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Sedgwick County

525 North Main Street 3rd
Floor
Wichita, KS 67203

Legislation Details (With Text)

File #: 17-935 **Version:** 1 **Name:**
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File created: 10/18/2017 **In control:** Board of Sedgwick County Commissioners
On agenda: 11/29/2017 **Final action:**
Title: CON2017-00033 - A COUNTY CONDITIONAL USE FOR A 150-FOOT TELECOMMUNICATION TOWER 1,200 FEET NORTH OF EAST 63RD STREET ON THE EAST SIDE OF SOUTH 127TH STREET. (NO ADDRESS YET ASSIGNED)
Presented by: Dale Miller, Director of Planning.

RECOMMENDED ACTION: Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution.

Sponsors:

Indexes:

Code sections:

Attachments: 1. EXCERPT MINUTES OF CON2017-33.pdf, 2. CON2017-33 SITE PLAN.pdf, 3. MAP CON2017-00033ps.jpg, 4. PROTEST MAP CON2017 - 33pt.pdf, 5. CON2017-33 RESOLUTION.pdf

Date	Ver.	Action By	Action	Result
11/29/2017	1	Board of Sedgwick County Commissioners	Returned to originating body for reconsideration	Pass
11/8/2017	1	Board of Sedgwick County Commissioners	Deferred	Pass

CON2017-00033 - A COUNTY CONDITIONAL USE FOR A 150-FOOT TELECOMMUNICATION TOWER 1,200 FEET NORTH OF EAST 63RD STREET ON THE EAST SIDE OF SOUTH 127TH STREET. (NO ADDRESS YET ASSIGNED)

Presented by: Dale Miller, Director of Planning.

RECOMMENDED ACTION: Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution.

Background: The applicant is requesting a Conditional Use to permit the construction of a wireless communication facility for Verizon Wireless. The proposed monopole would have an overall height of 150 feet, which includes a 10-foot lightning rod. The subject property is zoned RR Rural Residential District (RR) and is located 1,200 feet north of East 63rd Street South on the east side of South 127th Street East. The Unified Zoning Code (UZY) requires a Conditional Use for Wireless Communication Facilities over 120 feet in height in a RR district.

The tower is proposed to be located within a 0.05 acre lease area as shown on the attached site plan. Access to the site is to be from a new 12-foot gravel drive from South 127th Street East. The tower is proposed to be located in the center of the lease area. The equipment compound is proposed to be fenced for security purposes and to have building and/or equipment pads for two telecommunication providers.

Analysis: The character of the surrounding area is primarily large lot residential and agricultural. Properties in all directions are zoned RR Rural Residential and are developed with single family homes on large rural parcels. The subject property is zoned RR Rural Residential and is used agriculturally.

As noted in the Staff Report, the proposed tower violates the Compatibility Height Standards and the Screening requirements because of the proposed height of the tower and the setback from adjoining properties. The recommendations for APPROVAL include the Board of County Commissioners approving the Conditional Use Permit and waiving the Compatibility Setback requirements.

The request was heard by the Metropolitan Area Planning Commission (MAPC) on October 5, 2017. MAPC recommended approval of the request by an 8-3 vote. The MAPC recommendation is subject to the following conditions:

1. Reducing the Compatibility Height Standards setbacks to 145 feet on the north and 205 feet on the west.
2. 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.
3. The support structure shall be a galvanized "monopole" design that is silver or gray or a similar unobtrusive color with a matte finish to minimize glare.
4. The support structure shall be no taller than 150 feet in height, including the ten (10) feet needed for lightning suppression equipment.
5. The equipment compound shall comply with the screening requirements of Article IV, Section IV-B.4.e.1., of the Unified Zoning Code.
6. A site plan and elevation drawing indicating the approved design of the Wireless Communication Facility shall be submitted for approval by the Planning Director within 60 days of approval of the Conditional Use by the Governing Body and prior to the issuance of the Conditional Use Resolution.
7. The site shall be developed in general conformance with the approved site plans. All improvements shall be completed before the facility becomes operational.
8. 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 Metropolitan Area Building and Construction Department prior to the issuance of a building permit.
9. The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
10. 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.

Three protest petitions were submitted in opposition to the request. The protest petition totals 64.44 percent of the net protest area. This percent meets the minimum 20 percent required by Statute for a valid protest requiring a larger majority vote of the Board of County Commissioners. As a result, this must be approved by the three-fourths majority, or at least 4 of the 5 Commissioners. Please see the attached protest area map.

Alternatives:

1. Approve the Conditional Use, subject to the conditions recommended by the Metropolitan Area Planning Commission (MAPC), adopt the findings of the MAPC and authorize the Chairman to sign the prepared resolution. (Requires a minimum three-fourths majority vote, or 4 of the 5 County Commissioners); or
2. Deny the application, by making alternative findings, and override the MAPC recommendation. (Requires a two-thirds majority, or 4 of the 5 County Commissioners); or
3. Return the case to the MAPC for further consideration with a statement specifying the basis for the BoCC's failure to approve or deny the application. (Requires a simple majority vote).

Financial Considerations: There are no additional financial considerations to the County associated with this application.

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

Legal Considerations: The Board of County Commissioners is authorized to consider this conditional use pursuant to K.S.A. 12-741 et seq. and Sec. V-C of the Wichita-Sedgwick County Unified Zoning Code. The options and vote requirements are included within the "Alternatives" section above. Because the application involves the consideration of wireless telecommunications infrastructure, the provisions of K.S.A. 66-2019 are applicable.

Outside Attendees: Curtis Holland (agent for the applicant)

Multimedia Presentation: PowerPoint