC zoning district, while conforming 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: Detrimental affects on the single-family neighborhoods and businesses in the area should be minimized to a degree by the Conditional Use standards of the Unified Zoning Code, which should limit noise, lighting, and other activity from adversely impacting these properties, the closest being within (discounting the applicant's property with a residence on it) 150 feet of the site. The Wireless Plan does recognize that entry into residential areas is the final part of the business plan of most personal wireless service providers to replace wired phone service in customer's homes. The coverage map provided by the applicant shows the increased coverage and service to these homes in the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed wireless communication facility appears to conform to the Location Guidelines of the Wireless Communication Master Plan since there appears to be no other towers or tall structures in the vicinity of the site which can accommodate the communication needs of the applicant. It is always possible that other facilities may be presented as alternative/co-location sites during the public hearing, in which case the applicant will need to address those claims/opportunities for possible co-location. The proposed wireless communication facility mostly conforms to the Design Guidelines of the Wireless Communication Master Plan by minimizing the height, mass, proportion, and silhouette of the facility through its monopole design; by utilizing an unobtrusive color with a matte finish to minimize glare; and by being placed along US 54 Kellogg ROW, where there are several tall light towers located in the ROW. 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. The site appears to meet that standard.
5. Impact of the proposed development on community facilities: FAA approval should ensure that the proposed tower is not a hazard to air navigation (including the need or not for lighting) and that the tower does not interfere with other radio/communication frequencies.

E. KELLOGG DRIVE



88'

20'

16'

40'

20'

15'

PROPERTY LINE

PROPERTY LINE

PROPERTY LINE

LOTS 1-3-5-7 EXCEPTS THE NORTH 12' OF LOT 1
BLOCK 4 SUNNYSIDE ADDITION

15' UTILITY/ACCESS EASEMENT

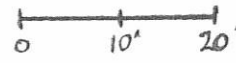
20' FRONT YARD SET BACK

120' MONOPOLE

T-MOBILE
LEASE
AREA

EXISTING
DRIVE

S. ERIE AVE



W102929 ORME/TADE
SITE PLAN

SITE PLAN

APPROVED Nov 5, 2008 BY *Bill [signature]*

