

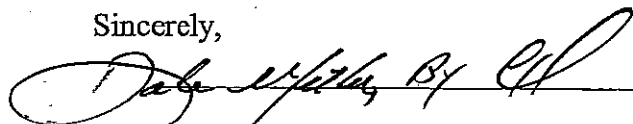
RE: CON2006-16 – Conditional Use

June 2, 2006

Page 2

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Dale Miller", is written over a horizontal line. The signature is written in dark ink and is somewhat stylized.

Dale Miller, Current Plans Manager
Current Plans Division

Copies to: Amy Cassell, Schwerdt Design Group, 2231 SW Wanamaker Road, Topeka, KS 66614
Sharon Fearey, WCC VI, Mail Stop 1-13
Kurt Schroeder, Office of Central Inspection, Mail Stop 1-72
Randy Sparkman, Office of Central Inspection, Mail Stop 1-72
Paul Hays, Office of Central Inspection, Mail Stop 1-72
J.R. Cox, Office of Central Inspection, Mail Stop 1-72



Wichita-Sedgwick County Metropolitan Area Planning Department

June 2, 2006

AT&T Services Inc.
Leo Dela Pasion
Room B10
5400 Foxridge
Mission, KS 66202

RE: CON2006-16 – Conditional Use for a Major Utility on property zoned “SF-5” Single-family Residential, located at 3920 N. Arkansas. (District VI)

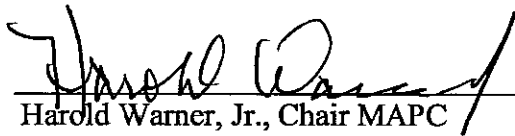
Dear Sir:

At its regular meeting on May 4, 2006, the Metropolitan Area Planning Commission considered the above-captioned request. The action of the MAPC was to APPROVE the request subject to the following conditions:

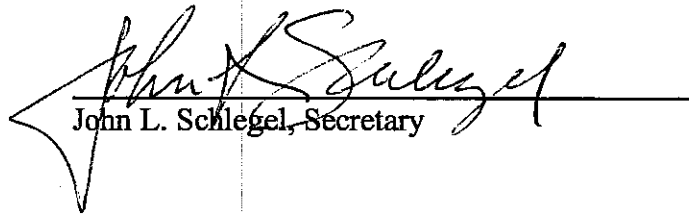
1. The generator shall be installed in substantial compliance with the approved site plan.
2. Prior to starting or using the generator, screening fencing 6-8 feet in height shall be installed along the north, east and south property lines, as depicted on the site plan.
3. Landscaping complying to the extent possible with Landscape Ordinance requirements shall be installed within one-year of approval of this Conditional Use. A landscape plan shall be submitted for review and approval by the Director prior to the issuance of any building permits for the generator.
4. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII of the Unified Zoning Code, may with the concurrence of the Planning Director declare the Conditional Use null and void.

The action of the MAPC is final as there were not any protest petitions or appeals filed.

METROPOLITAN AREA PLANNING COMMISSION


Harold Warner, Jr., Chair MAPC

ATTEST:


John L. Schlegel, Secretary

CONDITIONAL USE RESOLUTION NO. CON 2006-00016

WHEREAS, AT&T Services Inc. / Leo Dela Pasion (applicant); Schwerdt Design Group, c/o Amy Cassell, (agent); pursuant to Section V-D of the Wichita-Sedgwick County Unified Zoning Code (herein referred to as Unified Zoning Code), request a Conditional Use for "Utility, Major" on 0.59 acres zoned "SF-5" Single-family Residential described as:

Lot 1 except the west 10 feet, Jesse E Edwards Addition, Sedgwick County, Kansas.
Generally located at 3920 North Arkansas.

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 May 4, 2006, 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 application be approved to allow a "Utility, Major" on 0.59 acres zoned "SF-5" Single-family Residential described as:

Lot 1 except the west 10 feet, Jesse E Edwards Addition, Sedgwick County, Kansas.
Generally located at 3920 North Arkansas.

Approved subject to the following conditions:

1. The generator shall be installed in substantial compliance with the approved site plan.
2. Prior to starting or using the generator, screening fencing 6-8 feet in height shall be installed along the north, east and south property lines, as depicted on the site plan.
3. Landscaping complying to the extent possible with Landscape Ordinance requirements shall be installed within one-year of approval of this Conditional Use. A landscape plan shall be submitted for review and approval by the Director prior to the issuance of any building permits for the generator.
4. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII of the Unified Zoning Code, may with the concurrence of the Planning Director declare the Conditional Use null and void.

Adopted this 4TH DAY of MAY, 2006. 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.

applicant, the existing generator cannot be repaired do to a lack of parts availability. It is presumed that phone service will be impaired if a generator is not available for emergencies. If approved, neighbors would experience increase noise while the generator is in use. The increased noise will be temporary as the generator is to be used only in emergency and maintenance situations.

5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: Utility location guidelines contained in the Comprehensive Plan state that such uses with significant noise, odor and other nuisance elements should be located away from residential areas.
6. Impact of the proposed development on community facilities: Phone service may be hampered if the request is not approved.

STAFF REPORT

DAB VI 5-1-06

MAPC 5-4-06

FILE COPY

CASE NUMBER: CON 2006-16

APPLICANT/AGENT: AT&T Services, Inc. (Leo Dela Pasion) / Schwerdt Design Group (Mike Hampton)

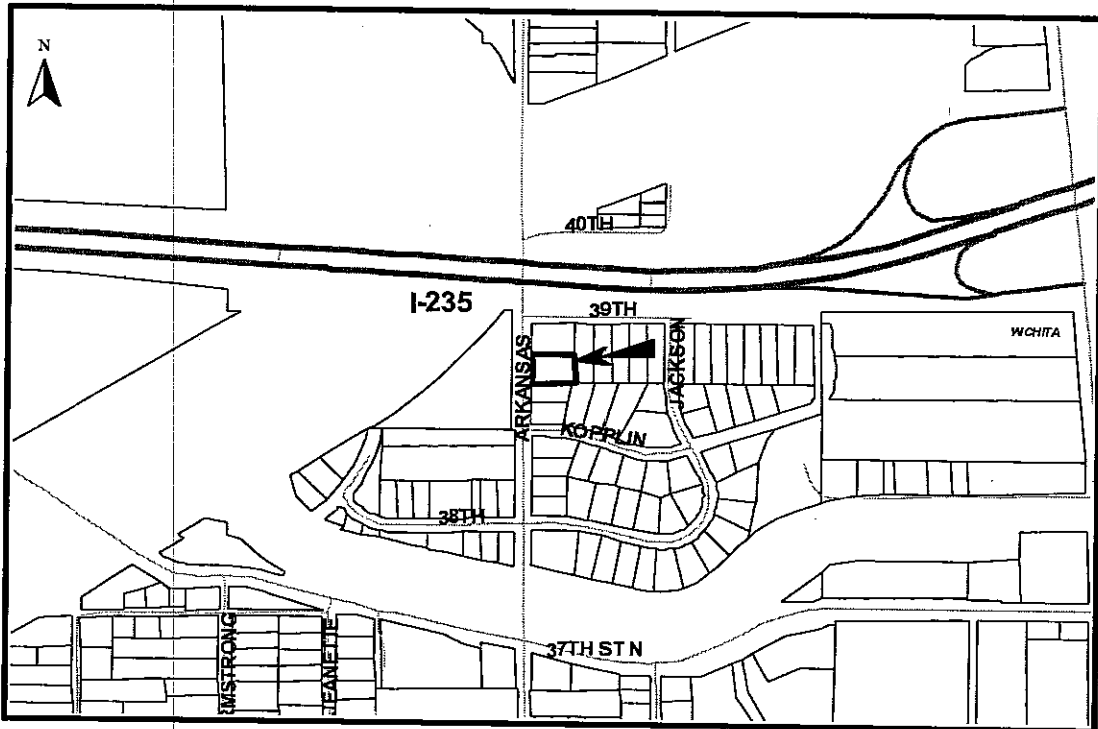
REQUEST: Conditional Use to permit the installation of an emergency generator at an existing major utility (telecommunication substation)

CURRENT ZONING: SF-5 Single-family Residential

SITE SIZE: .59 acre

LOCATION: 3920 North Arkansas Avenue

PROPOSED USE: Emergency power supply for a telecommunications substation



BACKGROUND: The site is used as a telecommunications facility, and is located south of 39th Street North and east of Arkansas Avenue. The applicant is seeking a "conditional use" for a "utility, major" to allow the installation of an auxiliary generator to provide power to the telecommunications facility in emergency situations. The site is .59 acre in size, and developed with a commercial building, which houses telecommunications equipment. The accompanying site plan depicts the proposed location for the generator as being located behind the existing building, near the southwest corner.

The engine is a 300KW generator that is to be used in situations where power is lost at the facility. The engine will be run 1-2 hours each month, and once per year for five hours. The engine has insulating material to attenuate noise. Ambient noise readings were taken, and the results of those readings are attached. Background noise is impacted by I-235 traffic, as the highway is located just to the north of the site. The applicant indicates that there are significant architectural limitations with the existing building that preclude the installation of the proposed generator inside. Also, fuel storage requirements for the generator limit installation of the generator inside the existing building.

All land surrounding the site is zoned SF-5 Single-family Residential, and developed with homes or other telecommunications uses. To the south of the site, on the adjoining lot, sits an accessory structure that provides some solid screening between the residence and the proposed generator. To the east is a residential lot. To the north is another residence with an accessory structure that provides some solid screening. Land to the west of the application area, across Arkansas Avenue, is owned by the applicant, and used for telecommunications activities. The applicant has indicated they will install a wooden fence to screen the site from the north, east and south, and install landscaping where they can. Much of the northern and eastern yards are paved with a drive and parking, leaving little room for landscaping.

CASE HISTORY: DR 75-7 approved by MAPC on April 10, 1975, permitted the expansion of the use. D-636 provided dedication of 10 feet of right-of-way. The site is platted as part of Jesse E. Edwards Addition, which was recorded in 1951.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5 Single-family Residential; residential
SOUTH: SF-5 Single-family Residential; residential
EAST: SF-5 Single-family Residential; residential
WEST: SF-5 Single-family Residential; Arkansas Avenue, telecommunications facility

PUBLIC SERVICES: The request does not require municipally supplied services. Sanitary sewer is not available. Water service is available.

CONFORMANCE TO PLANS/POLICIES: Utility location guidelines contained in the Comprehensive Plan state that such uses with significant noise, odor and other nuisance elements should be located away from residential areas.

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

1. The generator shall be installed in substantial compliance with the approved site plan.
2. Prior to starting or using the generator, screening fencing 6-8 feet in height shall be installed along the north, east and south property lines, as depicted on the site plan.
3. Landscaping complying to the extent possible with Landscape Ordinance requirements shall be installed within one-year of approval of this Conditional Use. A landscape plan shall be submitted for review and approval by the Director prior to the issuance of any building permits for the generator.
4. If the Zoning Administrator finds there is a violation of any of the conditions of approval, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII of the Unified Zoning Code, may with the concurrence of the Planning Director declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All land surrounding the site is zoned SF-5 Single-family Residential, and developed with homes or other telecommunications uses. To the south of the site, on the adjoining lot, sits an accessory structure that provides some screening between the residence and the proposed generator. To the east is a residential back yard. To the north is another accessory structure that provides some screening. Land to the west of the application area, across Arkansas Avenue, is owned by the applicant and used for telecommunications activities. Except for the telecommunications uses, this is a residential area.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be used as currently zoned, however communications facilitated by this use as currently zoned would be hampered.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Noise will increase when the generator is in use.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: As indicated by the