



Wichita-Sedgwick County Metropolitan Area Planning Department

February 6, 2007

Edward and Barbara Laverentz
2120 S. 343rd Street West
Cheney, KS 67025

RE: CON2005-44 – Administrative Adjustment to waive the platting requirement for CON2005-44 - Sedgwick County Conditional Use for Wireless Communication Facility in RR Rural Residential zoning generally located north of 23 Street and 343 Street West . (District V)

General Legal Description: A 100 by 100-foot lease area together with a 20 foot wide access and utility easement situated in the SW Quarter of Section 35, Township 27 South, Range 4 West, Sedgwick County, Kansas.

Dear Applicants:

One of the conditions of approval for CON2005-44 was that the site was to be platted. The size of the lease area is 100 by 100 feet, which contains 10,000 square feet, is well below the minimum two-acre lot size required by the site's RR Rural Residential zoning. Given the fact that the site is too small per the zoning regulation's minimum lot size, and the lease area is located approximately 175 feet away from street right-of-way there is little value in requiring the site to be platted.

Sec. V-D.14. of the Unified Zoning Code allows the Planning Director, with the concurrence of the Zoning Administrator, to approve minor adjustments to the conditions of a Conditional Use as long as the adjustment does not have any of the negative impacts stated in Sec. V-I.6. We find that permitting a site plan adjustment as proposed meets the four conditions required by Section V-1.6 of the Unified Zoning Code as set out below:

- 1) Impact on safety and convenience of vehicular and pedestrian circulation: The waiver of the platting requirement will not change the site plan, and will not have any impact on the safety and convenience of vehicular and pedestrian circulation.
- 2) Impact on existing uses in surrounding areas: Waiving the platting requirement will not have any impact on existing uses in surrounding areas.
- 3) Compatibility with existing or permitted uses on abutting sites: Waiver of the platting requirement


should have no impact on existing or permitted uses on abutting sites.

- 4) Effect on public health, safety or welfare: There will be no encroachment into public utility easements or right-of-way; therefore, there should not be a negative impact on the public health, safety or welfare nor will properties or improvements in the vicinity be materially injured. The proposed structure requires building and health permits, ensuring existing codes to protect public health, safety and welfare will be followed.

Our signatures below indicate that an Administrative Adjustment to CON2005-44 is hereby granted to waive the platting requirement.



John L. Schlegel
Planning Director



Glen Wiltse
County Zoning Administrator

cc: Glen Wiltse, Sedgwick County Code Enforcement

RESOLUTION N.O. 208-05

A RESOLUTION APPROVING A CONDITIONAL USE TO ALLOW A WIRELESS COMMUNICATIONS FACILITY ON .2295 ACRES, LOCATED NORTHEAST OF THE CORNER OF SOUTH 343RD STREET WEST AND WEST OF 23RD STREET SOUTH 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 BOARD OF COUNTY COMMISSIONERS
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. CON2005-00044

A Conditional Use to allow a wireless communication facility on property legally described as:

A 100' x 100' tract described as commencing at the Southwest Corner of the Southwest Quarter of Section 35, Township 27 South, Range 4 West, Sedgwick County, Kansas; said point bears S 03degrees 05'07" W of the Northwest Corner of said Southwest Quarter; thence N 66 degrees 25'19" E, a distance of 510.46' to the point of beginning of said 100' x 100' tract; thence N 00 degrees 00'00" E, a distance of 100.00 feet; thence S 90 degrees 00'00" E, a distance of 100.00 feet; thence S 00 degrees 00'00" W, a distance of 100.00 feet; thence N 90 degrees 00'00" W, a distance of 100.00 feet to the point of beginning. (Generally located at the northeast corner of South 343rd Street West and west of 23rd Street South.)

SUBJECT TO THE FOLLOWING CONDITIONS:

- A. All requirements of Section 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 maximum of 200 feet in height and shall not be lighted unless required by the FAA.
- D. The applicant shall obtain FAA approval regarding "objects affecting navigable airspace" and "impacts to terminal instrument procedures" for the proposed wireless communication facility and shall comply with all conditions of FAA approval. The applicant shall submit a copy of FAA approval to the MAPD, County Code Enforcement, and Director of Airports prior to the issuance of a building permit.
- E. The site shall be developed in general conformance with the approved site plans and elevation drawings. All improvements shall be completed before the facility becomes operational.
- F. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- G. The site shall be developed within one year of final approval by either the MAPC or the governing body.
- 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.

SECTION II. That upon the taking effect of this Resolution, the notation of such zone change 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 by the Governing Body.

Commissioners present and voting were:

| | |
|-------------------|------------|
| DAVID M. UNRUH | <u>Aye</u> |
| TIM R. NORTON | <u>Aye</u> |
| THOMAS G. WINTERS | <u>Aye</u> |
| LUCY BURTNETT | <u>Aye</u> |
| BEN SCIORTINO | <u>Aye</u> |

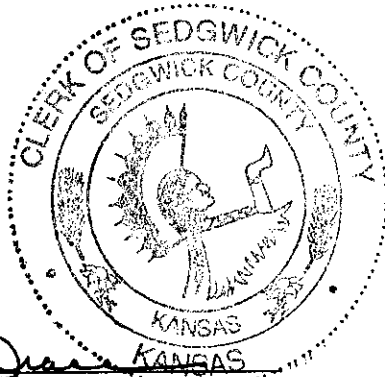
DATED this 23 day of November, 2005.

BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

David M. Unruh
DAVID M. UNRUH, CHAIRMAN
First District

ATTEST:

Don Brace
DON BRACE, County Clerk



APPROVED AS TO FORM:

Robert W. Parnacott
ROBERT W. PARNACOTT,
Assistant County Counselor

AGENDA ITEM REQUEST

Proposed Agenda Item: CON2005-00044 - Sedgwick County Conditional Use to allow a wireless communication facility on property zoned "RR" Rural Residential. Generally located at the northeast corner of South 343rd Street West and west of 23rd Street South. (District III)

Presented By: John L. Schlegel, Planning Director *JLS*

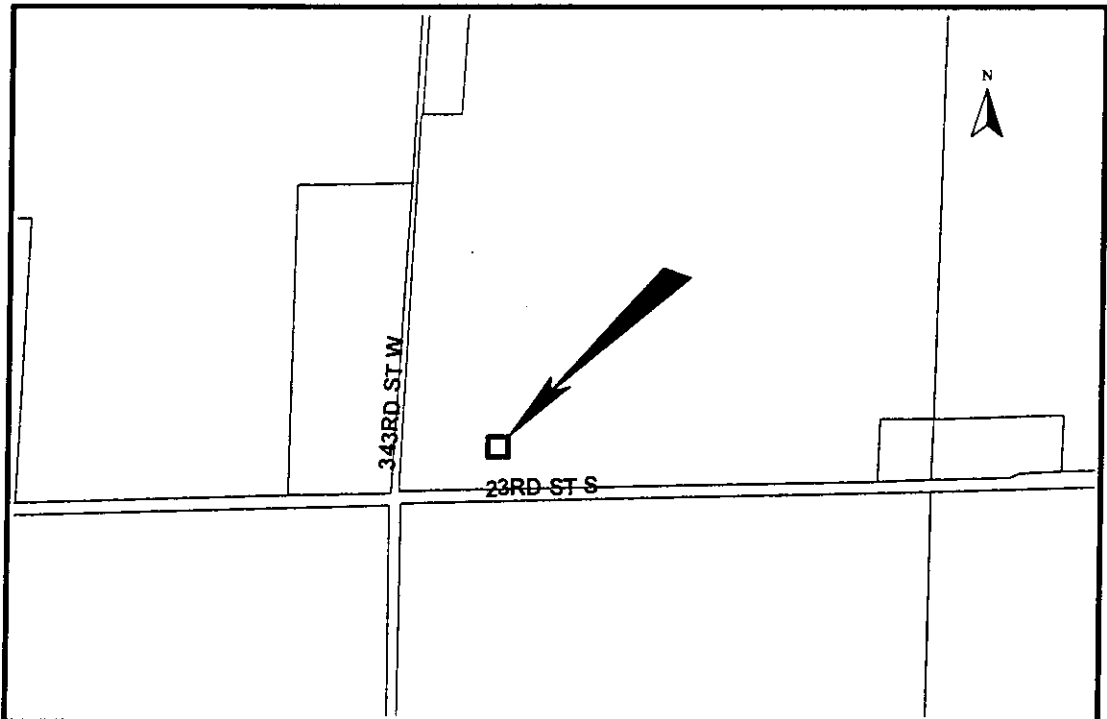
Recommended Action: Approve, subject to recommended conditions.

Proposed Agenda Date: November 23, 2005

Outside Attendees: Edward or Barbara Laverentz (applicant), Robert M. Herlihy (agent for the applicant), Dave Yearout (agent for the protester)

Multimedia Presentation: Powerpoint

Donations: Not applicable



Background: The applicants are seeking approval of a Conditional Use permit to allow a “wireless communication facility” on 0.2295 acre of unplatted land (100 feet by 100 feet) located at the northeast corner of 343rd Street West and 23rd Street South. One of the applicants owns a total of 158 acres surrounding the application area. The proposed wireless facility would be a 200-foot tall monopole and be able to accommodate four carriers. The site is to be enclosed by a six-foot tall fence. The only traffic generated by the site is a monthly visit by a technician. The tower is needed to enhance Verizon’s service along Highway 54, west of Wichita, and in the cities of Garden Plain and Cheney. The application area is located one and half miles south of Highway 54 and approximately midway between the cities of Cheney and Goddard. The site plan indicates that the tower will be set back over 200 feet from the nearest property lines.

The application indicates that the closest existing communication tower is located 2.95 miles to the northwest of the proposed site at the southwest corner of 383rd Street West and Highway 54. That tower is located on property owned by the Sedgwick County Electric Cooperative, and is permitted by CON2003-18. A 300-foot high-guyed lattice tower has been constructed at this location

Analysis: The Cheney Planning Commission heard this request on October 3, 2005. No one spoke in opposition to the proposal. The Cheney Planning Commission unanimously recommended approval. The Metropolitan Area Planning Commission (MAPC) considered this application on October 20, 2005, and it was unanimously approved without anyone speaking in opposition.

Following the MAPC meeting, The Sedgwick County Electric Cooperative Association, Inc. and Wichita Towers, LLC filed letters of appeal objecting to this application (attached). The Electric Cooperative owns land at the southwest corner of Highway 54 and 383rd Street West that is located approximately 2.95 miles to the northwest of the application area, and they lease a portion of that land to Wichita Towers, which has built a 300-foot tall wireless support structure on that site. It is Wichita Towers’ contention that this application should be denied as they have space on their existing tower for additional wireless facilities, and their existing tower location can meet the applicant’s coverage needs and a new support structure is not necessary in this general area. Wichita Towers’ further indicates they were not contacted by the applicant regarding possible co-location on Wichita Towers’ existing structure. Wichita Towers, LLC is a company whose business is constructing, leasing and maintaining towers that serve the communications industry and has a number of towers in the region.


The applicant is required by the Unified Zoning Code to submit evidence that there are not any existing structures in the area capable of meeting their service needs. In this case, the applicant has submitted propagation studies that a) show their coverage as it is now; b) what their coverage would be if they co-locate on the Cooperative’s site and c) what their coverage would be with the proposed new tower. Staff is not in a position to determine the accuracy of these studies, but the exhibits indicate that the proposed new tower location would provide superior coverage to the applicant’s target area of the cities of Cheney and Goddard and the intervening roadway segments.

Alternatives:

- 1) Approve the Conditional Use, subject to the recommended conditions; adopt the findings of the Metropolitan Area Planning Commission; authorize the Chairman to sign the prepared resolution.
- 2) Return such recommendation to the MAPC with a statement specifying the basis for the BOCC's failure to approve or disapprove.
- 3) Deny the zone change and override the MAPC recommendation with a 2/3 vote.

Financial Considerations: Not applicable.

Policy Considerations: The MAPC recommendations are based upon the findings of fact stated in the MAPC minutes.

Legal Considerations:  ^{amp} *Approved as to form and signed by County Counselor's Office*

ST. PAUL (LAVARENTS)
 PART OF THE SW 1/4, SEC. 35, T. 27 S., R. 4 W
 IN SEDGWICK COUNTY, KANSAS

Main: Kansas State Plane Coordinate
 South Zone Convergence
 1 Meter = 3.28083333 Feet
 Project GRS Factor = 0.99999243

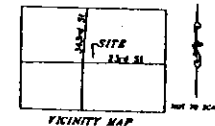
Project Coordinates:
 CP-1 (Set 1/2" Rebar)
 N 1679223.765
 E 1234083.480
 ELEV. = 1408.8771

CP-4 (Set 1/2" Rebar)
 N 1816084.000
 E 1234566.190
 ELEV. = 1420.1118

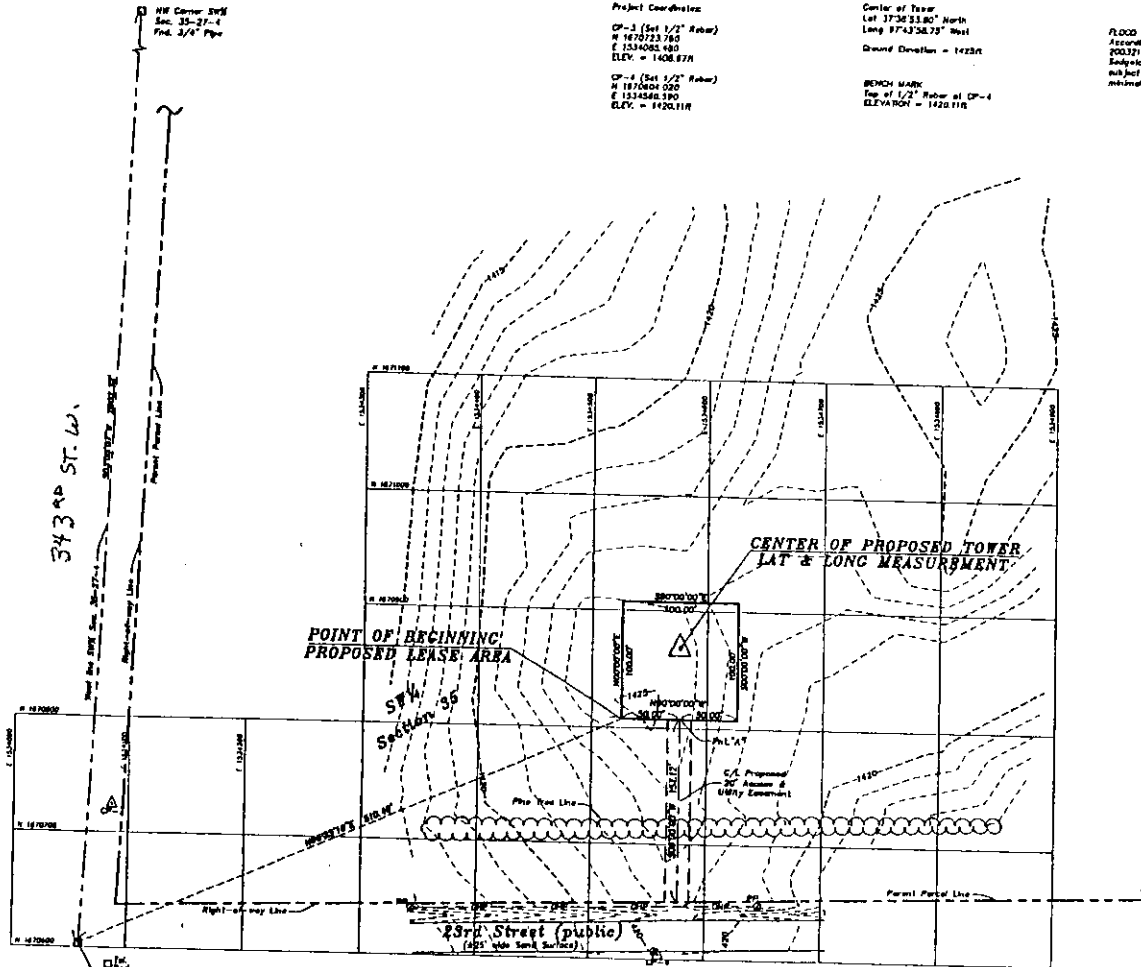
PROPOSED CELL TOWER DATA
 O.M. Coordinates
 N 309221.923m
 E 417634.748m

Center of Tower
 Lat 37°36'53.80" North
 Long 97°43'58.73" West
 Ground Elevation = 1423ft

BENCH MARK
 Top of 1/2" Rebar at CP-4
 ELEVATION = 1420.1118



FLOOD NOTE:
 According to my interpretation of Community Panel No. 200321 0125, A of the Flood Insurance Rate Map for Sedgwick County, Kansas, dated June 3, 1986, the subject property is in Flood Zone "C", a "zone of minimal flooding." (Area outside 100 & 500 year flood)



PROPERTY DESCRIPTION: Parcel Parcel as Provided

The Southwest Quarter of Section 35, Township 27 South, Range 4 West of the 6th P.M., Sedgwick County, Kansas; EXCEPT a tract beginning at the Southwest corner of said Southwest Quarter; thence West 16 rods; thence North 20 rods; thence East 16 rods; thence South 20 rods to the place of beginning; AND EXCEPT a tract beginning at a point 20 feet South and 25 feet East of the Northwest corner of said Southwest Quarter; thence East parallel to the West Section Line for a distance of 199.36 feet; thence South parallel to the West Line of said Section for a distance of 874 feet; thence West 199.36 feet; thence North 874 feet to the Point of Beginning.

NOTE: The parcel parcel graphically shown herein, in all or in part, is the same as that described above.

Property information shown herein was provided by Security Title, an agent for First American Title Insurance Company of Kansas, Commitment No. 472346, effective August 3, 2006 at 7:30 a.m.

Schedule B information affecting Parcel Parcel is noted unless shown herein.

Schedule B information not shown herein: NONE

Notes:
 Bearings shown herein are based on Kansas State Plane Coordinate System of 1983 (NAD 83). Coordinates were derived using GPS Static Survey methods and post processed data with Hiperlog/Trimble receivers and Truview System processor software.

Set 1/2" Iron bar of Loose corners unless otherwise noted.

The purpose of this survey is to establish and describe a Lease Parcel and associated easements. This is not a boundary survey of the Parcel Parcel.

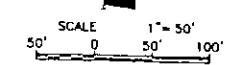
The utilities as shown on this drawing were developed from the information available (existing utility maps, underground observations and/or surface markings placed on the ground by the utility company or a representative thereof). This company has made no attempt to locate or to delineate surface or complete inventory of utilities in this area. It shall be the contractor's responsibility to verify the location and depth of all utilities (whether shown or not) prior to excavation or construction and to protect said utilities from damage.

LEGEND

| | |
|---------------------|---|
| POWER POLE | ⊞ |
| TELEPHONE PEDESTAL | ⊞ |
| BENCHMARK | ⊞ |
| CONTROL POINT | ⊞ |
| SECTION CORNER | ⊞ |
| POWER POINT | ⊞ |
| TREE LINE | ⊞ |
| OVERHEAD POWER LINE | ⊞ |

CERTIFICATION:
 I HEREBY CERTIFY THAT A SURVEY WAS MADE BY ME, OR UNDER MY DIRECT SUPERVISION, ON THE GROUND OF THE LEASE AREA, LEASE ACCESS EASEMENT, AND LEASE UTILITY EASEMENT PREMISES HEREIN DESCRIBED, AND THE RESULTS OF SAID SURVEY ARE REPRESENTED HEREON. THIS SURVEY WAS EXECUTED IN ACCORDANCE WITH THE CURRENT MINIMUM STANDARDS FOR PROPERTY BOUNDARY SURVEYS OVER SAID LEASE PREMISES TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF.

JOYREY B. LOVELACE JS-13729
 DATE: _____



KANSAS ONE-CALL SYSTEMS, INC.

CALL BEFORE YOU
 DIG - DRILL - BLAST
 800-344-7233
 (DIG-SAFE)
 (316) 687-3753
 (FAX)

KANSAS' ONE CALL SYSTEM, INC.

PROPERTY DESCRIPTION: Proposed Lease Area, Access & Utility Easement

A 100 feet by 100 feet Lease Area, together with a 20 foot wide Access & Utility Easement, situated in the Southwest Quarter of Section 35, Township 27 South, Range 4 West, Sedgwick County, Kansas, more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of said Section 35 (Found 1" Iron Pipe), said point bears South 01°00'00" West of the Northwest corner of said Southwest Quarter (Found 3/4" Iron Pipe), thence North 88°25'00" East, a distance of 516.66 feet to the POINT OF BEGINNING of said 100 feet by 100 feet Lease Area, thence North 00°00'00" East, a distance of 100.00 feet; thence South 90°00'00" East, a distance of 100.00 feet; thence South 00°00'00" West, a distance of 100.00 feet; thence North 90°00'00" West, a distance of 30.00 feet to a point hereafter referred to as Point "A", thence continuing North 90°00'00" West, a distance of 50.00 feet to the POINT OF BEGINNING. Containing 10,000 square feet, more or less.

Together with a 20 foot wide Access & Utility Easement, 10.00 feet on each side of the abutting abutted centerline.

BEGINNING at abutment Point "A", thence South 00°00'00" West, a distance of 152.12 feet to the Northern right of way line of 23rd Street, as it presently exists. Containing 2,142 square feet, more or less.

SELECTIVE SITE CONSULTANTS, INC.

11-14-08-1700
 95248-3777

800 W. 110th St., Suite 300
 Overland Park, Kansas 66210

LOVELACE & ASSOCIATES, LLC
 LAND SURVEYING & PLANNING SERVICES

P.O. Box 64765
 Overland Park, MO 66264-0675

LOVELACE & ASSOCIATES, LLC
 LAND SURVEYING & PLANNING SERVICES

SURVEY PROVIDED FOR:
 SELECTIVE SITE CONSULTANTS
 8000 W. 110th St.
 Suite 300
 Overland Park, KS 66210
 Tel: (913) 438-3700

SURVEY PROVIDED BY:
 LOVELACE & ASSOC., LLC
 P.O. Box 64
 Lee's Summit, MO 64084
 Tel: (816) 347-6987

SITE ID: W-05-03
 SITE NAME & LOCATION
 St. Paul (Lavarents)
 Cheney
 Sedgwick County, Kansas

SITE SURVEY
 L & A PROJECT NO. 03114
 DRAWN BY: J.B.L.
 CHECKED BY: J.B.L.
 DATE: 03-10-05
 FIELDWORK DATE: 02-09-05
 SHEET NUMBER
 1 OF 1

03/10/05 - ADDED REVISED TITLE INFORMATION
 07/07/05 - REVISED PER ATTORNEY COMMENTS
 08/26/05 - ADDED LEASE AREA INFORMATION
 02/26/06 - ADDED TITLE & PROPERTY