MEETING RECORD

NAME OF GROUP:	PLANNING COMMISSION
DATE, TIME AND PLACE OF MEETING:	Wednesday, November 8, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska
MEMBERS IN ATTENDANCE:	Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Mary Strand and Lynn Sunderman (Tommy Taylor absent); Marvin Krout, Ray Hill, Brian Will, Tom Cajka, Sara Hartzell, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.
STATED PURPOSE OF MEETING:	Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the special public hearing on the 2030 Comprehensive Plan held October 18, 2006. Motion for approval made by Carroll, seconded by Strand and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Sunderman voting 'yes'; Taylor absent.

Carlson then requested a motion approving the minutes for the regular meeting held October 25, 2006. Motion for approval made by Carroll, seconded by Strand and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Sunderman voting 'yes'; Taylor absent.

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: November 8, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Strand and Sunderman; Taylor absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 06062, COUNTY SPECIAL PERMIT NO. 06066, ANNEXATION NO. 06017, COMPREHENSIVE PLAN CONFORMANCE NO. 06015 and CHANGE OF ZONE NO. 06071.**

Ex Parte Communications: None.

Item No. 1.1a, Special Permit No. 06062 and Item No. 1.1b, County Special Permit No. 06066, were removed from the Consent Agenda at the request of Tom Keep. **Item No. 1.2a, Annexation No. 06017; Item No. 1.2b, Comprehensive Plan Conformance No. 06015; and Item No. 1.2c, Change of Zone No. 06071,** were removed from the Consent Agenda due to a letter in opposition. Nothing remained on the Consent Agenda.

REQUESTS FOR DEFERRAL:

CHANGE OF ZONE NO. 06072
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
SPECIAL PERMIT NO. 06068,
THE BRIDGES COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT S.W. 27TH STREET AND W. DENTON ROAD.
REQUEST FOR DEFERRAL: November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

The Clerk announced that the applicant has submitted a written request for a four-week deferral.

Strand moved to defer, with continued public hearing and action scheduled for December 6, 2006, seconded by Carroll and carried 8-0: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent.

CHANGE OF ZONE NO. 06060,
FROM AG AGRICULTURAL TO AGR AGRICULTURAL RESIDENTIAL
and
SPECIAL PERMIT NO. 06052,
WEST VAN DORN HEIGHTS COMMUNITY UNIT PLAN,
ON PROPERTY GENERALLY LOCATED
AT THE NORTHEAST CORNER OF
S.W. 70TH STREET AND WEST VAN DORN STREET.
REQUEST FOR DEFERRAL: November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

The Clerk announced that the applicant has submitted a written request for an additional two-week deferral.

Strand moved to defer, with continued public hearing and action scheduled for November 22, 2006, seconded by Carroll and carried 8-0: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent.

CITY SPECIAL PERMIT NO. 06062
and
COUNTY SPECIAL PERMIT NO. 06066
FOR THE EXTRACTION OF SOIL,
ON PROPERTY GENERALLY LOCATED
AT NORTH 56TH STREET AND WAVERLY ROAD.
PUBLIC HEARING BEFORE PLANNING COMMISSION: November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda at the request of Tom Keep.

Staff presentation: **Sara Hartzell** of the Planning staff explained that this application requires action by the Planning Commission as well as the County Board because it is in split jurisdiction. It is for soil mining on agricultural property on an outlot for an AG CUP called View Pointe North, consisting of 153 acres in total, with only 93 acres identified for soil removal. The soil is to be removed from the peaks of the ridge. The property is at the top of three different drainage basins. Water drains to the northwest and then to the southeast form the high point. Erosion control measures are in place. She understands that the NRD is currently reviewing the erosion control plan. The County Engineer would like to be certain they have signage on Waverly Road that warns people of trucks entering. He also wants to make sure the applicant understands that damage to Waverly or Mill Road is to be repaired by the applicant.

Hartzell also pointed out that there is a wetland that does show up on the national wetland inventory which will need to be reviewed by an expert to determine whether it needs to be protected.

Proponents

1. Mark Hunzeker appeared on behalf of **Willard Giebenrath,** the owner of the property. This application was submitted after a request by LaGrande Excavating to remove soil from this 153-acre parcel. The area to be disturbed is about 97 acres. The plan is to simply lower existing contours, and to maintain stormwater flow in the same general direction as exists today. Erosion control and sediment ponds are shown on the plan and the applicant

is working with the NRD for approval. The wetland will be inventoried and/or surveyed and, if necessary, the applicant will take whatever precaution is required to avoid damage to the wetland. The access point will be from Waverly Road, which is paved. When they are finished with this excavation, the land will be returned to farming. No more than 20 acres will be disturbed at any given time. Hunzeker agreed with the conditions of approval. The removal will consist of about one million cubic yards.

Opposition

1. Tom Keep, 8601 Davey Road, testified in opposition. Outlot C, the area in question, was part of an acreage used in the Giebenrath Estates agricultural CUP and it is to remain AG as part of that CUP. It currently has been given greenbelt tax status. Removing 16' of soil will severely impact the ability of the tract to act as agricultural land. It is not possible to grow crops once the soil mining occurs. There are several soil mining sites in this vicinity and none have been reclaimed as growing crops, e.g. 40th & Waverly Road has not been reclaimed; Arbor Road and Route 77 has ended up with a 27' straight up and down cut against the interstate right-of-way and is not in any kind of crops. The other soil mining sites are not capable of growing crops. Several of these sites have been declared blighted and TIF has been proposed to turn them into a commercial park area. This site is just north of the area declared as blighted. Is it fair to further enrich a landowner who agreed to maintain this land in a greenbelt condition, and then turn it into another blighted area? If it was supposed to be in greenbelt status, and if it was supposed to remain in AG use, destroying it by mining soil off of it does not appear to be the proper land use.

Keep also pointed out that a review of the site plan and staff recommendation show nothing and make no mention of a transcontinental cable that crosses the middle of the site. It is a fiber optic cable. Soil mining is shown in this area. Certainly this is not possible. The contours of the soil mining show mining in the area where the cable is located. Why is the cable easement not shown? Approval of this site certainly should not be granted until this problem is addressed. Approval of a plan that might cut a cable like this could be a serious liability.

Keep further suggested that, based on previous performance on soil mining sites in the county, it is clear that some type of enforcement of reclamation needs to occur before the city and county approve more. He requested that the Commission deny this application based on its impact on a greenbelt area, potential impact on a fiber optic cable and the need to set up meaningful reclamation requirements.

Esseks inquired whether Mr. Keep has found another area like this which was also an outlot which was supposed to stay in agricultural because the adjoining properties were given higher density. The answer was ‘no’.

2. Julie Shipman Burns, 12909 N. 70th Street, testified in opposition. She agreed with the concerns raised by Mr. Keep. However, on a more personal note, she advised that she

testified previously on the request to create this outlot and at that time the applicant asked permission to set aside 153 acres so that he could develop and sell 14 home sites. What has not been discussed today is the fact that those 14 homes have been developed and sold. There are families that live right on this property line, including her family. Her concern is that a mining operation is distinctly different from farming. This gentleman asked to set aside this land for farming purposes, and the homeowners were promised that nothing else would happen on this 153 acres, and now this gentleman is asking to create a mining operation, which is significantly worse for the health and safety of her family and her neighbors. The dust emissions are a concern, but yet no one talks about how they plan to control those emissions. Who is going to monitor this? We are talking about hundreds of trucks coming to the site every day. The dust, the noise, and the environmental concerns have not been addressed sufficiently. What about the safety of all of the people who travel on Waverly Road? It is the main access from Hwy 77 to Waverly. Her son travels that road every single day to get to Waverly High School. There are hundreds of children traveling every day. There are hundreds of trucks that would travel Waverly Road every day. She urged that the Commission deny this applicant the opportunity to take back his word.

Larson inquired as to the difference in elevation after the land mining takes place. Burns stated that she only knows that they have indicated they will take off 16'. She also expressed concern about the short notice of this application and hearing. She has not has an opportunity to fully investigate the impact on her property. That 16' is the only buffer that her property has to Hwy 77.

Staff response

Hartzell commented on the blighting at 40th & Arbor Road – that declaration of blight and substandard was not due necessarily to land that had been mined and not returned to agricultural. There were other factors involved in the blight designation.

Hartzell stated that the dust concern has been addressed by the Health Department with standard requirements. It is suggested that they use water to water down any kind of open land or roadways. Any complaints would be addressed by the Health Department.

Esseks noted that this is an agricultural CUP to the east that was developed by this applicant. Did the applicant get a density bonus in the CUP? Hartzell believes that to be true. Esseks believes the density bonus is based upon preserving land in agricultural use. The applicant was allowed to develop this land with more units than if he simply divided the total acreage into two 20-acre tracts. It seems the applicant has already obtained some benefit but the exchange was to preserve this lot as an agricultural use. Is mining an agricultural use? Hartzell confirmed that mining is a special permitted use in the agricultural zoning district. Esseks believes this is a travesty.

Marvin Krout, Director of Planning, suggested that the concept here is that once this subsoil is mined, the topsoil will be regraded onto the site and the land would be put back to farming use. This land is not lost to agricultural use because of a mining operation. Esseks suggested that 20-acre segments could make the mining last a long time. Hartzell pointed out that the conditions limit the permit to three years, with one-year increments added at the discretion of the Planning Director. No more than 20 acres will be bare at one time. Any land that is bare for more than 7 days must be reseeded with either oats or the NRD "cool season #4 grass seed".

Larson inquired whether the topsoil that is stripped will be set aside. Hartzell noted that there are specific sites on the plan that show topsoil reclamation and the requirement is written that they redistribute the topsoil and return it to farming.

Carroll inquired whether there was a discussion with the County Engineer as far as exiting onto Mill Road as opposed to Waverly Road. Hartzell stated that the County Engineer's only concern was that the roads be maintained. Mill Road is a gravel road.

With regard to the outlot and the clustering of the units, Sunderman commented that the whole purpose of using the outlots is to cluster the units together so that we do not have 20-acre spots all over the section. The purpose is so that when the city builds toward that area it can "build through" in an orderly and sufficient manner. Hartzell concurred. This is not the only outlot in this CUP. There is an outlot that includes the pond to the east.

Response by the Applicant

Hunzeker stated that there are two entrances, with the primary one being off Waverly Road, and there is an entrance shown on Mill Road. The applicant agrees to maintain and repair any damage to either of those roads caused by any of the truck traffic.

Hunzeker pointed out that there is a requirement which is specified on the site plan that the topsoil will be removed, stored and replaced on the property to restore it to agricultural use. The depth of the topsoil is hard to measure, but the applicant will remove all the topsoil and store all of it because it is not valuable for the uses of the excavators.

With respect to the photographs shown by Mr. Keep to demonstrate the condition of property which has been mined, the photograph with the vertical cut is one which is on a piece of commercially zoned land, and he believes that the reason for that vertical cut was that it was made in preparation for construction on that site, and when the interstate is widened it is fair to say that that vertical cut will disappear because the NDOR will need all the fill material on the hill side of that vertical cut. Easements are being taken along there to do grading to make sure that transition is smooth. There is another mining permit which was issued immediately to the east of that property which is being farmed. This is done on most of the dirt mining permits that are issued. Another example is east of 84th Street on A Street. That property is being farmed today.

With regard to the fiber optic cable, Hunzeker stated that the applicant is aware of its existence and will be modifying the grading permit to accommodate that and avoid any grading activity that would come close to disturbing that cable.

Hunzeker also pointed out that there is another outlot which provides a fair amount of buffer to a number of the homes in the area. He showed the outlot on the map, which will not be disturbed. There is a pond on the other outlot. He believes that Ms. Burns' home is 800-1000 feet from the east property line of the permit area.

Hunzeker then submitted that mining of dirt is something that is important to the construction and road building industry. These permits are available for a reason. It is an important economic activity in this county and we need to be able to do this in a reasonable way. All of the conditions of approval are monitored by the NRD and NDEQ. All of the regulations that apply to the stormwater, erosion and sediment control, etc., are federal regulations administered by the DEQ and the NRD. The fines and penalties for violations are significant. The dust control is the county's jurisdiction and he does not believe it has been a problem in the past and should not be a problem here.

Carroll inquired whether the majority of dirt will come off the south or the north end of the property. Lyle Loth of ESP came forward and suggested that it would be 50/50 both ways.

Carroll wondered about using Mill Road the majority of the time for the exit and entrance. Loth stated that basically, they would use the road that would be the least hazardous. Not only do they have to have trucks going out to Waverly Road or Mill Road, but they also have to then get on Hwy 77. Waverly Road has a flashing light and truck traffic entering a situation like that would probably be less hazardous. The applicant would be inclined to work with the County Engineer and NDOR to determine the most safe access point.

CITY SPECIAL PERMIT NO. 06062
ACTION BY PLANNING COMMISSION: November 8, 2006

Carroll moved to approve the staff recommendation of conditional approval, seconded by Sunderman.

Carroll commented that this is a soil excavation site. It is not high quality farmable land. He does not believe it will hurt the area. The 20-acres at a time is a good recommendation for control, and it will be returned to crop land. He does not believe it will harm the agricultural area nor the site next door.

Larson stated that his only reservation is the transition from the CUP land down to the excavated site.

Carlson noted that the applicant has agreed to note the location of the fiber optic cable.

Motion for conditional approval carried 7-1: Carroll, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Esseks voting 'no'; Taylor absent. This is final action unless appealed to the City Council.

COUNTY SPECIAL PERMIT NO. 06066
ACTION BY PLANNING COMMISSION: November 8, 2006

Carroll moved to approve the staff recommendation of conditional approval, seconded by Sunderman and carried 7-1: Carroll, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Esseks voting 'no'; Taylor absent. This is a recommendation to the Lancaster County Board.

ANNEXATION NO. 06017,
COMPREHENSIVE PLAN CONFORMANCE NO. 06015,
DECLARATION OF SURPLUS PROPERTY,
and
CHANGE OF ZONE NO. 06071,
FROM AG AGRICULTURAL DISTRICT TO
R-3 RESIDENTIAL DISTRICT AND P PUBLIC USE DISTRICT,
ON PROPERTY GENERALLY LOCATED AT
CODDINGTON AVENUE AND WEST VAN DORN STREET.
PUBLIC HEARING BEFORE PLANNING COMMISSION: November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

Staff recommendation: Approval of the annexation and change of zone, and a finding of conformance with the Comprehensive Plan on the declaration of surplus property.

Ex Parte Communications: None.

These applications were removed from the Consent Agenda due to a letter received in opposition to the annexation of this property, desiring to keep the area in its rural character with larger acreage lots as they exist today across Coddington Avenue.

Staff presentation: **Tom Cajka** of Planning staff stated that the area in question for the annexation and surplus property is approx 14.6 acres, and is contiguous to the City Limits on the north, east and west sides. There is a small tract owned by the City Water Department which has already been annexed. The B-2 property was annexed previously and has an approved use permit.

The Parks Department is interested in entering into a purchase agreement with the Sesostris Shrine in the future and has determined that there is adequate property remaining to do a future park. The surplus area is additional land that the Parks Department does not need.

Cajka then explained the change of zone. The AG to R-3 portion is the same area as the surplus property, consisting of 14.6 acres. The AG to P Public portion is for approximately 44.8 acres. The P portion would be for the future park and the Bison Trail. The land use plan shows the R-3 portion as being urban residential so this change is in conformance with the Comprehensive Plan and is compatible with the adjacent land uses.

Proponents

1. Lynn Johnson, Director of Parks and Recreation, advised that the Parks & Recreation Advisory Board has reviewed this surplus property proposal and has recommended approval. He has also met with the West A and Yankee Hill Neighborhood Associations, and they have both endorsed this concept. The Parks Department has done a master plan for the 38 acres located south of Bison Trail and it is adequate for a community park with lighted ballfields, recreational facilities, off-street parking, playground and possible future pool site.

Larson noted that the Sesostris Shrine owns property on East O Street that they have been working to build upon, and he wonders whether they are giving that up. Johnson believes their intent is to sell the O Street property as well as their existing site just off Cornhusker. This would be the location for their new facility.

Esseks noted that the staff report mentions a facility of 30,000 sq. ft. What types of activities will they have and what kind of traffic will those activities generate? Johnson showed a photograph of a model of the building they intend to build on the site. He believes that the activities would be a couple of large meeting rooms, smaller meeting rooms, office space, restrooms and kitchen facilities, serving as a social hall available to the community for family gatherings, wedding receptions, etc., with 160 parking spaces shown. There are a couple of additional secondary activity areas and a storage and maintenance building for their small parade vehicles. They talked about a practice field – hard surfaced area to practice maneuvers that they use during parades. They are willing to discuss the possibility of both the parking area and the practice field being overflow parking for park activities. They were very interested in their building being located in a park-like setting.

Standing near the buffalo statue, Carlson wondered whether the site is oriented with a corridor straight back to the Capitol. Is it possible through the surplus and the sale to put a covenant on the sale for setbacks and light standards to protect that Capitol View Corridor? Cajka informed the Commission that before the Shrine can build the facility they will have to come back through with a special permit which will address the specific site

issues, such as the location of the building, the parking, the view corridor, height limits, etc. Carlson stated that he is bringing it up now because it is important to let the purchaser know about this concern ahead of time.

Johnson noted that the centerline to the Bison Trail is the view corridor back to the Capitol. When Parks purchased the right-of-way for the trail, the state agreed to establish a 50' landscape easement outside of that. The widening of West Van Dorn and Coddington will remove old pine tress. Parks will dedicate the right-of-way but will retain a landscape easement to begin re-establishing that historic evergreen-lined drive out to Pioneers Park.

Carlson inquired about the lilac rows. Johnson stated that Parks would like to re-establish those and would like to begin planting well in advance of those road widening projects so that they are in place at the time that the roadway improvements occur.

There was no testimony in opposition.

ANNEXATION NO. 06017
ACTION BY PLANNING COMMISSION: November 8, 206

Larson moved approval, seconded by Esseks and carried 8-0: Carroll, Esseks, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent. This is a recommendation to the City Council.

COMPREHENSIVE PLAN CONFORMANCE NO. 06015
ACTION BY PLANNING COMMISSION: November 8, 2006

Larson moved a finding of conformance, seconded by Esseks and carried 8-0: Carroll, Esseks, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent. This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06071
ACTION BY PLANNING COMMISSION: November 8, 2006

Larson moved approval, seconded by Esseks and carried 8-0: Carroll, Esseks, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent. This is a recommendation to the City Council.

COUNTY SPECIAL PERMIT NO. 06060,
FOR A WIRELESS FACILITY ON PROPERTY
GENERALLY LOCATED AT
S.W. 72ND STREET AND ROCA ROAD.

This application was withdrawn by the applicant and did not have public hearing.

COUNTY SPECIAL PERMIT NO. 06058
FOR A WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT N.W. 126TH STREET AND ALVO ROAD.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Staff presentation: **Brian Will** of Planning staff believes the applicant is going to ask for an additional delay on this application. They have been working with some other property owners and facility owners in the area.

Proponents

1. Laura Mitchell appeared on behalf of **US Cellular**, the applicant, and requested an additional 30-day deferral to address some other collocation opportunities.

Carlson noticed that one of the two applications on today's agenda included a monopole and the other a three-leg tower. Mitchell explained that this was done at the request of staff. Carlson would rather see both as monopoles.

Strand moved to defer, with continued public hearing and action on December 6, 2006, seconded by Carroll and carried 8-0: Carroll, Esseks, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent.

Opposition

1. Denise Saathoff, attorney for **Village of Malcolm,** 6909 N.W. 105th, Malcolm, 68402, requested an additional delay because the Village of Malcolm needs more than 30 days in order to have some of their own experts research these locations. There are five facilities in the area which Malcolm believes are good for collocation. She requested a minimum of 90 days to review any further submittal by the applicant.

Saathoff submitted a report on the "Requirements for Collocation", and stated that she would defer her additional comments until the continued public hearing.

2. Wesley Jones, 14801 N.W. 126th, Malcolm, 68402, testified in opposition. He referred to the letter in opposition submitted by **Valcom Wireless Construction.** He believes that there are many issues that have not been addressed. This is a 12-mile stretch of Hwy 34 that currently has collocatable towers and structures. The Village of Malcolm needs more time to do research on these sites.

COUNTY SPECIAL PERMIT NO. 06059
FOR A WIRELESS FACILITY
ON PROPERTY GENERALLY LOCATED
AT N. 176TH STREET AND O STREET.
CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION: November 8, 2006

Members present: Carroll, Cornelius, Esseks, Larson, Strand, Sunderman, Krieser and Carlson; Taylor absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

Staff presentation: **Brian Will** of Planning staff explained that this is a request for a 199' wireless facility by US Cellular, at approximately 176th and O Streets. The proposed property is located northwest of the intersection and the tower site is up to the northeast corner of the site. In reviewing these facilities, there are two concerns that generally staff wants to make sure are addressed: 1) that any opportunity for collocation has been eliminated and there is indeed a need; and 2) to make sure that maximum separation is maintained between the facility and any adjoining uses to insure compatibility.

As noted in the staff report, in order to maintain compatibility with surrounding uses and to minimize the presence from the traveling public, the staff is recommending that the tower be moved as far west as possible without requiring an extension of the height.

In response to questions raised by Larson, Will explained that the staff is not requiring that the tower be moved south, although if the Planning Commission were so inclined, they could do so. The fall zone requires that it be half the height of the tower set back from adjacent property lines. They do meet that currently and what staff is suggesting is above and beyond that to minimize the presence from the traveling public on the adjacent street.

Proponents

1. Laura Mitchell of **US Cellular**, clarified that this will be a 199' monopole on the west side of 176th and O Streets. The applicant has agreed to move the tower back the entire height of the tower so that it will be 210' west of the road and 210' off the fence line going to the south.

Mitchell also advised that this applicant has searched this area for collocation. They met with Windham Place Homeowners Association and had a town meeting at Eagle on Monday to address any questions.

Mitchell confirmed that this tower is a single pole. This pole will also provide three additional platforms in addition to US Cellular, if needed in the future.

Carlson inquired whether US Cellular requires collocators to do flush mount antennas. Mitchell stated that it will depend on the company. Each company uses a different type of antenna.

Opposition

1. Wesley Jones, owner and operator of **Valcom Wireless Construction** in Malcolm, testified in opposition. He suggested that there are so many deficiencies that this application should be deferred for 90 days. There are towers along Hwy 34. He found five sites in a 12-mile stretch. He went out Hwy 2 where there are 8 towers in a 40-mile stretch. Putting these towers in the middle of agricultural areas is not good land use planning. Hwy 2 is a road that has been in existence for a long time. Hwy 6 is the same. There should be collocatable structures out there and this applicant has not reviewed these other sites properly.

Staff response

Will explained that the ordinance requires a good faith effort on the part of the applicant to eliminate any possible collocation within ½ mile radius. We cannot require them to consider and eliminate all facilities in the county or within a 10-mile radius. In this case, there are none within 1 mile, or within actually several miles. The applicant is required to give the staff their area of coverage. Then within that search area, they are required to eliminate any other collocation possibilities. Probably within1/2 to 1 mile of this site is where they searched for other candidates which would provide them with optimal coverage. Will believes this applicant has met the requirements.

Response by the Applicant

Mitchell confirmed that US Cellular did research this area and the tallest structure they could find was in Eagle and beyond 1 ½ mile, which is out of the county. It did not meet their criteria. She believes the applicant has complied with the requirements.

Patrick Armstrong, RF Engineer with **US Cellular,** corrected the map on page 107 of the agenda which refers to the "Walton" water tank. It is actually the "Eagle" water tank. That water tank is in Eagle and it is 125' tall. It is outside the area in which US Cellular is licensed to serve with this frequency.

Carlson was unaware of the jurisdiction issue. Armstrong explained that US Cellular owns a license on either side of the county line. In theory, their signal has to stop at the county line. In reality, they have to coordinate with the owner of the license in the adjacent market and work out a tradeoff. A site acquisition request is prepared. The site acquisition person looks in that search ring for a candidate – existing towers, structures, etc. As a last resort they look at a raw land build. That was the case here. The nearest tallest structure is the Eagle water tank which is outside of their licensed area.

Carlson inquired whether the coverage maps change when going from a triangular pack to the flush pack. Armstrong agreed that there are some benefits from the triangle mount in the rural area. In town, they see some benefit from the flush mount. The triangle mount has two antennas pointing in the same direction. You have a better chance with cell phones with the dual antennas.

ACTION BY PLANNING COMMISSION: November 8, 2006

Carroll moved to approve the staff recommendation of conditional approval, seconded by Cornelius and carried 8-0: Carroll, Esseks, Cornelius, Larson, Strand, Sunderman, Krieser and Carlson voting 'yes'; Taylor absent. This is a recommendation to the Lancaster County Board.

There being no further business, the meeting was adjourned at 2:25 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on November 22, 2006.

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