

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**March 20, 2014**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, March 20, 2014 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Don Klausmeyer; Chair; Matt Goolsby; Vice Chair; David Dennis; David Foster; John McKay, Jr.; M.S. Mitchell; Bill Ramsey; George Sherman; Debra Miller Stevens and Chuck Warren. Bill Johnson; Joe Johnson; Carol Neugent and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary.

1. There were no minutes for approval.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2014-00010: One-Step Final Plat - 21st and Amidon Addition**, located on the southeast corner of 21st Street North and Amidon.

NOTE: This is an unplatted site located within the City of Wichita.

STAFF COMMENTS:

- A. City of Wichita Public Works and Utilities Department advises that the site is currently being served by water and sewer.
- B. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- C. City Stormwater Management has approved the applicant's drainage plan.
- D. Traffic Engineering has approved the access controls. The plat proposes one access opening along both Amidon and 21<sup>st</sup> Street North.
- E. The plat's text shall reference "a lot and block".
- F. County Surveying advises the permanent easement Doc./Flm.-Pg. 29425286 shown at the northwest corner of the plat needs shown as road right-of-way.
- G. Traffic Engineering has requested a restrictive covenant that permits cross-lot access with the abutting property owners to the east and south.
- H. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.

- I. Traffic Engineering has approved the major street right-of-way which has been denoted on the plat as a contingent right-of-way. The plat's text shall state: "The contingent right-of-way dedication shown hereon shall become effective at the time the city programs a capital improvement project and the construction of such capital improvement requires the use of said right of way. The property owner shall have the beneficial use of the right of way until such time as it is dedicated."
- J. The correct plat name needs to be denoted in the surveyor's certificate.
- K. The spelling of "private sewer easement" needs to be corrected.
- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- O. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Westar Energy has been contacted by the applicant regarding existing lines that the applicant proposes to be moved or vacated due to this plat. Marsha Jesse, Construction Services Representative (261-6734) for the northwest area is working to resolve this issue. Additional easements may need to be requested at a later date.

T. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**MOTION:** To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

**GOOLSBY** moved, **MITCHELL** seconded the motion, and it carried (10-0).

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2-2. **LSP2014-00002: Lot Split - PROVIDENCE SQUARE ADDITION**, located on the north side of 13th Street North, west of Oliver - Modification of Lot Width-to-Depth Ratio.

This proposed lot split is for property zoned LC Limited Commercial. It encompasses the reconfiguration of two lots and a reserve into two lots denoted as Tracts 1 and 2.

The maximum lot width-to-depth ratio of 3 to 1 for commercial lots is exceeded by Tract 2 and a modification needs to be approved by MAPC.

MAPC may approve a modification of the design criteria in Article 7 of the Subdivision Regulations only if it finds that the strict application of the design criteria will create an unwarranted hardship, the proposed modification is in harmony with the intended purpose of the Subdivision Regulations and the public safety and welfare will be protected.

**MOTION:** To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

**GOOLSBY** moved, **MITCHELL** seconded the motion, and it carried (10-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

There were no Vacation Items.

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**PUBLIC HEARINGS**

4. **Case No.: CON2014-00003 (Deferred from 3-6-2014)** - John Murray, Greg Mies (applicants) request a County Conditional Use request for a rock crusher in SF-20 Single-family Residential zoning on property described as:

A tract in the Northeast Quarter of Section 20, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, described as beginning at the Northwest corner thereof; thence North 90 degrees 00' East along the North line of said Northeast Quarter 1138.53 feet more or less to a point 1528.71 feet West of the Northeast corner of said Northeast Quarter; thence South parallel with the East line of said Northeast Quarter 208.71 feet; thence East parallel with the North line of said Northeast Quarter 208.71 feet; thence South parallel with the

East line of said Northeast Quarter 2459.25 feet to a point on the South line of said Northeast Quarter; thence West 1329.05 feet to the Southwest corner of said Northeast Quarter; thence North 2671.38 feet to the point of beginning.

Following the March 6, 2014 MAPC hearing on this request, planning staff consulted County Environmental Resources with concerns raised at the MAPC hearing. Environmental Resources staff states that crushed concrete is inert and poses no risk to groundwater. However, to avoid crushed concrete from entering a stream on the site, Environmental Resources recommends a site drainage plan. And, Environmental Resources recommends KDHE review to determine if an air quality permit is required. With these recommendations, planning staff recommends approval of the request with the following amended conditions:

- A. The site shall be developed and operated in conformance with the approved site plan and all applicable codes to include but not limited to zoning, building, fire and environmental regulations. All rock crushing operations and material storage shall take place within the designated site plan area.
- B. The applicant shall submit a drainage plan for approval by the County Engineer; the site plan shall ensure that crushed materials on the site will not enter the stream on the application area. Operations shall not take place until a drainage plan is approved.
- C. The applicant shall request KDHE review to determine if an air quality permit is required. If an air quality permit is required, operations shall not take place until an air quality permit is approved.
- D. Prior to rock crushing operations, the applicant shall submit to the FAA a Form FAA 7460-1 *Notice of Proposed Construction or Alteration*, and then receive from the FAA a *Determination of No Hazard to Air Navigation* demonstrating no adverse impact, no safety hazards, and no risk to air navigation approaches.
- E. Rock crushing operations on the site shall not create dust which travels on to surrounding properties.
- F. All vehicular drives on the site, work and parking areas shall be surfaced with an all-weather material, which may include crushed rock, to minimize dust on the site.
- G. All conditions shall be met and operations begun within one year of final approval or the Conditional Use shall be null and void. Time extensions may be approved with an administrative adjustment to the Conditional Use.
- H. The rock crushing operation shall cease and all equipment and material shall be removed from the site two years after final approval. This time limit may be extended with an Amendment to the Conditional Use.
- I. If the Zoning Administrator finds that there is a violation of any of the provisions or 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 the Conditional Use null and void.

**DALE MILLER**, Planning Staff presented the Staff Report.

**GREG MIES, 22626 W. 37<sup>TH</sup> ST., NORTH, ANDALE, KANSAS, CONCRETE RECYCLING PLUS, APPLICANT** said there will be no mining or aggregate production at the site. They will just be storing and recycling concrete that they bring in from other jobs they are doing. He said there will be a concrete crusher at the site about two weeks out of the year. He said they are licensed by the Kansas Department of Health and Environment (KDHE) and mentioned compliance with periodic air control

checks. He said he had records with him if the Commission would like to review them. He said since his partner owns the land this is an ideal place to start storing material and using it.

**KLAUSMEYER** asked if the applicant was in agreement with staff recommendations.

**MIES** said they are agreement with staff recommendations with the exception of getting a survey plan for drainage. He said they don't understand why they have to do that because they are not draining hazardous materials just concrete that is used for sub grade for buildings and roads.

**MOTION:** To approve subject to staff's amended recommendation.

**DENNIS** moved, **MCKAY** seconded the motion, and it carried (9-0-1). **G. SHERMAN** – Abstained.

**MCKAY** clarified that approval included the drainage plan.

5. **Case No.: ZON2014-00001** - Mark Heinz, John Theis (owners), Baughman Co. PA c/o Russ Ewy (agent) request a City zone change from SF-5 Single-family Residential to MF-18 Multi-family Residential on property described as:

That part of the Southeast Quarter of Section 13, Township 27 South, Range 2 West of the Sixth Principal Meridian, Sedgwick County, Kansas described as follows: Beginning at the southwest corner of said Southeast Quarter; thence N00°13'30"W, (assumed basis of bearings), along the west line of said Southeast Quarter, 263.83 feet; thence N89°46'39"E, 213.59 feet; thence N14°07'21"E, 124.74 feet to a point on a curve to the right; thence southeasterly along said curve, through a central angle of 36°52'24" and having a radius of 19.00 feet, an arc distance of 12.23 feet, (having a chord length of 12.02 feet bearing S57°48'58"E), to a point of reverse curvature; thence southeasterly along a tangent curve to the left, through a central angle of 37°27'45" and having a radius of 116.00 feet, an arc distance of 75.85 feet, (having a chord length of 74.50 feet bearing S58°06'38"E); thence S01°29'29"E, 23.77 feet to the point of curvature of a tangent curve to the right; thence southerly along said curve, having a central angle of 23°05'59" and a radius of 55.00 feet, an arc distance of 22.17 feet, (having a chord length of 22.02 feet bearing S10°03'30"W), to a point of reverse curvature; thence southerly along a tangent curve to the left, having a central angle of 21°15'56" and a radius of 195.00 feet, an arc distance of 72.38 feet, (having a chord length of 71.96 feet bearing S10°58'32"W), to the point of tangency of said curve; thence S00°20'34"W, 215.99 feet to a point on the south line of said Southeast Quarter; thence S88°30'17"W along the south line of said Southeast Quarter, 298.30 feet to the point of beginning, subject to road rights-of-way of record.

**BACKGROUND:** The applicant requests MF-18 Multi-family Residential (MF-18) zoning on vacant, un-platted property within a larger single-family residential development, see the attached preliminary plat document. The 1.98-acre site is currently zoned SF-5 Single-Family Residential (SF-5). The Unified Zoning Code (UZC) permits up to 18 multi-family dwelling units per acre in MF-18 zoning, the application area could in theory accommodate 35 dwelling units. However, UZC required setbacks, compatibility setbacks from SF-5 zoning, parking and landscaping will limit the total number of units on the site. The UZC requires a 25-foot compatibility setback from SF-5 zoning, it limits building height to

35 feet within 50 feet of SF-5 zoning, it limits maximum height to 45 feet, and it requires 1.25 parking spaces per efficiency or one bedroom dwelling and 1.75 spaces per two bedroom or larger dwelling.

Property to the north, south and east is zoned SF-5 and is developed with or planned for single-family residences. Three single-family residential properties located immediately east of the site range in size from .75 to 10 acres. Property west of the site is zoned SF-20 Single-family Residential and used for agriculture and a farmstead. The application area will be developed within a larger single-family development, and will be accessed from Thorton Street within the development. The preliminary plat for this site indicates that the southwest corner of the site could have right-in right-out access to Central.

**CASE HISTORY:** The site is vacant and un-platted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-20	Agriculture, farmstead

**PUBLIC SERVICES:** Central is a paved arterial. Central is currently under construction at this location to become a four-lane street with central medians and turn lanes. Once platted, Central will have a 60-foot half-width right of way at this location. All other public utilities are available.

**CONFORMANCE TO PLANS/POLICIES:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED** subject to platting within one year.

This recommendation is based on the following findings:

- 1) **The zoning, uses and character of the neighborhood:** Property to the north, south and east is zoned SF-5 and is developed with or planned for single-family residences. Three single-family residential properties immediately east of the site range in size from .75 to 10 acres. Property west of the site is zoned SF-20 Single-family Residential and used for agriculture and a farmstead. The application area will be developed within a larger single-family development, and will be accessed from Thorton Street within the development.
- 2) **The suitability of the subject property for the uses to which it has been restricted:** The site is currently zoned SF-5 and could be developed with single-family residences, similar to most surrounding properties.
- 3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Impact on surrounding property due to the requested zone change should be minimal. Increased density due to the zone change on this site could increase traffic in the immediate

area. The agent indicates that primary access from the site to Central will be via Firefly Street, through the larger development.

- 4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The *2030 Wichita Functional Land Use Guide* of the Comprehensive Plan identifies the site as “urban residential.” The urban residential category encompasses areas that reflect the full diversity of residential development densities and types, including multi-family units, typically found in large urban municipality. The UZC identifies MF-18 zoning as being generally compatible with the urban residential category.
- 5) **Impact of the proposed development on community facilities:** All services are in place, any increased demand on community facilities can be handled by existing and planned infrastructure.

**DALE MILLER**, Planning Staff presented the Staff Report.

**DENNIS** asked for clarification as to exactly what is being rezoned. He also asked about the right-in, right-out access onto Central Avenue. He said 99% of the cars exiting the subdivision will want to go east on Central Avenue.

**MILLER** clarified that the right-in, right-out access only applies to the MF-18 Multi-family Residential site.

**DENNIS** asked if traffic from the MF-18 site had access to Firefly Lane.

**RUSS EWY, BAUGHMAN COMPANY, PA, 315 ELLIS, AGENT FOR THE APPLICANT** said the right-in, right-out access applies to the 2-acre zone change site with the exception of the west 60 feet. He said the site is scheduled to be designed with tri-plexes, four-plexes and maybe some six-plexes and that there will be access through a private drive onto Firefly Lane. He said the access onto Central Avenue will be a secondary point of access. He mentioned median control on Central Avenue and that access will not be “full movement” in some areas.

**DENNIS** clarified that the site was 1.9 acres only. He also asked about the maximum number of units allowed on a site this size. He said he is concerned because there are no apartments in this area. He asked if the applicant would accept a requirement for single-story rather than multi-story development.

**EWY** said the site will be developed with single-story patio and town homes. He mentioned that since it is a 2-acre site they won’t know how many units will be developed until the design is complete. He said the number of residences will be per the Unified zoning Code (UZC) and that they never reach the maximum density allowed. He said they would be willing to add the building restriction.

**MCKAY** suggested a height restriction instead of restricting the building type.

**EWY** said a 25 foot height limit would be acceptable.

**FOSTER** said the preliminary plat had been heard by the Subdivision Committee. He asked if pedestrian access to the north would be addressed on the final plat.

EWY said he had no idea how the plat was progressing, but added that he would let Baughman staff know about Commissioner Foster's concerns regarding pedestrian access to the north of the site.

**MOTION:** To approve subject to staff recommendation with the inclusion of a 25-foot height restriction.

MITCHELL moved, MCKAY seconded the motion, and it carried (10-0).

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6. **Case No.:** CUP2014-00003 - 127 PAW LLC, c/o Gary Oborny (owner) AT&T Mobility/SSC, c/o Justin Anderson (applicant/agent) PEC, Brian Lindebak (applicant/agent) request a City Amendment to Parcel 10 of CUP Community Unit Plan DP-322 to permit a wireless communication facility on property described as:

A tract of land lying in a portion of Government Lots 1 and 2, Section 3, Township 28 South, Range 2 East, of the 6th Principal Meridian, Wichita, Sedgwick County, Kansas; said tract being more particularly described as follows:

BEGINNING at the northeast corner of said Northeast Quarter, thence along the east line of said Quarter on a Kansas coordinate system of 1983 south zone grid bearing of S00°16'43"E, 960.06 feet; thence parallel with and 960.00 feet south of the north line of said Quarter, S89°05'03"W, 675.04 feet; thence N45°11'06"W, 279.30 feet to a point lying 760.00 feet south of said north line; thence S89°05'03"W, 729.45 feet; thence N00°54'57"W, 760.00 feet to said north line; thence along said north line, N89°05'03"E, 1610.13 feet to the POINT OF BEGINNING, EXCEPT, for 30 foot street right-of-way of East 127th Street and 40 foot street right-of-way of East Pawnee Road.

**BACKGROUND:** The applicant, AT&T Mobility, is seeking an amendment to the permitted uses on the undeveloped LC Limited Commercial\* zoned Sierra Pointe Community Unit Plan (CUP) DP-322 to allow a wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower. The wireless facility will be located on a 100-foot (x) 100-foot lease site. The applicant proposes to create Parcel 12 out of the 100-foot (x) 100-foot lease site located on the southwest corner of Parcel 11. Parcel 12, the lease site, is located approximately 1,500 feet west of 127<sup>th</sup> Street East and 780 feet south of Pawnee Road. Per the amended Wireless Communication Facility Ordinance (adopted by the WCC 4-08-08 & the BoCC 4-9-08), new undisguised ground-mounted wireless communication facilities over 120 feet in height in the LC zoning district may be considered as a Conditional Use on a site by site analysis. The proposed amendment to DP-322 is the equivalent to a Conditional Use request.

The LC zoned site is located on an eastern edge of the City of Wichita. The surrounding area is zoned SF-5, SF-20 Single-Family Residential, LC, and NR Neighborhood Retail. The SF-5 zoned agricultural fields abutting the south and west sides of the site is the future home of USD 259's newest high school. The recently constructed USD 259 Christa McAuliffe Academy elementary school is located approximately a mile northeast of the high school site. SF-20 zoned subdivisions are located further west and northwest (across Pawnee) of the subject site. Partially developed (built 2006-2013) SF-5 zoned urban scale subdivisions are located north of the site, across Pawnee Road, as is a small TF-3 zoned duplex development (built 2011-2013) and a LC zoned agricultural field located on the northwest corner of 127<sup>th</sup> and Pawnee. Properties located further northeast of the site include another corner LC zoned agricultural field, SF-5 zoned agricultural land, a SF-5 zoned private golf course (with a NR

zoned golf shop) and a mostly undeveloped SF-5 zoned urban scale subdivision. SF-20 zoned agricultural fields are located east of the subject site across 127<sup>th</sup> Street East.

There are two wireless communication facilities' towers visible from the subject site. A wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower (CU-547, 12-16-1999) is located approximately a mile west of the subject site, off of Pawnee Road. A wireless communication facility with a 200-foot tall lattice tower (CU-352, 12-12-1984) is located approximately a mile southwest of the subject site, off of 31<sup>st</sup> Street South. The applicant's RF Engineer has stated that neither of these sites provides the desired coverage.

The applicant's RF Engineer has stated that the proposed facility is needed to provide the future 4th Generation Long Term Evolution (4G LTE) capacity needs of AT&T's customers. The 4G LTE technology is the fourth generation of [mobile communication](#) technology and is touted as an upgrade to the currently and still widely used 3G technology. Most tower sites will continue to support the 3G networks for many years. In the meantime the 4G LTE technology allows the users of the tower sites to migrate from simple voice communication to high-speed data for sending pictures and video from their more sophisticated smartphones. However as the network evolves from 3G to 4G LTE technology and beyond, more tower sites are required because 4G coverage areas tend to be geographically smaller. The move towards 4G LTE technology could lead to more contentious public forums in regards to Conditional Use applications for wireless communication facility with cell towers, as cell towers move into areas where residential development is dominate. The applicant has provided current coverage and projected coverage maps showing the impact of the site in providing 4G LTE service to the area.

The proposed tower and associated communication frequencies and wattages must meet standards determined by the Federal Aviation Administration (FAA) to insure it poses 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. 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 150-foot tower must allow co-location for at least three (3) other providers. The proposed tower is shown with an antenna array ("top hat") that protrudes from the top of the monopole.

As noted the proposed amendment to DP-322 will create the 100-foot (x) 100-foot Parcel 12 out of Parcel 11. The amendment will also establish the only permitted use of Parcel 12 as a wireless communication facility with a 150-foot tall, wireless, galvanized steel, monopole tower, and; add to Provision 9, that Parcel 12 shall have no building setbacks, and; add Provision 6.D., establishing the landscaping requirements for Parcel 12 to provide evergreens to be planted at the time of construction at the rate of one evergreen every 10 feet (center to center) around the perimeter of the site with the exception of a space for access onto the site, and; add provision 8.F addressing screening around Parcel 12, and; change a portion of provision 7.D. to allow light poles, including their base, to be 25-foot tall (rather 30-foot tall) and that in this 'instance a school is not considered a residential use.'

**CASE HISTORY:** CUP2010-00011 and ZON2010-00018, a zone change from SF-5 to LC, contingent on platting (SUB2010-00032), created CUP DP-322. Because SUB2010-00032 is being prepared for a future Wichita City Council meeting, the LC zoning district will be considered the base zoning\*. No

building permits shall be issued until SUB2010-00032 is approved by the City Council and subsequently recorded with the Sedgwick County Register of Deeds.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5, LC, TF-3, NR	Agricultural fields, partially developed single-family subdivisions, golf course, duplexes
SOUTH:	SF-5, SF-20	Agricultural fields
EAST:	SF-20	Agricultural fields
WEST:	SF-5 SF-20	Agricultural fields, single-family residences

**PUBLIC SERVICES:** No municipally supplied public services are required. The applicant will extend electrical service to the site. The site has a proposed access easement to Pawnee Road, a paved two-lane arterial road. The proposed wireless communication facility and its 150-foot tall tower will generate less traffic onto Pawnee than the area’s single-family residences or the anticipated High School and commercial development.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Wichita Functional Land Use Guide Map” identifies the site as being “urban residential.” The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The Unified Zoning Code (UZC) considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 150-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Wichita and Sedgwick County.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the 150-foot tall monopole tower does not meet the compatibility setback standards on its west and south sides, and as such the applicant is requesting a waiver of the compatibility setback standards. The impacted property is USD 259’s property. Prior to the submittal of CUP2014-00003 Planning Staff had e-mailed USD 259 inquiring if they had been approached by the applicant for co-location on this tower. Staff received no reply to these e-mails. There have been no inquires from USD 259 in regards to CUP2014-00003.

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. Two other communication towers are visible from the subject site. These two towers are located approximately a mile from the subject site, in areas with less dense county residential development. Visually the presence of the proposed of the monopole tower would not significantly alter the pre-existing character of the larger area;
- 2) Minimize the height, mass, or proportion. The height of the proposed monopole tower provides more coverage than a shorter monopole tower, it also provides more co-location opportunities than a shorter tower and in theory this could mean fewer towers in the area, which could mean less chance for encroachment into the SF-5 and SF-20 single-family residences and;
- 3) Minimize the silhouette. A lattice tower similar to those used by the City may reduce the silhouette. However, when an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. In addition, although flush mounted antennas work well in cluttered (urban or heavily treed) environments, the

signal doesn't travel as far as with the typical triangular antenna arrays. Therefore, use of flush mounted antennas may require additional wireless communication facilities to achieve the same coverage, and; 4) Use colors, textures, and materials that blend in with the existing environment. The proposed grey galvanized steel finish has been found to be the least intrusive color, and; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. Concealment as a clock tower, or church steeple or flag pole has not been discussed and; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting evergreens around the facility. There are trees on the site that could help obscure a tower. There are no buildings around the site that help obscure the tower. Because the area is still in the early stages of urban residential and commercial development, the proposed tower will be highly visible for the foreseeable future, and; 7) Be placed on walls or roofs of buildings. The opportunity is not present, and; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant evergreens around the facility. The proposed evergreens will be spaced 10 feet apart, center to center of each evergreen. This spacing will provide solid screening when the evergreens mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence, 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 site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Area C of the Airport Hazard Zone. Area C has a 150-foot maximum height restriction, which the proposed 150-foot tall tower does not exceed.

**RECOMMENDATION:** The request comes at a time when the area is still in the early stages of urban residential and commercial development, but has established county residential development, which could reduce the number of possible protests to the request. The area's residence will weigh the touted benefits of the proposed wireless communication facility and its 150-foot tall monopole tower with its 4G LTE technology against the site's visual impact. Based upon this factor and the information available prior to the public hearings, planning staff recommends that the request be APPROVED subject to the following conditions:

- A. This request must have the approval by the FAA in determining the proposed wireless communication facility with its 150-foot tall galvanized steel, monopole tower carrying AT&T's 4G LTE pose no hazard to air navigation or interferes 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.
- B. Waive the compatibility height standard, contingent upon no protest to the waiver by USD 259.
- C. No building permits shall be issued until SUB2010-00032 is approved by the City Council and subsequently recorded with the Sedgwick County Register of Deeds.
- D. All requirements of Art. III Sec. III.D.6.g. of the Unified Zoning Code shall be met.
- E. 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.
- F. The support structure shall be a monopole design, as shown on the elevation and 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.

- G. The support structure shall not exceed 150 feet in height and shall be designed and constructed to accommodate communication equipment for at least three (3) wireless service providers.
- H. The tower site shall be developed in general conformance with the approved revised site and a landscape plan. These plans must show the type and size of fencing around the site, 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 plan must identify existing and/or proposed trees and shrubs, give their total numbers and their general size to determine if it meets screening requirements of the Unified Zoning Code (UZC) Art. IV, Sec. IV-B.3.b.1. If evergreens are planted they must be a minimum size of 5-foot at the time of their planting (but be taller than 5-foot when mature) and planted on 10-foot centers. The site plan must identify the all utility and or access easements. The proposed access/utility easement must be recorded and its surface approved by MABCD and Fire. All improvements and construction of the facility/tower shall be completed within a year and before the facility becomes operational.
- I. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations. Provide the Stormwater Engineer with any required plans for review and approval of the site.
- J. Approve the proposed amendments to DP-322 in the creation of Parcel 12, limiting the uses of Parcel 12 to a wireless communication facility with its 150-foot tall galvanized steel, monopole tower, and; Provision 9, that Parcel 12 shall have no building setbacks, and; add Provision 6.D., establishing the landscaping requirements for Parcel 12 to provide evergreens to be planted at the time of construction at the rate of one evergreen every 10 feet (center to center) around the perimeter of the site with the exception of a space for access onto the site, and; add provision 8.F addressing screening around Parcel 12, and; change a portion of provision 7.D. to allow light poles, including their base, to be 25-foot tall (rather 30-foot tall) and that in this ‘instance a school is not considered a residential use.’
- K. 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 LC zoned site is located on an eastern edge of the City of Wichita. The surrounding area is zoned SF-5, SF-20 Single-Family Residential, LC, and NR Neighborhood Retail. The SF-5 zoned agricultural fields abutting the south and west sides of the site is the future home of USD 259’s newest high school. The recently constructed USD 259 Christa McAuliffe Academy elementary school is located approximately a mile northeast of the high school site. SF-20 zoned subdivisions are located further west and northwest (across Pawnee) of the subject site. Partially developed (built 2006-2013) SF-5 zoned urban scale subdivisions are located north of the site, across Pawnee Road, as is a small TF-3 zoned duplex development (built 2011-2013) and a LC zoned agricultural field located on the northwest corner of 127<sup>th</sup> and Pawnee. Properties located further northeast of the site include another corner LC zoned agricultural field, SF-5 zoned agricultural land, a SF-5 zoned private golf course (with a NR zoned golf shop) and a mostly undeveloped SF-5 zoned urban scale subdivision. SF-20 zoned agricultural fields are located east of the subject site across 127<sup>th</sup> Street East.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 and is currently used as farmland. The SF-5 zoning would allow single-family residential development. However, the site was approved for LC zoning (ZON2010-00018) and a commercial CUP (CUP2010-00011, DP-322), contingent on platting. The LC zoning and proposed DP-322 allows commercial development. The UZC considers a wireless communication facility a commercial type of use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed 150-foot tall, wireless, galvanized steel, monopole would not be a first in the larger area. Its visual impact is undeniable, however the conditions of approval will add landscaping around the site, to help minimize the eye level visual impact. Future development of DP-322 may provide some additional screening, by buildings, to the residential development located east and north of the site. The property located south and west of the site is a future USD 259 high school complex. Placement of the proposed wireless communication facility with its 150-foot monopole tower up against the school property has a similar impact on the area as if USD 259 placed a tower on their site.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The “2030 Wichita Functional Land Use Guide Map” identifies the site as being “urban residential.” The urban residential category reflects the full diversity of residential development densities and types typically found in a large municipality. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential serving uses may also be found in this category. The Unified Zoning Code (UZC) considers a wireless communication facility a commercial type of use. The proposed wireless communication facility with its 150-foot tall tower is proposed to provide the future 4G LTE capacity needs of AT&T’s customers in this part of Wichita and Sedgwick County.

The Wireless Communication Master Plan is an element of the Comprehensive Plan that outlines the guidelines for locating wireless communication facilities. It states that all towers comply with the compatibility setback standards. The applicant’s site plan shows the 150-foot tall monopole tower does not meet the compatibility setback standards on its west and south sides, and as such the applicant is requesting a waiver of the compatibility setback standards. The impacted property is USD 259’s property. Prior to the submittal of CUP2014-00003 Planning Staff had e-mailed USD 259 inquiring if they had been approached by the applicant for co-location on this tower. Staff received no reply to these e-mails. There have been no inquires from USD 259 in regards to CUP2014-00003.

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. Two other communication towers are visible from the subject site. These two towers are located approximately a mile from the subject site, in areas with less dense county residential development. Visually the presence of the proposed of the monopole tower would not significantly alter the pre-existing character of the larger area; 2) Minimize the height, mass, or proportion. The height of the proposed monopole tower provides more coverage than a shorter monopole tower, it also provides more co-location opportunities than a shorter tower and in theory this could mean fewer towers in the area, which could mean less chance for encroachment into the SF-5 and SF-20 single-family residences and; 3) Minimize the silhouette. A lattice

tower similar to those used by the City, may reduce the silhouette. However, when an antenna array that protrudes from the wireless communication facility is used on a support structure inside the Urban Growth Area boundaries, the support structure generally should be a monopole. In addition, although flush mounted antennas work well in cluttered (urban or heavily treed) environments, the signal doesn't travel as far as with the typical triangular antenna arrays. Therefore, use of flush mounted antennas may require additional wireless communication facilities to achieve the same coverage, and; 4) Use colors, textures, and materials that blend in with the existing environment. The proposed grey galvanized steel finish has been found to be the least intrusive color, and; 5) Be concealed or disguised as a flagpole, clock tower, or church steeple. Concealment as a clock tower, or church steeple or flag pole has not been discussed, and; 6) Be placed in areas where trees and/or buildings obscure some or all of the facility. The applicant proposes planting evergreens around the facility. There are trees on the site that could help obscure a tower. There are no buildings around the site that help obscure the tower. Because the area is still in the early stages of urban residential and commercial development, the proposed tower will be highly visible for the foreseeable future, and; 7) Be placed on walls or roofs of buildings. The opportunity is not present, and; 8) Be screened through landscaping, walls, and/or fencing. As stated, the applicant is proposing to plant evergreens around the facility. The proposed evergreens will be spaced 10 feet apart, center to center of each evergreen. This spacing will provide solid screening when the evergreens mature and with proper care provide a more attractive and efficient screening than a 6-8-foot tall wooden privacy fence, 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 site is not designated on the "Properties Eligible for an Administrative Permit for a Wireless Communication Facility Map." The site is located in Area C of the Airport Hazard Zone. Area C has a 150-foot maximum height restriction, which the proposed 150-foot tall tower does not exceed.

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.

**BILL LONGNECKER**, Planning Staff presented the Staff Report.

**FOSTER** referenced a typographical error in the first paragraph on page 6 and several other places in the Staff Report concerning the height of the lights including the bases.

**JUSTIN ANDERSON, SELECTIVE SITE CONSULTANTS (SSC), 9900 WEST 109<sup>TH</sup> STREET, OVERLAND PARK, KANSAS, AGENT FOR THE APPLICANT** said they agree with staff comments.

**MITCHELL** said he was confused about access to the monopole from Pawnee Avenue.

**ANDERSON** said an access will be installed.

**FOSTER** asked if the plat was going to be updated to allow for an access easement.

**LONGNECKER** said the access easement will be dedicated by separate instrument.

**MOTION:** To approve subject to staff recommendation.

**WARREN** moved, **MITCHELL** seconded the motion, and it carried (10-0).

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- 7. **Case No.: CON2014-00008** - request City Conditional Use request for a wireless communication facility with a 93-foot monopole tower on SF-5 Single-family Residential zoned property on property described as:

**CHAIRMAN KLAUSMEYER** announced that this item was deferred indefinitely.

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- 8. **Case No.: CON2014-00009** - request a City Conditional Use request for a wireless communication facility with a 120-foot monopole on LC Limited Commercial zoned property on property described as:

**CHAIRMAN KLAUSMEYER** announced that this item was deferred indefinitely.

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**NON-PUBLIC HEARING ITEMS**

The Metropolitan Area Planning Commission adjourned at 1:53 p.m.

State of Kansas            )  
Sedgwick County        ) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

(SEAL)

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission