

## Planning Commission Staff Report

### Applicant

Thomas Washburn  
3404 N Kansas Rd  
Newton, KS

Western Wireless, LLC  
3650 131 Ave SE #400  
Bellevue, WA 98006

### Application

Application number ZP05.055. Applicant is requesting a conditional use permit for a wireless communications facility with a three hundred and sixty (360) feet support tower in an "A" Agricultural Zone District.

### Project Description

Thomas Washburn owns the north half of the southeast quarter and part of the northeast quarter of Section 6, Township 22 South, Range 3 East. This site is located approximately one mile west from the City of Peabody.

The site will contain: one support tower, one equipment building, three guy anchors, and compound area fencing. Refer to Development Plan.

### Planning Issues

The Public Hearing Notice and Adjacent Property Owner Notification has been completed in accordance with the Marion County Zoning Regulations and Kansas State Statutes. No public comments have been received as of July 15, 2005.

In approving a conditional use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the planning commission or the approval of the governing body. The requirements may be made more stringent if there is potentially injurious effect, which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

Factors to be considered in a conditional use permit recommendation:

- 1) Whether approval of the conditional use would be consistent with the intent and purpose of the Marion County Zoning Regulations.
- 2) Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood.

- surrounding neighborhood.
- 3) Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided.
  - 4) Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected.
  - 5) The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped.
  - 6) Whether the applicant's property is suitable for the proposed use.
  - 7) The recommendations of permanent or professional staff.
  - 8) Whether the proposed conditional use would be in conformance to and further enhance the implementation of the comprehensive plan.
  - 9) Whether the relative gain to the public health, safety and general welfare outweighs the hardship impose on the applicant by not upgrading the value of the property by approving the conditional use.
  - 10) Whether the proposed conditional use, if it complies with all the conditions upon which the approval is made contingent, will not adversely affect the property in the area affected.
  - 11) Such other factors as may be relevant from the facts and evidence presented in the application.

**Proposed site is not located in a Flood Hazard Zone (Zone A).**

**Peabody Township contains six (6) other Conditional Use Permits.**

**Section 6 of Peabody Township contains one (1) other Conditional Use Permit for a construction yard.**

**One residence is located in Section 6.**

**Application and Development Plan includes: Area Relationship Tower Map, Antenna Structure Registration List, Western Wireless Site Inventory, Radio Frequency Engineer Letter of Certification and Site Lease with Option Agreement.**

**Application and Preliminary Development Plan does not include Statement of Intent for Compatibility as requested in Article 14-103 (3).**

**Application and Development Plan does not include Environmental Impact Statement as required by Article 14-103 (4).**

**Staff Recommendation**

Approve a recommendation for a wireless communications facility CUP as presented in the development plan. Recommend tower lighting is constructed to be red at night and white during daylight hours. Recommend that all state and federal permits be obtained and maintained. Recommend that all antennae and support structures meet or exceed current standards and regulations of the F.A.A. and the F.C.C.; should such standards or regulations be amended, then devices and structures shall be brought into compliance as mandated by the controlling agency. Recommend that the location of the support tower be such that it is constructed at least an equal distance from all property lines as it is in height. Recommend that support tower be constructed to accommodate at least one additional user. Recommend that shared use is required. Recommend an environmental impact statement be submitted to the Office of the Planning Commission.