

FACTSHEET

TITLE: LETTER OF APPEAL, filed by Harvey B. Cooper on behalf of Sprint Spectrum, L.P., appealing the Planning Commission action denying **SPECIAL PERMIT NO. 1873**, requested by Sprint PCS, for authority to construct a 90' tall wireless communications facility, with a waiver of the fall zone requirement, on property generally located at 4700 Antelope Creek Road.

STAFF RECOMMENDATION: Conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/27/01
Administrative Action: 06/27/01 and 07/11/01

RECOMMENDATION: Denial (7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent).

FINDINGS OF FACT:

1. The planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.10-12, concluding that the proposal is for a camouflaged facility that will accommodate the antennas of two wireless providers. The flag pole design will reduce the obtrusiveness of the facility. The area is commercially zoned. The closest residential dwelling is approximately 210 feet to the southwest.
2. The applicant's testimony is found on p.15-16 and 19. Additional information submitted in further support of the application after the public hearing is found on p.61.
3. Testimony in opposition is found on p.16-18, and the record consists of two letters in opposition (p.062-064). The issues of the opposition are aesthetics; the height of the tower; its location in what is supposed to be a buffer zone between 48th Street, park and residential settings down Antelope Creek Road; future collocation; impact on property values; compatibility of use and setting a precedent.
4. The applicant's response to the opposition is found on p.19.
5. The Commission discussion with the applicant is found on p.16 and 19; the Commission discussion with staff is found on p.18-19.
6. On June 27, 2001, a motion for approval failed 3-3: Steward, Schwinn and Bayer voting 'yes'; Newman, Taylor and Carlson voting 'no'; Duvall, Hunter and Krieser absent (See Minutes, p.19-20).
7. On July 11, 2001, a motion for approval failed 2-5: Steward and Schwinn voting 'yes'; Krieser, Newman, Duvall, Carlson and Bayer voting 'no'; Taylor and Hunter absent.
8. On July 11, 2001, the Planning Commission disagreed with the staff recommendation and voted 7-0 to deny the special permit: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent. (See Minutes, p.20-21). Also see Planning Commission Final Action notification dated July 12, 2001 (p.003-008).
9. On July 16, 2001, Harvey B. Cooper filed a letter of appeal on behalf of the applicant, Sprint Spectrum, L.P. (P.002).

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 30, 2001

REVIEWED BY: _____

DATE: July 30, 2001

REFERENCE NUMBER: FS\CC\FSSP1873

LAW OFFICES

ABRAHAMS KASLOW & CASSMAN LLP

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OMAHA, NEBRASKA 68114-3419
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HARVEY B. COOPER

hcooper@akclaw.com

July 13, 2001

**VIA CERTIFIED MAIL
AND HAND DELIVERY**

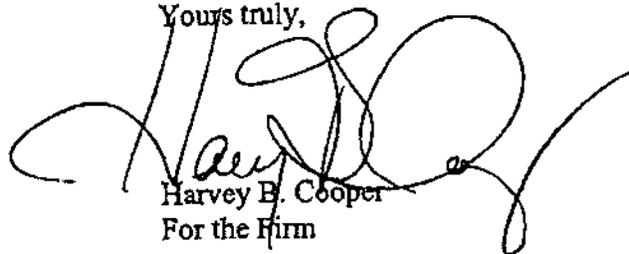
Ms. Joan E. Ross
City Clerk
City of Lincoln, Nebraska
555 South 10th Street
Room 103
Lincoln, NE 68508

Re: Notice of Appeal of Special Permit No. 1873 by Sprint Spectrum L.P., a/k/a
Sprint PCS, 4700 Antelope Creek Road

Dear Ms. Ross:

I represent Sprint Spectrum L.P. Sprint Spectrum L.P. by this letter is appealing the denial of Special Permit No. 1873, Resolution No. PC-00687, by the Lincoln/Lancaster County Planning Department on July 11, 2001. Please place this matter on the agenda of the City Council.

Yours truly,



Harvey B. Cooper
For the Firm

HBC:mk

cc: Shannon Nichols
John Hertzler

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COMMUNICATIONS

**PLANNING COMMISSION FINAL ACTION
NOTIFICATION**

TO : Mayor Don Wesely
Lincoln City Council

FROM : Jean Walker, Planning 

DATE : July 12, 2001

RE : **Special Permit No. 1873**
(Wireless communications facility at 4700 Antelope Creek Road)
Resolution No. PC-00687

The Lincoln City-Lancaster County Planning Commission took the following action at their regular meeting on Wednesday, July 11, 2001:

Motion made by Newman, seconded by Carlson, to **DENY Special Permit No. 1873**, requested by Sprint PCS, for authority to construct a 90' tall wireless communications facility, with a waiver of the fall zone requirement, on property generally located at 4700 Antelope Creek Road. Motion to **deny** carried 7-0 (Newman, Duvall, Krieser, Carlson, Steward, Schwinn and Bayer voting 'yes'; Hunter and Taylor absent).

The Planning Commission's action is final action unless appealed to the City Council by filing a Letter of Appeal with the City Clerk within 14 days of the date of the action by the Planning Commission.

CCNOTICE/jlw

Attachment

cc: Building & Safety
Rick Peo, City Attorney
Public Works
John Hertzler, The Everest Group, 268 N. 115th Street, Suite 4, Omaha, NE 68154
Harvey B. Cooper, 8712 West Dodge Road, Suite 300, Omaha, NE 68114-3419
Topher Hansen, 2601 So. 46th Street, 68506

RESOLUTION NO. PC-00687

SPECIAL PERMIT NO. 1873

1 WHEREAS, Sprint PCS has submitted an application designated as
2 Special Permit No. 1873 for authority to construct a 90' tall wireless communications
3 facility and a waiver of the fall zone requirement on property located at 4700 Antelope
4 Creek Road, and legally described to wit:

5 Lot 386 I.T. located in the Southwest Quarter of Section 32,
6 Township 10 North, Range 7 East, Lincoln, Lancaster
7 County, Nebraska;

8 WHEREAS, the Lincoln City-Lancaster County Planning Commission has
9 held a public hearing on said application; and

10 WHEREAS, the community as a whole, the surrounding neighborhood,
11 and the real property adjacent to the area included within the site plan for this wireless
12 communications facility will not be adversely affected by granting such a permit; and

13 WHEREAS, said site plan together with the terms and conditions
14 hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln
15 and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the
16 public health, safety, and general welfare.

17 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster
18 County Planning Commission of Lincoln, Nebraska:

19 That the application of Sprint PCS, hereinafter referred to as "Permittee",
20 to construct a 90' tall wireless communications facility be and the same is hereby
21 granted under the provisions of Section 27.63.720 of the Lincoln Municipal Code upon

1 condition that construction of said wireless communications facility be constructed to a
2 height of 90 feet in strict compliance with said application, the site plan, and the follow-
3 ing additional express terms, conditions, and requirements:

4 1. This permit approves a 90' tall wireless communications facility
5 designed as a flagpole for a period of 15 years with a waiver of the fall zone required by
6 27.68.110(g) of the Design Standards for Zoning.

7 2. Before receiving building permits:

8 a. The Permittee must complete the following instructions and
9 submit the documents and plans to the Planning Department
10 office for review and approval:

11 i. Revise the site plan to show the dimensions of the
12 parking stalls, driving aisles and dental office.

13 Provide parking calculations to show that the
14 proposed facility does not remove required parking
15 stalls.

16 ii. Show that the proposed access easement will not
17 interfere with required parking stalls.

18 iii. Provide materials indicating the color and finish
19 of the facility.

20 iv. Provide structural calculations, signed and sealed by
21 a Nebraska P.E., showing that the pole and all
22 attachments meet TIA/EIA 222-F Standards,

1 binding and obligatory upon the Permittee and the Permittee's successors and assigns.
2 The building official shall report violations to the City Council which may revoke the
3 special permit or take such other action as may be necessary to gain compliance.

4 9. The Permittee shall, within 10 days of written demand, reimburse
5 the City for all direct and indirect costs and expenses as provided in Section 27.68.090
6 in connection with the issuance and review of this permit.

7 10. As part of this approval, the Permittee agrees that the Permittee, its
8 successors and assigns shall, at its sole cost and expense, indemnify and hold
9 harmless the City, its officers, officials, boards, commissions, agents, representatives,
10 and employees against any and all claims, suits, losses, expenses, causes of actions,
11 proceedings, and judgments for damage arising out of, resulting from, or alleged to
12 arise out of or result from the construction, operation, repair, maintenance or removal of
13 the provider's facilities. Indemnified expenses shall include, but not be limited to, all
14 out-of-pocket expenses, such as costs or suit and defense and reasonable attorney
15 fees, and shall also include the reasonable value of any services rendered by the City
16 Attorney's office and any employees of the City and any consultants retained by the
17 City.

18 11 The Permittee shall sign and return the City's letter of acceptance
19 to the City Clerk within 30 days following approval of the special permit, provided,
20 however, said 30-day period may be extended up to six months by administrative
21 amendment. The City Clerk shall file a copy of the resolution approving the special
22 permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be

1 paid in advance by the Permittee.

2 The foregoing Resolution was approved by the Lincoln City-Lancaster

3 County Planning Commission on this ____ day of _____, 2001

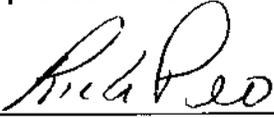
ATTEST:

DENIED: 7/11/01

7-0

Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

P.A.S.: Special Permit #1873

DATE: May 16, 2001

PROPOSAL: John Hertzler of the Everest Group, on behalf of Sprint PCS is requesting a Special Permit for a 90' tall wireless telecommunications facility camouflaged as a flagpole and associated base equipment, with a request for a waiver of the fall zone on property generally located at 4700 Antelope Creek Road.

GENERAL INFORMATION:

APPLICANT: John Hertzler
The Everest Group
268 N. 115th Street, Suite 4
Omaha, NE 68154

CONTACT: Same

LOCATION: 4700 Antelope Creek Road

LEGAL DESCRIPTION: Lot 386 I.T. located in the Southwest Quarter of Section 32, T10N, R7E, Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: B-1 Local Business District

EXISTING LAND USE: Dental office

SURROUNDING LAND USE AND ZONING: Zoned B-1 Local Business District to the north, east and south with commercial uses; zoned R-2 Residential District to the southwest with single family and two-family residential uses; zoned O-2 Suburban Office District to the west with office uses.

COMPREHENSIVE PLAN SPECIFICATIONS: Shown as commercial in the 1994 Lincoln-Lancaster County Comprehensive Plan. The application is consistent with the goals to:

- Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements.
- Protect and enhance features which give Lincoln and Lancaster County its distinctive character, supporting a desirable quality of life.

HISTORY: 1979 Changed from G Local Business District to B-1 Local Business District

1994 Special Permit #1495 for a 80 foot tall radio communications tower on property west of the proposed site was denied by Planning Commission and City Council.

2000 August 24, application submitted but incomplete. Additional information requested from applicant.

September 7, applicant submits some additional information.

September 21, applicant sends letter to neighbors inviting them to an informational meeting.

October 2, applicant holds meeting with neighbors

October 3, applicant requests that application be placed on hold so that other sites could be evaluated.

2001 May 3, applicant submits letter detailing efforts to secure an alternate site, and requests that the request for a Special Permit be placed on the Planning Commission agenda. The proposal is modified from one with antennas mounted on the outside of a pole to one with antennas mounted on the inside of the pole.

May 18, letter sent to applicant indicating additional information that is required on the site plan, and verifying confirmation from a phone conversation that the applicant was willing to install a facility camouflaged as a flag pole, and whether an agreement had been reached with a second carrier to locate within the flag pole.

May 31, applicant submits a letter indicating that the proposal has been modified to show a 90 foot tall multi-carrier flag pole. The proposed flag pole is ten feet taller than the originally proposed monopole so that a second wireless communications provider can be accommodated.

ANALYSIS:

OVERVIEW:

This is a request for a 90 foot tall wireless communications facility, camouflaged as a flagpole.

The applicant has modified the original request from a monopole to a flag pole. The facility will be designed to accommodate the antennas of a second wireless communications provider.

The applicant details in letters dated September 7, 2000 and May 3, 2001 (attached) the analysis of and efforts to lease other potential sites within this area that would meet their coverage needs.

Other flag pole facilities that have been installed in Lincoln are at Fire Station #5 at Touzalin and Benton Streets and in front of the fabric store at East Park Plaza. Pictures of those sites are attached.

STANDARDS FOR EVALUATION:

Conformity with Comprehensive Plan.

The proposal is in conformance with the goals of the Comprehensive Plan.

Preference of site location in accordance with Chapter 27.68.080.

The site is classified as a limited preference site due to the proximity of residential uses.

Compatibility with abutting property and surrounding land uses.

The proposed facility, camouflaged as a flag pole, will be taller than the surrounding land uses. However, the flag pole design will help the facility blend in with the surrounding area.

Adverse impacts such as the visual, environmental or noise impacts.

There are no known adverse impacts.

Availability of suitable existing structures for antenna mounting.

There are no existing structures suitable for antenna mounting in the vicinity.

Scale of facility in relation to surrounding land uses.

The proposed facility will be considerably taller than the surrounding land uses.

Impact on views/vistas and impact on landmark structures/districts, historically significant structures/ districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.

There are no known adverse impacts.

Color and finish.

The proposed color and finish has not been specified. A dark color would make the pole appear slimmer.

Ability to co-locate.

The facility will be designed to accommodate the antennas of a second provider.

Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.

The base of the flag pole will be partially screened by existing buildings. The base equipment will be surrounded by an opaque fence painted to match the adjacent building.

Impact on natural resources, open spaces, recreational trails, and other recreational resources.

There is no known negative impact.

GENERAL:

The parking stalls on the site plan appear to be sufficient to meet the requirements for a dental office. However, a more detailed site plan with dimensions of the parking stalls and driving aisles is needed.

The applicant has requested a waiver of the fall zone. The fall zone includes the dental office, but would not impact residential buildings, other commercial buildings or public right-of-way.

STAFF CONCLUSION: The proposal is for a camouflaged facility that will accommodate the antennas of two wireless providers. The flag pole design will reduce the obtrusiveness of the facility. The area is commercially zoned. The closest residential dwelling is approximately 210 feet to the southwest.

STAFF RECOMMENDATION: Conditional approval

CONDITIONS:

Site Specific:

1. This approval permits a 90' tall wireless communications facility designed as a flagpole for a period of 15 years, with a waiver of the fall zone required by 27.68.110(g).

General:

2. Before receiving building permits:
 - 2.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department office for review and approval.
 - 2.1.1 Revise the site plan to show the dimensions of the parking stalls, driving aisles and dental office. Provide parking calculations to show that the proposed facility does not remove required parking stalls.
 - 2.1.2 Show that the proposed access easement will not interfere with required parking stalls.
 - 2.1.3 Provide materials indicating the color and finish of the facility.
 - 2.1.4 Provide structural information signed and sealed by a Professional Engineer licensed in the State of Nebraska showing that the flag pole meets the TIA-EIA 222-F standards for Lancaster County, Nebraska.

- 2.2 The permittee shall post a surety, approved by the City Attorney, in the minimum amount necessary to guarantee the removal of the facilities. The surety may not be revoked or terminated during the term of the permit.
3. The following conditions are applicable to all requests:
 - 3.1 Before operating this personal wireless facility, all development and construction is to comply with the approved plans.
 - 3.2 The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.
 - 3.3 The tower shall be inspected and maintained in accordance with the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. At the time of this Special Permit, those standards were contained in the TIA/EIA-222-F. The facility operator shall conduct safety inspections in accordance with the EIA and FCC Standards and within 60 days of the inspection, file a report with the Department of Building and Safety.
 - 3.4 All privately-owned improvements, including landscaping, are to be permanently maintained by the owner.
 - 3.5 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 3.6 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 3.7 The permittee shall, within 10 days of written demand, reimburse the City for all direct and indirect costs and expenses as provided in Section 27.68.090, in connection with the issuance and review of this permit.
 - 3.8 As a part of this approval, the permittee agrees that the permittee, successors and assigns shall, at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgements for damage arising out of, resulting from, or alleged to arise out of or result from the construction, operation, repair, maintenance or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

3.9 The City Clerk is to file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee is to pay the recording fee.

Prepared by:

Jennifer L. Dam, AICP
Planner

SPECIAL PERMIT NO. 1873

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 27, 2001

Members present: Newman, Taylor, Carlson, Steward, Schwinn and Bayer; Duvall, Hunter and Krieser absent.

Planning staff recommendation: Conditional approval.

Proponents

1. John Hertzler of the Everest Group presented the application on behalf of Sprint PCS for the installation of a wireless facility generally at 48th & Normal. This is proposed to be a stealth flag pole wireless facility, at 90' total height and built to accommodate a second carrier. This facility is needed to address the significant demand for wireless service in Lincoln. These are very expensive sites and often-times approval is hard to get and each site has a very specific demand. This site is specifically to address a coverage hole in the area of 48th & Normal and south to Van Dorn, caused by topography and distance. This will also add capacity to the area. Once the need for a site is established, the goal is to try to find the best possible location from a land use perspective that will still meet the coverage objectives.

Sprint began searching for a site in the fall of 1999. In order to be most friendly to the community, our first goal is to look at any and all large structures in the area. We looked at a Bryan Hospital and ran into some problems because the building is quite tall and would interfere with a facility to the north. Also, the Hospital decided not to open their rooftop space to non-health related entities.

The Community Playhouse on 56th Street was also considered, but the mature trees between the building and the targeted area rejected this location.

Sprint's goal is simply to find the best site from a land use perspective. We took the search area and expanded it and went through every single possible parcel and rejected each one based on a combination of leasing problems, constructability and land use issues. In general, the problem faced is that while this is a rather heavy commercial area (which was the target for the facility), it is somewhat narrow and surrounded by residential. Any site that might be appropriate that would meet the setbacks and not conflict with traffic or parking was basically behind or next to commercial buildings or right on the border with residential.

The proposed site that we called a dental office is more set back into the commercial area. It does not border residential areas directly and it does not interfere with traffic, parking, etc.

Hertzler went on to state that Sprint made the application, provided significant documentation eliminating all other parcels and staff concurred. They also approached the neighbors and called a meeting in early October. The proposed site was not met with the enthusiasm they had hoped for. The day after the neighborhood meeting, Hertzler requested to place this application on hold to address the concerns raised at the meeting, i.e. more interior to the commercial area. Efforts were

focused at Van Dorn Plaza, but again, they were unable to locate on the north side because it would be right next to residential; they could not locate in the parking lot due to the owner's objections; they attempted a location closer to the corner of 48th & Van Dorn which is more set back from residential, but it was rejected by the landowner. They pursued several other options, including a site north of Antelope Creek that was rejected by the landowner. After exhausting all other alternatives, the applicant returned to the dental office option.

Hertzler believes that Sprint has made significant efforts to relocate the site. However, the proposed location is in a heavy commercial area; it is set back from residential; and it will not interfere with the parking or traffic. There are trees to the southwest to buffer the site. Sprint agreed with the Planning staff to propose a stealth flag pole to lessen the impact on the area and it will accommodate a second carrier.

Steward asked who will raise and lower the flag. Hertzler did not recall that this specific issue had been raised or discussed, but he believes it would be the responsibility of the owners of the property. The owner knows that it is a flag pole and has not raised any objections. Steward cautioned that the flag should not be left up all night unless it is lighted.

Steward inquired whether this site will require adjacent ground support technical equipment. Hertzler advised that there is a 20 x 40 fenced compound with outdoor radio equipment cabinets located inside. The compound will match the existing building. All three cabinets together are about the size of a refrigerator and placed on a steel platform. The fence will hide the view from the street. It is a 15 x 15 equipment platform, with other equipment, and then there is room for future expansion should the site become overloaded and need more radio equipment.

Carlson wondered whether they had considered the flag pole at the post office. Hertzler indicated that they had considered this option, but the post office is further away from the search area and is not high enough. There is also limited space on the ground and there is some residential right across the creek. The post office location was rejected by the staff.

Carlson noted that the equipment size seems to vary from provider to provider. Hertzler explained that to be because of the different technologies having to do with the philosophy. Smaller equipment handles less traffic. It ultimately means fewer facilities in a network. Sprint currently has 20-30 facilities in Lincoln. The majority are rooftops and collocations. They have put a real emphasis on collocations on existing towers and rooftops. Because of the collocations, Sprint has not had to come before the Commission for a year. The spacing of sites really depends on capacity.

Opposition

1. Topher Hansen, 2601 So. 46th Street, two blocks west of the proposed location, testified in opposition and submitted two letters in opposition. Approximately 9 people in the audience also raised their hands in opposition. Hansen urged that the Commission not approve this application. The neighbors have not had cooperation from the Planning Department in that the neighbors have not been consulted about their opposition except by the applicant. The neighbors have not received any notification letters. They did meet with the applicant and made their views clear. They

do not know what the conditions of approval are and they do not know what conversations have taken place.

Hansen believes that it appears that the necessity of business is to be borne by the aesthetic compromise. This site is in a buffer zone between 48th Street, park and residential settings down Antelope Creek Road. It is not the base of the facility that is so much in opposition, but rather it will be the height of the tower that is viewed by all the residents in the immediate vicinity. He will view this from his kitchen. The trees and buildings are not tall enough to block the view of this tower. He finds “stealth” to be an ironic name for the tower because it would stand out in the open space of this park environment. The sky is currently not cluttered with any obtrusions and this is a proposal that would begin to do that. The neighbors are also concerned about the future and what a collocation would do to the view. Hansen reiterated that it is not the base of the facility that is so much of a concern—it is the park environs that are a part of the enjoyment of this neighborhood. The area where it is suggested for location is in a buffer zone. A large tower like this is far from being a reasonable part of any buffer area. It is more appropriate in a commercial area.

Hansen also believes that this has precedential value. Several years ago, the company owning the Eagle radio station applied for a permit for their tower for their radio stations and it was denied by the City Council as being inappropriate for that site. It was not a “stealth” tower but had the same impact and the same issues were at hand. This is not an area that should have to bear the burden of the fact that a business cannot find another location for this tower. It will be an eyesore for the residents in the community and anyone enjoying the park.

Carlson asked Hansen whether he felt the shopping area at 48th & Van Dorn would be more appropriate. Hansen agreed. There are currently light towers in that area and he believes it would blend in there more reasonably. There is nothing of that height in the proposed location.

Steward acknowledged that the opposition is describing this as a buffer zone, but the map in the staff report shows five commercial buildings between 48th Street, Antelope Creek and Normal Blvd. Hansen acknowledged that between 48th on Antelope Creek Road there is a Blockbuster Video, then the dental office and then an office building before you get to the park. The pizza facility is on 48th Street to the north. The proposed location is in the cluster of commercial buildings at the end of the buffer zone. It is behind one two-story building. Steward then suggested that it is not like it is sitting in a buffer green space—it is commercial. Hansen clarified that the base is not as much the issue as the height required by being in a creek.

2. Amelda Chronister, 2637 Antelope Circle, and her sister **Elizabeth Breeding**, 2635 Antelope Circle, are in opposition. They have invested a large portion of their life savings in their homes and the construction of this tower decreases their property values and deprives them of a peaceful area in which to live. It is wrong for a huge corporation to ruin a peaceful residential area.

3. Lois Hansen, 2611 So. 46th Street, testified in opposition. She suggested that the photograph is deceptive because it is taken from the corner of 48th & Normal. Along Antelope Creek Road there is no commercial property except the dental office that faces the road. The dental office and building next door buffer the park and the residential across the street. From the west and the south, once off 48th Street, and the east, there really is not any interference with the trees and the

park land area. The only things that are there are a couple of billboards and a large flag pole. From the bike path from the swimming pool, and all that area in Antelope Creek Road, anything that is more than 1 ½ story would definitely be an intrusion on visibility. She understands the problem of locating cell towers, but these residents are very concerned about protecting the aesthetics of what has been a very pleasant residential neighborhood.

4. Norman Nelson, 2646 So. 46th Street, testified in opposition. He clarified that this location is not 48th & Normal—it is 47th Street. All of you have been to 47th & Van Dorn. You start down by the post office and go way up the hill. He does not understand the purpose of this location other than economics. He suggested that Sprint does not want to spend the money to reinforce a building to put the tower on top.

5. David Ocshner, 4550 Stevens Drive(?), testified in opposition. His concerns are compatibility of use and setting a precedent. This location is not compatible because the proposed tower would be sitting right at the beginning of a residential area. It is not at 48th & Normal. The neighborhood is very low rise with most of the structures being one-story. He is concerned about the way development like this would affect the fabric of this neighborhood. Seeing a tower like this upon entering the residential area just gives a signal that this is a neighborhood that doesn't care about the way it presents itself. He is also concerned about the base equipment structure. It is essentially a compound and very unsightly. Encountering something like this next to residential tells people that this is a neighborhood in decline. There are other places for this kind of visual pollution.

6. Dick Hill, 2625 So. 46th Street, testified in opposition. This sounds like a very high tower and no one has told us how high it is going to be. (Bayer clarified that it will be 90'.) Hill noted that Bryan Hospital has a helicopter port on top of it and they come across our neighborhood every day. He is fearful they might collide with the tower.

Staff Questions

Kathleen Sellman, Director of Planning, introduced the newest planner in the Planning Department, Abby Davis, who has handled this project in Jennifer's absence.

Newman inquired whether there was an attempt to notify the neighbors. Davis advised that the file indicates that there were letters sent out to the neighbors in September. The staff also recommends that the applicant notify the neighbors at least within 200' and as far as 600'

Steward inquired whether the staff is comfortable that every reasonable option within the technical requirements of the applicant and the provider have been explored for other locations. Davis did not write this staff report. It was written by Jennifer Dam who is no longer with the Planning Department. However, Davis stated that she reviewed the staff report and the file. There were a considerable number of sites that were reviewed and analyzed—over 35 sites—and that documentation is included in the Planning Department files. She suggested that the applicant could answer the detailed questions about those sites.

Carlson was interested in the course of the history of sites chosen. He was curious about 48th & Van Dorn and Van Dorn Plaza. Davis indicated that that site was not proposed in the application.

It is outlined in the applicant's documentation. They were thinking about locating behind the Radio Shack and there was a problem with parking and the owners were opposed. Carlson is trying to get a sense of the staff analysis. Davis explained that a site is not available if the owners are not willing to participate.

Response by the Applicant

Hertzler advised that Sprint sent letters to the neighbors in October with the intent to notify the neighborhood of this proposal. It was recommended that we notify everyone within 600' so we notified business and residential owners.

Carlson inquired about Van Dorn Plaza. Is there no way to accommodate the desires of the owners? Hertzler stated that the owners would not give up any ground space. We narrowed it down to two-three parking spots. It was not a monetary issue but simply a ground space issue. If we can't lease the ground space, we can't put it in. You lose signal through the cable if the support equipment is located further away; however, they could locate it 50-100' away if absolutely necessary. Sprint did try to do this at the Radio Shack location, but the owners would not go for it.

Carlson inquired about the height of the flag pole at Station 5. Hertzler believes it is 80-85'. Sprint's proposal was for 80' with the additional 10' for a second carrier.

Rick Peo, City Law Department, clarified that the notice that goes to property owners within 200' is an obligation of the Planning Director to send out 10 days prior to hearing but that is not a jurisdictional requirement. The only jurisdictional requirements are posting of the property and publication in the newspaper. The letter is just additional notice.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 27, 2001

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Steward.

Schwinn believes that the neighbors need to understand that we have very specific rules that handle the siting of cell towers. There are also federal laws that give them justification to come into the neighborhoods to put in these towers and we have tempered those rules with our own rules. Schwinn believes that the applicant has done a good job with the stealth application; they tried collocation; they listed it as a flag pole; he believes they have gone out of their way to make this have the least impact as possible. The Van Dorn Plaza has parking issues that exist today so he understands why they were not able to find a location there. Sprint needs this ability to handle their customers.

Steward's comments were that the city has had great difficulty with cell towers and cell providers in this community. It is a technology that the community has to contend with, not only because it is popular but because there are more than 500,000 users of cell phones in this state. It is something that we cannot deny, either from popular demand nor from the FCC requirements that we make

provision for the offering of this service. When the technology is specified and when they've done due diligence to find the least objectionable site, we have almost no choice but to approve it. We have put together a very good set of community regulations that allows the staff to deal with each one of these applications. Steward stated that he has every confidence in the person who has been handling this application in the Planning Department. He believes that she was looking at the least impact to the community and he has faith both in our regulations and our staff work. He just thinks this is one of those cases that none of us want to see at all, but since it has to be, this appears to be the best we can do and he is convinced that it is.

Carlson expressed admiration for Sprint because they are not here very often because they are getting administrative permits. He does like flag pole mounts, especially when attached to a facility in a larger commercial area. The point that needs to be made is that the regulations regarding infill sites are different than the regulations regarding startup sites. This is not a startup company and not a startup site. These are infill sites to increase capacity to their system. The question is, to what degree does the community wish to bear the brunt of their own cell phone usage, and to what degree can the technology be modified to handle additional capacity without additional towers? At some point, we have to decide where to draw the line and which direction we want to push things in. We need to push people towards the more appropriate technology. He thinks there is more work to be done on this site.

Bayer stated that he will vote in favor. We have given the applicant all sorts of rules to follow; they followed them; and he applauds what they did at the fire station. He thinks the scare of a tower is real but he thinks they have mitigated as best as possible.

Taylor really empathizes with the neighbors and their concerns, and he really kind of questions that they were really properly notified. He agreed with Schwinn, Steward and Bayer, and he has voted in favor every time we have had this situation. He believes that cell towers are very important--they are as important as the telephone poles around the community. But, in this instance, because he does not sense a strong comfortable level, especially with the outcry he is hearing today, he will vote against the tower.

Motion for conditional approval failed 3-3: Steward, Schwinn and Bayer voting 'yes'; Newman, Taylor and Carlson voting 'no'; Duvall, Hunter and Krieser absent. This application is held over for administrative action by the Planning Commission on July 11, 2001. Public hearing has been closed. There will be no further public testimony.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

July 11, 2001

Members present: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer; Taylor and Hunter absent.

Schwinn moved to approve the Planning staff recommendation of conditional approval, seconded by Schwinn.

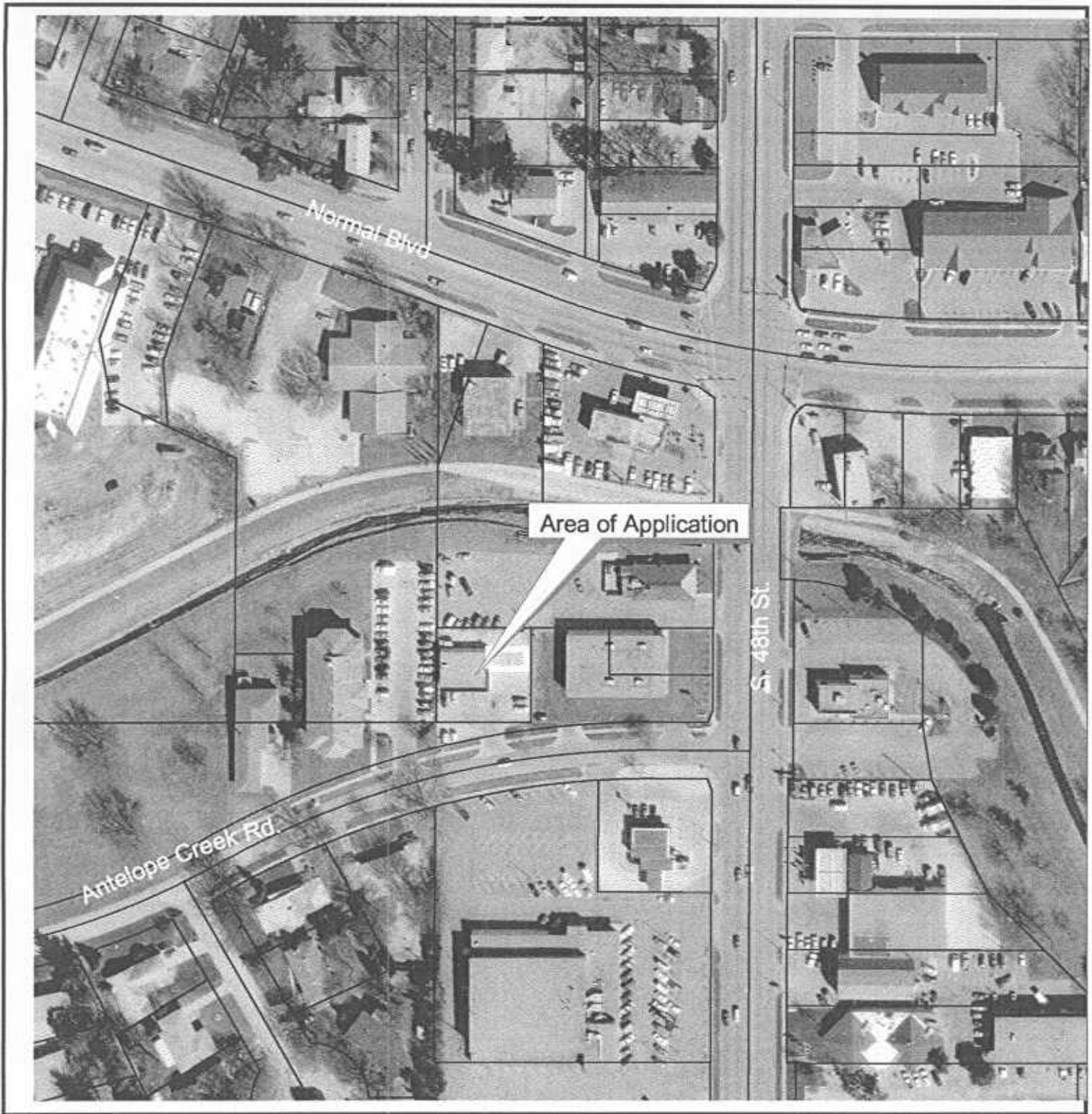
Carlson has viewed the site and he believes there could be ample opportunity for this kind of site to be located on the east side of 48th in a more commercial area, and not on the fringe of a residential

area. He believes there are options that exist that have not been explored that would be superior to this location.

Motion for conditional approval failed 2-5: Steward and Schwinn voting 'yes'; Krieser, Newman, Duvall, Carlson and Bayer voting 'no'; Taylor and Hunter absent.

Newman moved to deny, seconded by Carlson and carried 7-0: Krieser, Newman, Duvall, Carlson, Steward, Schwinn and Bayer voting 'yes'; Taylor and Hunter absent.

Note: This is final action, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.



Special Permit #1873
S. 48th & Antelope Creek Rd.

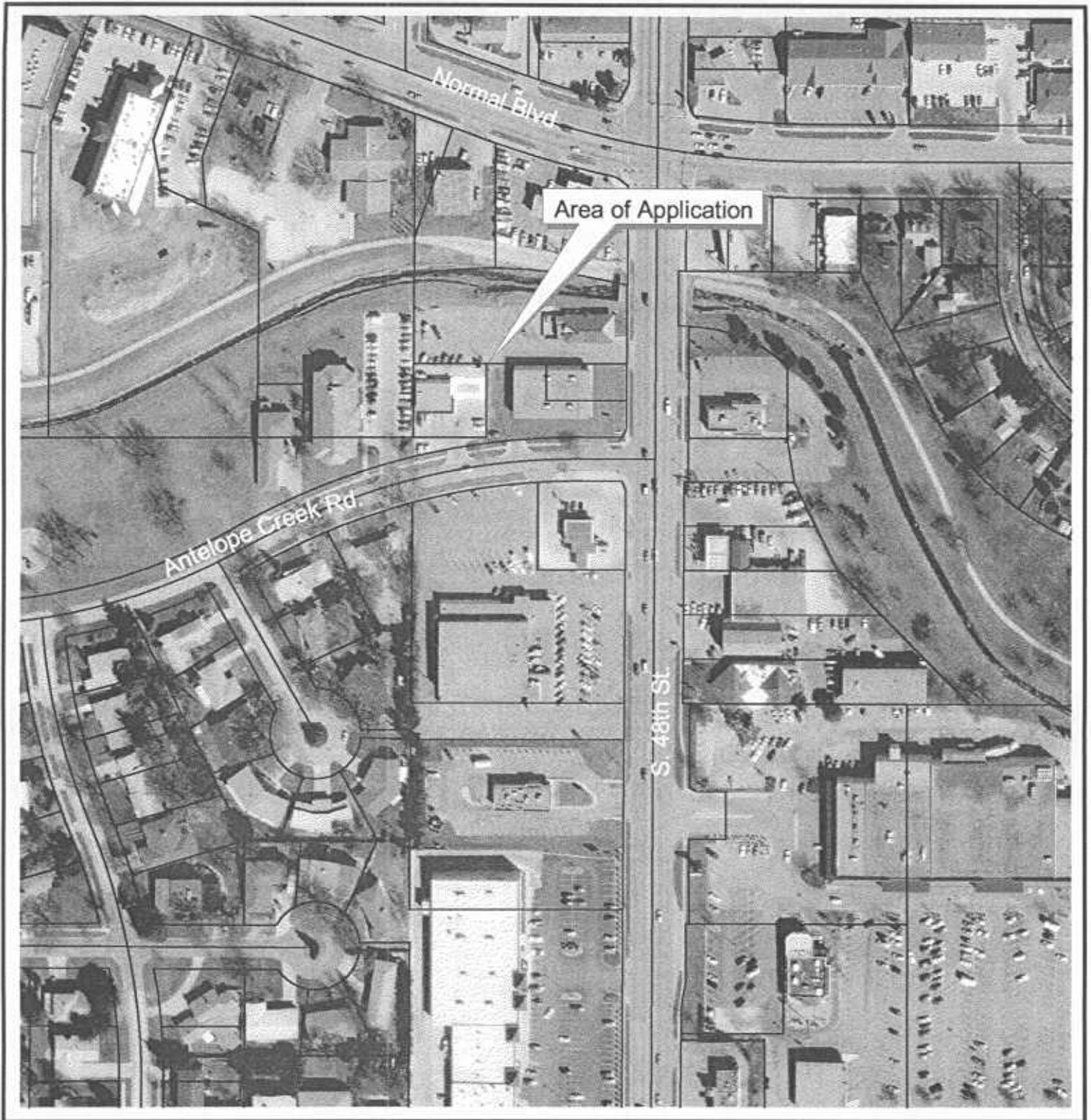


Sheet _____ 022

Date: _____

Photograph Date: 1997

Lincoln City - Lancaster County Planning Dept.



Special Permit #1873
S. 48th & Antelope Creek Rd.

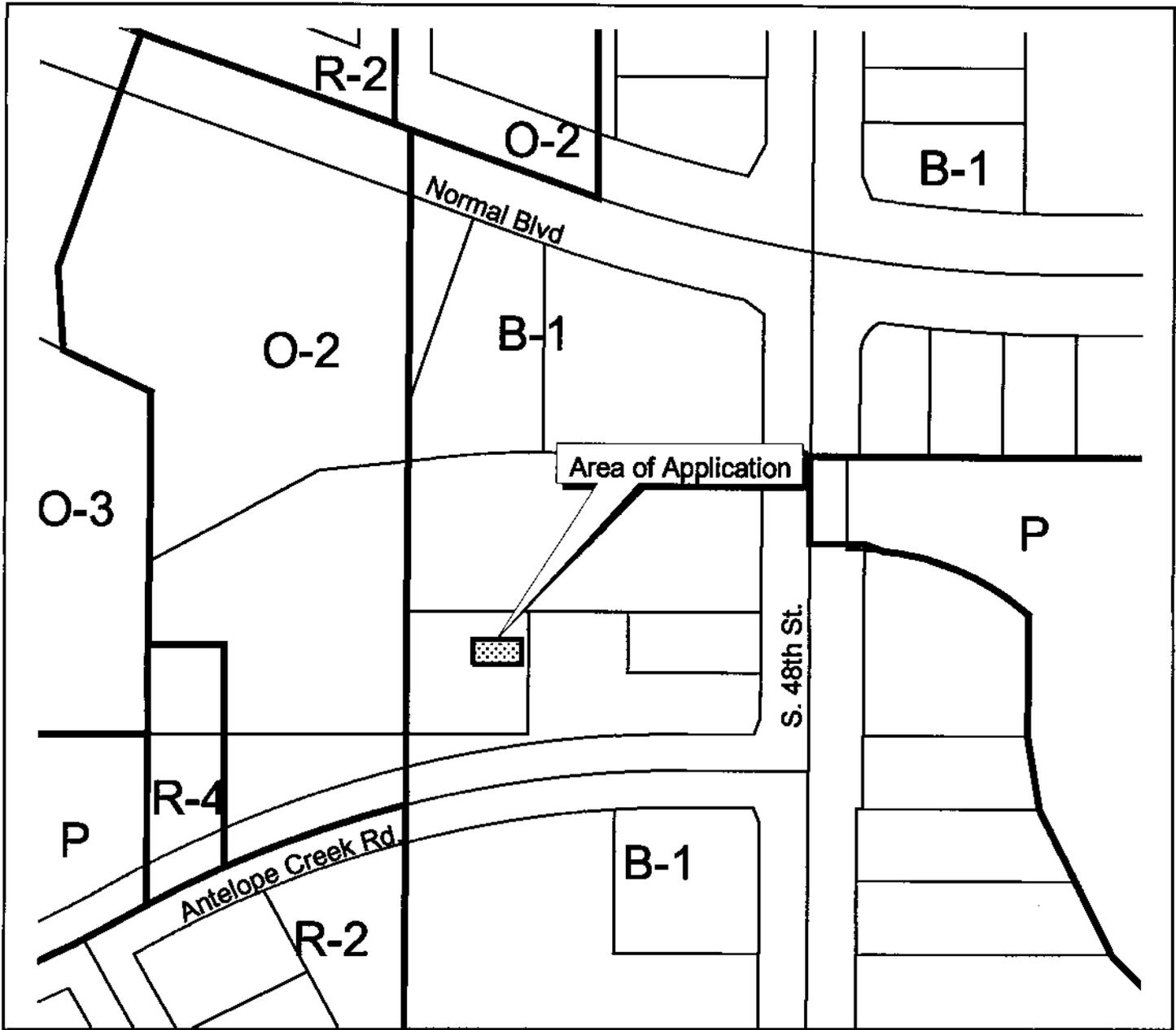


Sheet: _____

Date: _____

Photograph Date: 1997 023

Lincoln City - Lancaster County Planning Dept.

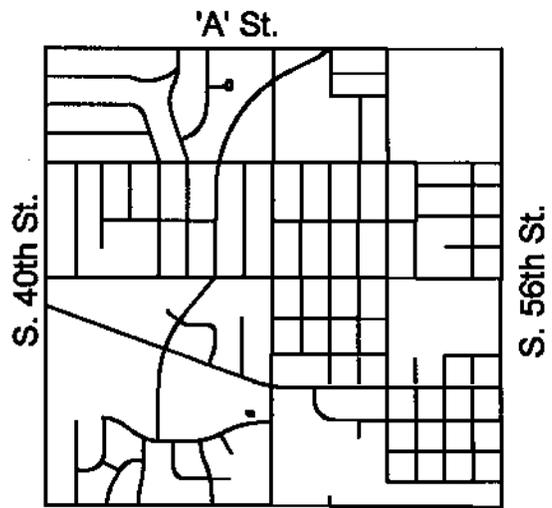


Special Permit #1873
S. 48th & Antelope Creek Rd.

Zoning:

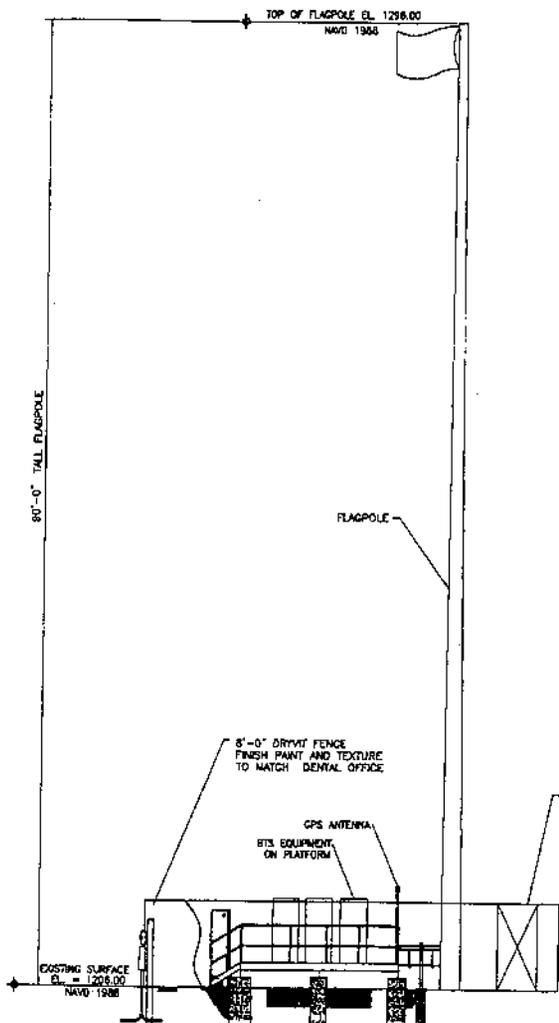
- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- R-C Residential Conservation District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Local Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

One Square Mile
 Sec. 32 T10N R7E



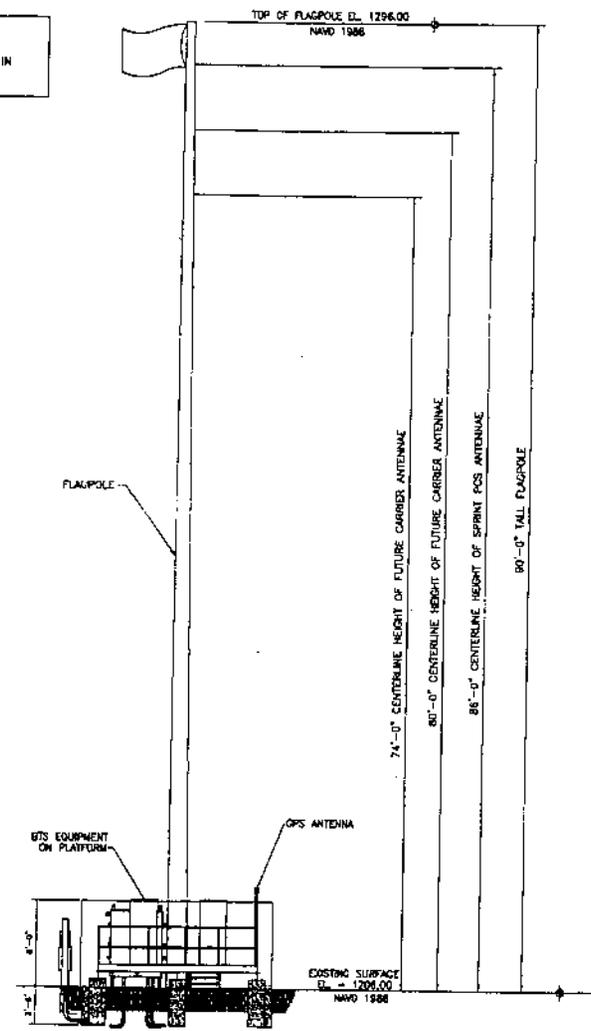
024

Date: _____
 Lincoln City - Lancaster County Planning Dept.



ELEVATION LOOKING SOUTH
SCALE: 3/16"=1'-0"

NOTE:
ALL ELEVATIONS ARE IN NAVD. 1988



ELEVATION LOOKING WEST
SCALE: 3/16"=1'-0"



Sprint PCS
4801 HARBOR ROAD
SUITE 220
ROSDEN, NEBRASKA 68071
OFFICE (402) 384-3300
FAX (402) 384-3300

APPROVALS
SPRINT PCS _____
LANDLORD _____
SPRINT PROPERTY _____
P.L. _____
ZONING _____
CONSTRUCTION _____
NETWORK OPERATIONS _____



ASSOCIATED ENGINEERING, PC
1214 NORTH 18TH STREET
SUITE 100
OMAHA, NE 68118
PH 402-994-9097

THE ENGINEER AND THE SOLE PROVIDER OF PROFESSIONAL ENGINEERING SERVICES AS DESCRIBED IN THE CONTRACT DOCUMENTS OR THE SEPARATE CONTRACT AGREEMENT OF THE NORTH NEBRASKA ASSOCIATED ENGINEERING, PC IS EXPRESSLY FORWARDED.

PROJECT NO. 081201-01

DRAWN BY: NEM/ASB

CHECKED BY: CM

SCALE: 3/16"=1'-0"

DATE: 08/11/08

PROJECT: 081201-01

DATE: 08/11/08

027



The Everest Group

May 31, 2001

Ms. Jennifer L. Dam, AICP
Lincoln/Lancaster Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

RE: SPRINT PCS PROPOSAL AT ANTELOPE CREEK ROAD

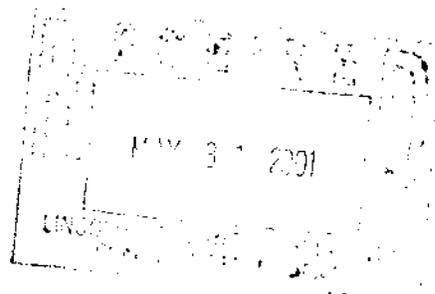
Dear Ms. Dam:

Attached are revised architectural drawings for the proposed Sprint PCS facility at 4700 Antelope Creek Road, pursuant to the previously submitted Application for Special Permit #1873. Of note, these show a layout of the available parking spaces, as well as a multi-carrier flagpole tower. At your request I have attached three full size copies. Please contact me if you need additional sets, or with other questions.

Sincerely,

John S. Hertzler

Site Acquisition and Zoning Specialist
The Everest Group, for Sprint PCS



028



The Everest Group

May 3, 2001

Ms. Jennifer L. Dam, AICP
Planner
Lincoln/Lancaster Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

Dear Ms. Dam:

On behalf of Sprint PCS, please reactivate the previously submitted Application for Special Permit #1873, a wireless facility at 4700 Antelope Creek Road. After significant but unsuccessful efforts to relocate the facility, Sprint requests to continue with the review process for this site.

As a brief history, this application was originally submitted to the Lincoln/Lancaster Planning Department on August 24, 2000. After a preliminary review of the application materials, you requested additional supporting materials. I then submitted a letter on or about September 7, detailing how Sprint arrived at this location, and why all other parcels in the service area had been rejected. Shortly thereafter, and with the assistance of your office, we compiled a list of neighboring property owners and residents within 600 feet of the proposed facility, and more to the west along Antelope Creek Road. Nearly 50 letters were sent out inviting them to a neighborhood meeting to discuss the proposal. This meeting was held on October 2, and was attended by 15-20 residents. As you know, Sprint's plan was not met with enthusiasm. Believing that this reaction changed some of our assumptions regarding the best location for this type of facility, and hoping to carry out our commitment to being a good neighbor, I requested on October 3, 2000 that the pending application be placed on hold until further notice.

Since that time, Sprint has spent significant time, effort and resources toward the goal of finding a new location for the facility that would still meet the necessary coverage objectives, but that would also take into account the suggestions posed at the neighborhood meeting and be located a greater distance from residential uses. Based upon this concern, we changed the weight given to various land use considerations that had been developed through experience in Lincoln, and reprioritized the possible locations that we felt would be the best possible sites in the service area.

The top priority thus became attempting to relocate the facility to Van Dom Plaza, at the northeast corner of 48th and Van Dom. This commercial area is the location of several large stores. Given the new importance of a site that was as far from residential areas as possible, locations behind these large stores were immediately rejected. As stated in the supplemental information letter of September 7, placing a site in this area would be tantamount to placing it in a resident's back yard.

The only option, then was to pursue a location in the parking area in front of the stores that would provide enough space for Sprint's ground compound. The location arrived at was behind the Radio Shack building in the southwest corner of the parking lot. This is the only area that is out of the way enough to make the ground compound at least partially inconspicuous, and that would not disrupt traffic flow and parking as required both by ordinance and by existing tenant leases. A site in this location, however, would still take parking places. Despite our efforts to reduce the compound size, location, and design, including the generation of a set of architectural drawings and various design revisions, the Owners of the property eventually decided that they could not afford to give up even one parking space due to the concerns of their large anchor tenants. This process occurred over the course of several months in late 2000. In hindsight, it is worth noting that the tower here would have been approximately 120 feet tall due to elevation and distance from the center of the search area, and would have loomed over the intersection of 48th and Van Dom Streets.

029

With Van Dom Plaza at an impasse, Sprint again reviewed its options and garnered interest from the Owners of the property at 4535 Normal Boulevard. The plan here was to place a "stealth" flagpole site near the ambulance garage on the south side of the property. The feeling was that this would be a logical place for a flagpole, and the ground area could be fenced to blend with the garage. We pursued a lease for two to three months, only for the Owners to decide against the project at the last minute.

At this point all possible parcels were again reviewed for their viability. All were again rejected due to a combination of factors including land use principles, primarily distance from residential areas, coverage objectives, ground space requirements, and landowner interest. While two additional sites mentioned here were aggressively pursued for an extended period of time, many others were also reviewed and re-rejected due to those considerations already stated in the supplemental information letter, or for want of owner interest. This includes sites located at 4715 Normal, 4749 Normal, 2711 S. 48th, 2510 S. 48th, and 1600 S. 48th among others.

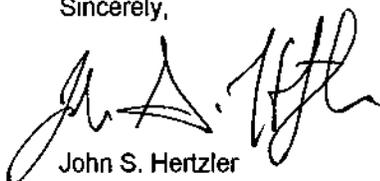
The failure to find a location for this facility that would be a greater distance from residential areas, does not change either the need for the facility, or its many strengths. This facility is intended to address the continually increasing demand for quality wireless service by the public, and is needed to supplement Sprint's existing wireless network. In order to be effective, antennas must be located at specific heights and geographical locations, taking into account factors such as topography and proximity to existing antenna facilities. Only then can each facility properly interact with surrounding facilities to provide continuous, reliable coverage. Improperly located antennas inevitably cause either holes in the network that must be addressed with additional facilities, or cause interference with existing facilities that does more harm to the network than good. Once installed, a properly located new facility such as this will become an integral part of Sprint's citywide network.

Sprint always places an emphasis on community-friendly land uses in determining the best possible location for a facility. The experience of this particular site demonstrates the many factors that inevitably go into arriving at a final location. Sprint feels more strongly than ever that this facility will be in the best possible location in the service area, and that there is not a single parcel in the area that will work better when taking into account all factors. The site is located in a commercial area, and is surrounded by commercial uses. Given the narrow shape of the commercial area on 48th between Van Dom and Normal, the site is well entrenched among and behind commercial uses. It will be buffered from residential uses by the office building on the parcel, by tall trees to the southwest, and simply by the fact that it is located in a commercial area. That it may be closer to residences than is generally preferred does not change the fact that it is still located where this type of development is accepted and encouraged.

In addition to the design strengths proposed in the original application, such as surrounding the lease compound in a material that matches the existing building, Sprint proposes to alter the design of the support structure to one that is even less aesthetically impactful. Rather than using a pole with a "hugging" array of antennas as previously requested, Sprint proposes a design of pole with antennas located inside of the pole. This type of structure is simply the least visually impactful structure we can propose, and will take up the least possible visual space. A photo example from a manufacturer's brochure is attached. The structure will have a total height of 85 feet.

In the end, Sprint is of the strong opinion that we have proposed the best possible site that will meet the coverage objective for this area. As requested, please see that the application for special permit for this site, including all supplemental materials, is once again placed on active review, and that it is scheduled for hearing on the next Planning Commission Agenda. In the meantime, please do not hesitate to contact me with additional questions or concerns that might allow for a complete review.

Sincerely,



John S. Hertzler
Site Acquisition and Zoning Specialist
The Everest Group, for Sprint PCS



The Everest Group

October 3, 2000

Ms. Jennifer L. Dam, AICP
Lincoln/Lancaster Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

RE: ANTELOPE CREEK DENTAL OFFICE

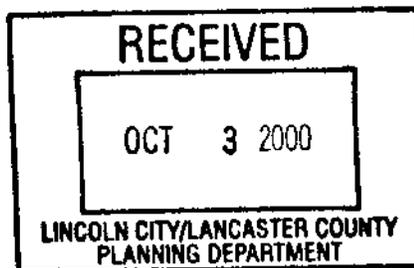
Dear Ms. Dam:

In reference to an application for a Special Permit for a personal wireless facility at 4700 Antelope Creek Road, Sprint PCS requests that this proposal NOT be placed on the upcoming Planning Commission agenda.

Thank you for your attention to this matter. Please contact me at 402/212-6006 with any questions.

Sincerely,

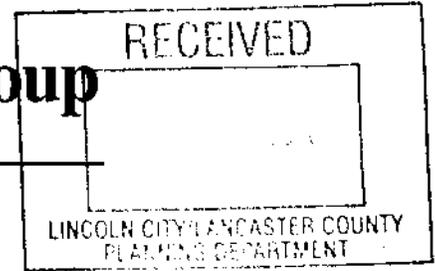
John S. Hertzler
Site Acquisition and Zoning Specialist



031



The Everest Group



September 21, 2000

Dear Property Owner:

On behalf of Sprint PCS, I am writing to notify you of a proposed wireless communication facility in your area of Lincoln, and to invite you, as an owner of nearby property, to attend a neighborhood meeting regarding the proposal.

If you received our previous notification of Sprint's proposal, you are already familiar with the site. Sprint is seeking to improve and expand its wireless communications network in Lincoln, and requires new antenna facilities throughout the City to provide adequate coverage for wireless subscribers, and to handle growing caller traffic. These facilities must be carefully placed by taking into account geographical features, traffic and population densities, and the location of other sites.

The area of 48th and Normal is a high priority for a new Sprint site. The particular location of this proposed facility will be on the northeast corner of the Antelope Creek Dental Office, 4700 Antelope Creek Road. The facility itself will consist of an 85 foot monopole structure. It will also include a radio equipment compound at the base of the tower that will be entirely surrounded by a wall that matches the color and texture of the Dental Office building.

As with all sites, we feel we have proposed the best location in the area for the site. It will be located in a commercial area with commercial uses on all sides, and will be buffered from outlying parcels by surrounding buildings, and tall trees. Due to this, the site will not be readily visible from surrounding residential areas. Unlike the radio tower proposed for this area a few years ago, Sprint's tower will be slender, will not have bulky attachments, and will be located deeper into this commercial area. To diminish visual impact, the antennas will be mounted directly to the tower rather than in the usual triangle array like most wireless towers. It will also be constructed to accommodate at least one additional wireless carrier, so as to reduce the need for additional towers nearby in the future. We feel that the commercial character of the area is suited to this type of development, and that the proposal will blend in nicely with the existing uses of the area in general. Despite our best efforts, other possible locations within this commercial area have proven to be unusable due to a combination of engineering and land use issues.

The facility will not cause interference with other types of radio communications nearby, including radios, telephones, televisions, cellular phones, and the like. Further, it will operate using transmissions that have been determined by the federal government to be safe. The pole will have no lights, use no guy wires, and make no noise. It will be surrounded by a security wall that will be locked at all times.

While we believe that this is the best location for our proposal, we are deeply concerned with being responsible and considerate neighbors. Sprint takes pride in working with communities to locate and design sites in the best and most acceptable ways. Thus, we would like to invite all neighbors to a meeting to further discuss this proposal, its location, and its design. We will meet on Monday, October 2 at 6:00 p.m. The Parkway Lanes Bowling Alley, located just across Antelope Creek Road from the site to the South, has been gracious enough to open its upstairs room for this meeting. The address is 2555 S. 48th Street. Please arrive promptly so as not to interfere with league bowling.

If you are unable to attend the meeting and have questions or concerns regarding this proposal, please contact me at your convenience. I can be reached anytime at 402/212-6006.

Sincerely,

John S. Hertzler
Site Acquisition and Zoning Specialist
The Everest Group, for Sprint PCS

032



The Everest Group

September 7, 2000

Ms. Jennifer L. Dam, AICP
Lincoln/Lancaster Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508



Dear Ms. Dam:

At your request, this letter contains supplemental information to an Application for Special Permit submitted on August 24 by SprintPCS for a wireless communication facility at 4700 Antelope Creek Road. Please include this information with the application.

It has come to our attention that since the date of application for this facility, there have been some concerns raised as to its specific location. I would like to take this opportunity to explain in greater detail how we arrived at our proposed location, and why we believe that any other parcel in the area would be less suited to this type of development.

Sprint has a mature wireless system already on air in Lincoln. Thus, all new facilities must be located in specific areas. These areas are determined by radio frequency engineers using sophisticated computer software. Generally they take into account the location of existing Sprint sites, topography and geography, proximity of populated areas and busy intersections, and the amount of caller traffic in the vicinity. The goal is to place sites where they can best improve the overall City-wide network by relieving existing sites of excessive traffic, and providing better coverage to areas with marginal existing service. Sprint invests significant resources into each site, and is extremely careful to assure that each site is absolutely necessary.

Sprint has determined such a need in the area of 48th and Normal Street in Lincoln. This is demonstrated by the coverage plots submitted in the application as Exhibit "I". While the areas in which a site must be located in order to achieve coverage objectives are usually less than ½ mile in diameter, in this case we extended our search from Sumner Street to Van Dom Street, and from 40th Street to 56th Streets. A site outside this area would cause interference with existing sites, and would be too far away from the targeted area to be worth the expense. As a practical matter, even sites near the edge of this range would be unlikely to work except in special circumstances.

In this general area, numerous parcels are zoned and used for residential purposes. While occasionally a residentially zoned property may be appropriate for a wireless facility, no such parcels exist here. Thus, all residential properties within this range must be eliminated as candidates.

Near the edges of said range, are four possible facility sites. Bryan Hospital, located at 1600 South 48th Street, was originally considered for a rooftop installation, and was pursued as the primary candidate. Two problems arose here. First, the height and location of the building meant that it would interfere with existing sites. Second, and more importantly, Administrators for the hospital informed us that they were unwilling to open their rooftop to outside, non-health related, antenna equipment. While we asked them to reconsider, our efforts were fruitless and we were eventually forced to being considering other alternatives.

The Lincoln Community Playhouse, 2500 S. 56th, was also considered for a rooftop installation, and was visited by Sprint engineers. Unfortunately, the roof here is simply not high enough for Sprint's transmissions to clear the nearby trees and reach the commercial area south of 48th and Normal. As

033

this is a high priority area for better coverage, Sprint's radio frequency engineers insisted that the site be located more centrally.

Finally, the commercial areas in the vicinity of 40th and Normal, and 56th and South provided possible candidates. However, both of these areas are smaller and less heavily commercial than the 48th and Normal area, are surrounded by residential areas, and are excessively distant from the target area, which would require a taller tower. There are no buildings here tall enough for a rooftop installation, and any facility here would be less appropriate than that proposed.

Rejecting these and the residentially zoned properties in the service range leaves the area of commercially and publicly zoned properties referred to in the original application. This area is highlighted on the attached aerial photograph, and was the focus of the search for a facility location. The parcels considered are discussed below, referring to their use and address. Unless, otherwise indicated, the proposed development referred to would be a new tower, as there are no co-location opportunities or sizeable buildings in the area.

- 4535 and 4645 Normal Blvd., Long Professional Center and Eden Place (O-3)—Sprint considered locating behind either of the two two-story office buildings on these parcels. Due to plans for future expansion, the land owner was unwilling to consider any location except behind the ambulance garage on the extreme southwest corner of the parcels. Even here, the owner insisted on locating the compound at least 30 feet behind the garage in case of future additions. This would be very near to the existing walking path along Antelope Creek. Due to lower elevation and the distance from the center of the targeted area, a height of 90 to 100 feet would have been required by RF engineers. Further, the view of the site would be unobstructed from houses to the south of Eden Park. Sprint felt that despite proposing a flagpole installation here, this combination of factors—the fact that the compound would be set off from other buildings and near to the walking path, and the unobstructed view of this taller pole—made this a less than desirable location.
- 4701 and 4625 Normal Blvd., Holy Family Medical Specialties (O-2)—This property does not have sufficient room for a Sprint facility, as nearly all space is used for an office and for parking. The compound would be on the edge of the commercial area, and there is also an unobstructed view from housing to the south.
- 4700 Normal Blvd., State Farm Insurance (O-2)—This parcel abuts low-density residential, is an inappropriate location, and has no ground space.
- 2345 S. 48th St., Krein Real Estate (B-1)—This also abuts low-density residential, is an inappropriate location, and has no available ground space.
- 2300 and 2320 S. 48th St., and 4848 Normal Blvd., Alpine Village (B-1)—This area of boutiques and offices abuts low-density residential. A site here would be inappropriate and not buffered from residential uses.
- 4800 Normal Blvd. and 2338 S. 48th St., Union Bank (B-1)—This site offers insufficient room for ground space.
- 4715 Normal, Rent 'N Drive (B-1)—There is insufficient room outside of this building for an equipment compound. What space exists is in use. Further, the site would abut Antelope Creek with an unobstructed view from the residences to the south. The minimal buffering makes the site less appropriate than that proposed.
- 4749 Normal Blvd., Phillips 66 Station (B-1)—There is simply insufficient room for an equipment compound at this site, as all areas are in use. The billboard on the premises is not tall enough to meet coverage objectives, thereby ruling out co-location.
- 4400 Antelope Creek Rd, Eden Park (R-2)—This park, which houses Eden Park Pool, is rather narrow. A possible light pole replacement site was considered at the pool here. However, the site would simply be too near to the neighborhood without decent screening for the site to go forward.

- 4630 Antelope Creek Rd., KTGL Radio Station (O-2)—This site was excluded for insufficient ground space and due to the nearer proximity to housing.
- 2435 S. 48th St., Buster's BBQ (B-1)—The parking lot behind Buster's might offer some space for a site. However, Sprint felt that a site here would be unprotected from outlying areas by the existing buildings in the vicinity. This location would not be preferable to that proposed.
- 2445 S. 48th St., Blockbuster Video (B-1)—This site does not have sufficient room for an equipment compound, and is otherwise not preferable to the proposed site.
- 2511 S. 48th St., Lincoln Federal Savings Bank (B-1)—This is a very small parcel with very little ground space.
- 2555 S. 48th St., Parkway Lanes (B-1)—While locating behind the large building on this property was initially attractive, the residences to the east are very near to where the site would be located. The distance of as little as 20 feet is simply too close.
- 2601 S. 48th St., Wendy's (B-1)—There is no appropriate location here that is not abutting a residential zone.
- 2711 S. 48th St., Osco, etc. (B-1)—Like Parkway Lanes, the back side of the sizeable building here would make an appropriate location. However, it is very near to homes. The elevation here also made a rooftop installation a possibility. At its tallest, though, the building is only 25 to 30 feet tall. Another 30 feet at least would have to be added on to the roof to meet coverage objectives, and to clear the trees to the west. Whatever the design, this would be out of scale with the building, and inappropriate for the area.
- 2837 S. 48th St., Burger King (B-1)—This is an inappropriate location due to proximity to housing to the south and west.
- 2400 S. 48th St., Jiffy Lube (B-1)—There is insufficient ground space in front of the existing structure. Locating behind the station would be more appropriate, but would be unbuffered from nearby housing.
- 4831 Normal Blvd., Fabric Care Center (B-1)—Abuts low-density residential.
- 2460 S. 48th St., Arby's (B-1)—The only appropriate location here would be behind Arby's parking lot. This would be on the very edge of this commercial area, and is very near to residences across Antelope Creek, with little obstruction of their view.
- 2510 S. 48th St., Total Service Station (B-1)—Like Wendy's, locating behind this service station would be near to the residential area behind the park. This is on the edge of the commercial area, and there would be a similarly unobstructed view.
- 2540 S. 48th St., Antelope Creek Veterinary Clinic (B-1)—A site in the parking area behind the Vet clinic was explored carefully, and was at one point the primary candidate. Unfortunately, there is very little space here that is not utilized for parking. More importantly, the land owner here was unwilling to consider leasing space due to plans for future expansion.
- Roose Park (P)—Most of this park, which runs behind the commercial area and consists primarily of a walking path, is simply too near residential housing to be considered. One area, just east of the Antelope Creek Vet parking area, might offer enough room for an equipment compound. However, this is still near to the homes across the park, and while there are a few trees to offer some light screening, the facility would be outside of the commercial area that comprises the most appropriate location. While this site has some merit, Sprint feels that locating here would not be as prudent as locating inside the commercial area. Though there would be some distance between the homes and the site, locating in the park would be akin to locating in these homes' back yards. The site would fail to utilize the strength of this area—the appropriateness of the heavily

commercial uses. Further, Sprint feels that locating here would cause at least as significant an impact upon the neighbors as other sites, including that proposed.

- 2548 S. 48th St., Howard's Pantry (B-1)—This parcel is near to 48th Street and does not offer sufficient ground space or adequate buffering for a site.
- 2546 S. 48th St., HIP Property (B-1)—This parcel houses a small two-story office structure. The park side of the building was considered as a location. The management company here was uninterested in a site. Further, the site is unattractive from a land use standpoint for the same reasons as the Roose Park area.
- 2600 S. 48th St., 2548 S. 48th St., 2634 S. 48th St., 4848 Van Dom St., 2748 S. 48th St., Van Dom Plaza (B-2)—These several parcels generally make up the Van Dom Plaza shopping center. This is the heart of this commercial area, and was one of the primary focuses of Sprint's efforts.
 - The main structure is a large "strip mall" building holding Walgreens, Sun Mart, Hobby Lobby and Westlake. A site was first considered behind this structure. However, due to loading and unloading traffic, and plans for expansion, ground space was unavailable. Further, the site would have been clearly visible to the houses across the park to the north.
 - Sprint next considered a site somewhere in the large parking lot. While this area is the most central in the commercial area, the furthest distance from residential areas, and has numerous light poles to add blending to the site, there is simply no appropriate location for a compound. Sprint does not feel that it would be acceptable to place a compound in the middle of a parking lot like this. Despite the positive aspects, it would be too noticeable and too large for the area.
 - Finally, Sprint looked for a site nearer to 48th or Van Dom Streets, in closer proximity to McDonalds, Radio Shack, and KFC. Again, there is simply no area of sufficient size where a site could be placed in an out-of-the-way location. Any site would be located in an existing parking area without good protection provided by existing buildings. Further, due to the distance from the center of the targeted service area and the lower elevation, the site would require more height in order to meet coverage objectives. The location and height would cause the tower to "loom" noticeably over the heavily trafficked intersection of 48th and Van Dom.
- United States Post Office—The post office was considered a good possibility initially for a flagpole installation. Several problems quickly arose. Primarily, there is insufficient ground space for an equipment compound here, especially in a location that would be natural for a flagpole. Sprint would also require more height here due to elevation and distance from the targeted area. Further, the site is again in an area where the view from homes across the park would be unobstructed.
- 2800 S. 48th St., Security First Bank (B-1)—There is insufficient ground space, and this is an inappropriate location due to proximity to residential areas to the south and east.
- 5001 Van Dom St., Village Inn (R-4)—Insufficient ground space, and inappropriate location due to proximity to residential areas to the south and east.

This addresses most parcels in the service area that could legitimately be considered as candidates for a Sprint facility, and shows in detail why the proposed Antelope Creek Dental Office was chosen as the proposed site. There is simply no other possible location in the area that meets the constructibility, coverage, and land use criteria for a site. As always, Sprint has carefully considered a variety of options for the location of a wireless facility. While other sites in this vicinity may have some positive aspects, they cannot be considered to cause less impact on the area, or be more appropriate from a land use perspective.

In the past, Sprint has demonstrated a willingness to consider suggested locations by the Planning Department, and to change locations when a better location can be found. Here, such sites as the Radio Station, the Long Professional Center, the Post Office, and Roose Park were suggested and

explored in detail. Again, each must be rejected due to a combination of engineering and land use issues.

Instead, Sprint feels that it has proposed the best possible candidate in the area. As demonstrated above, it has been difficult to find a location that was not either in front of a commercial building, where it would be excessively noticeable in a high traffic area, or on the edge of the commercial area and near to residences. The proposed site was chosen because it is located inside the commercial area in on a spot where it is buffered from outlying areas and screened from residential zones. This is the best location in the service area, and is appropriate for this type of development. Sprint requests to move forward at this location as planned.

Sprint is proud of its efforts to work flexibly with the community in the design and location of its facilities, and is happy to continue to discuss options with the City and neighborhood for this proposal. Please do not hesitate to contact me regarding any additional information that may be helpful for a complete review. Thank you.

Sincerely,



John S. Hertzler
Site Acquisition and Zoning Specialist



The Everest Group

August 24, 2000

Ms. Jennifer L. Dam, AICP
Planner II
Lincoln/Lancaster Planning Department
555 South 10th Street, Room 213
Lincoln, NE 68508

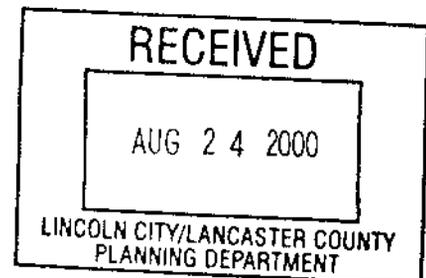
Dear Ms. Dam:

On behalf of Sprint PCS, please accept the enclosed materials as an application for a Special Permit. Sprint proposes a Personal Wireless Communication Facility at the Antelope Creek Dental Office, 4700 Antelope Creek Road, and requests review of this application by the Lincoln/Lancaster Planning Department. The facility will consist of an 80 foot monopole antenna support structure, as well as an associated radio equipment compound. The attached materials will allow for a thorough review of the site, and constitute a complete application that is in compliance with the applicable Lincoln Zoning Ordinances.

Please do not hesitate to contact me regarding any additional information that may be helpful for a complete review. Thank you.

Sincerely,

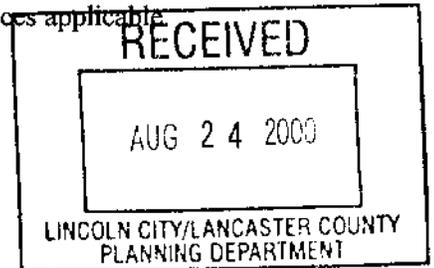
John S. Hertzler
Site Acquisition and Zoning Specialist



038

Application Requirements

The following is a response by SprintPCS to the issues and requirements set forth in Title 27 of the Lincoln Municipal Code as amended by section 27.68.090 in reference to a proposed personal wireless service facility consisting of an 80 foot monopole antenna support structure, and accompanying radio equipment at 4700 Antelope Creek Road in Lincoln, Nebraska. This information addresses the requirements contained in this section, and references applicable portions of the Design Standards and General Requirements sections.



27.68.090 Application Requirements.

(a) Pre-Application Conference and Fees

A pre-application conference for the purpose of discussing application requirements, site specifics, plans for current and future facilities, and establishing the application fee was held on June 22, 2000 with Jennifer Dam of the Lincoln/Lancaster Planning Department, and Sprint PCS as represented by the Applicant. A fee of \$1000 is included with this application.

(b)(1) Plot Plan

A plot plan of the lot and proposed uses drawn to an accurate scale and showing all pertinent information so as to allow for a complete review of the proposal and indicating in detail compliance with design standards is attached to this application. Of note on the plans are the following:

- A metes and bounds description of special permit area, including tower, base equipment, security barrier, and landscaping, referring to the legal description of the property including lot, block, subdivision, section, township, range. (LS-1)
- A Site Plan showing the following:
 - Tower, antenna, antenna support structure, building fencing, buffering, access, etc. (LS-1-Z-4)
 - Drawn to an engineer's scale so as to be legible
 - Lot lines (LS-1, Z-1)
 - Lease area lines (Z-1, Z-2)
 - Dimensions of lease area (Z-1, Z-2)
 - Distances from lease area to property lines (Z-1)
 - Specific location and dimensions of all proposed structures and equipment (Z-2)
 - Distance from all proposed structures and equipment within the lease area to the boundary of the lease area (Z-2)
 - Distance from all proposed structures and equipment within the lease area to the property lines (Z-2)
 - Location of all existing structures on the property (Z-1)
 - Distance from the lease area to the existing structures (Z-1)
 - Proposed security barrier, including type, extent and point of controlled entry (Z-2, Z-3)
 - Type and mounting of antennae (Z-3, Z-4)
 - Notation that antenna and support structure will be designed to withstand wind force of 100mph (Z-2)

- Indication that antenna and support structure are safe, and will meet EIA standards (Z-2)
- Location of all roads (Z-1)
- Location and dimensions of access to proposed facility (Z-1)
- Location of existing trees and shrubs (Z-1)
- Location of other significant existing site features (LS-1-Z-4)
- Proposed changes to the existing property including grading, vegetation removal, roads or driveways (Z-2)
- Zoning of site (LS-1)
- Land uses of adjacent properties (LS-1)
- Ground space for one future carrier's equipment (Z-1, Z-2)
- Space on support structure for future carrier's antennas (Z-3, Z-4)
- Elevations:
 - Dimensioned and to scale in NAVD 88
 - From north, south, east, and west (Z-3, Z-4)
 - Showing antennas, mounts, equipment enclosures, security barrier, platforms, cable runs, other construction or development with elevation dimensions to the highest point.
 - Flood plain information. (LS-1, Z-1)

Also attached to the application are photo simulations from a design professional depicting the site as it will appear after construction from several vantage points, including the nearest residential areas and heavily trafficked intersections, and pertinent portions of equipment brochures showing equipment that to the best of Sprint's knowledge will be used at the site.

(b)(2) Statement Identifying Location Preference

The proposed facility could be considered a Limited Preference Site as defined by Section 27.68.080: Location Preferences. While the site is in a commercial area, there are residential uses in the vicinity. Since the proposed location is not a preferred location site, the following issues are addressed:

- (i) Whether any preferred location sites are located within the service area of the proposed personal wireless service facility;*

There are no preferred location sites within the service area of this proposed facility.

- (ii) What good faith efforts and measures were taken to investigate each of these preferred location sites and why such efforts were unsuccessful;*

Sprint has looked into several sights in the vicinity for a suitable location. There are no sizeable buildings in the area or existing towers on which antennas could be located. The nearest building of any significant height is Bryan Hospital to the North. This site is very near to an existing Sprint Facility, and would cause interference with that site. Nevertheless, Sprint pursued this site for a number of months as the primary candidate. Despite these efforts, the hospital repeatedly indicated an unwillingness to lease rooftop space to outside parties, and Sprint was eventually forced to consider other candidates. Sprint also considered the Lincoln Community Playhouse to the East as a candidate. However, the roof of this structure is simply not tall enough, nor near enough, to the targeted area to provide effective coverage, and was rejected as a candidate by Radio Frequency engineers.

Sprint has made a concerted effort in arriving at a final location to place the site as deeply into this commercial area as possible. While this area is rather heavily commercial, and is suited to this type of facility, it is also rather narrow with residential uses beyond. Any other locations in this vicinity would have at least as significant of an impact as the proposed location.

(iii) *Why the use of a preferred location site is not technologically, legally, or economically feasible;*

Again, any preferred location site would be outside the geographical area required for proper radio frequency coverage.

(iv) *How and why the proposed site is required to meet service demands for the proposed facility and citywide network;*

The proposed site is necessary to meet the rapidly growing demand for wireless service in Lincoln. Other Sprint sites in this area of the city are nearing their capacity, and simply cannot handle all of the caller traffic as demand grows. This site will help relieve other existing sites of excessive traffic, and to cover an otherwise marginally or poorly covered geographic area. The attached coverage plots indicate the improvement in coverage this site will provide. These are accompanied by a letter from a Sprint Radio Frequency Engineer better explaining Sprint's need for a facility in this area.

(v) *The distance between the proposed facility and the nearest residential unit and residentially zoned properties.*

The proposed facility is approximately 180 feet from the nearest residential use, a duplex. This parcel is zoned R-2.

(b)(3) Description of the Security Barrier

The proposed tower base and accessory equipment will be completely enclosed by an eight foot high stucco fence that will match the exterior of the existing Dental Office building. There will be no illumination. Access will be through a locked gate. This is in conformance with Section 27.68.110 (b).

(b)(4) Minimization of Potentially Adverse Effects on Adjacent Properties

This site has been designed to minimize potentially adverse visual effects on adjacent properties.

- **Location**—The facility is located in a commercial area with commercial uses. The parent parcel is zoned B-1, as are surrounding properties to the north, south, and east. The parcel to the west is zoned O-2. All of these properties have uses commensurate with their zoning, and buffer the site from the residential uses beyond. The proposed facility is in keeping with the character of the surrounding uses, and is located well within this commercial area. It is also near to a publicly owned Park area which will help to separate the site from housing.

Sprint believes it has chosen the best possible location in the area for the site. With no existing structures available, the proposed location was chosen because it is relatively deep into this commercial area. While this is an appropriate development for this type of area, it is surrounded by residential uses, and available space is

scarce. Locating nearer to a major street, or in an open parking lot would be inappropriate. Locating in other areas would cause at least as significant an impact on residential areas. The attached aerial photograph helps to demonstrate the size of the commercial area, and the difficulties associated with locating in other areas.

- **Screening**—As per Section 27.68.110(a)(2), the compound will be enclosed by an opaque fence that matches the adjacent office so that ground equipment and the tower base will not be visible.
- **Buffering**—The compound will be surrounded by existing commercial buildings and parking areas, which will buffer it on all sides from residential uses. It is well inside a commercial area in which this type of development is appropriate. The site will also be buffered from residential areas by numerous mature trees, which will greatly diminish its view, and by a large park area.
- **Blending**—While there are no structures of comparable height nearby, this structure will blend in well with the numerous lights, electrical poles, billboards and signs found in this commercial area.
- **Height**—The 80 foot height is the lowest possible in order to effectively cover the area from a radio frequency standpoint. A “drive test” was performed by Sprint radio frequency engineers to confirm this. In this test, an antenna is hoisted by a crane to various heights and data is taken so as to determine the lowest possible height at which the site will be effective. The height is not out of scale with the surrounding commercial uses.
- **Lighting**—No artificial lighting will be necessary at this site, save for a flood light located above the equipment platform to be used during nighttime emergency maintenance.
- **Pole Finish**—The monopole will have a galvanized finish as required by Section 27.68.110(c).
- **Antenna Design**—The antenna array is a compact platform, or “hugging” array. This design is more slender than traditional monopole antenna arrays, and thus will mitigate visual impact to the area.
- **Parking**—The proposed facility will eliminate no more than 5 parking spaces from the existing parking lot. According to Chapter 27.67.040(d)(4) of the Lincoln Municipal Code, 1 space is required for every 225 sq. ft. of floor area. Here, the Dental Office building now has 17 spaces in its lot, and approximately 2200 sq. ft. or less of floor space. This means that 9 spaces are required. Despite removing 5 spaces, more than 9 spaces will remain.
- **Landscaping**—The proposed facility will not include landscaping. Given the Site’s location in a parking lot, landscaping would be inappropriate and out of character with the surrounding area. It would also be excessively difficult to plant and maintain. Thus, Sprint requests a variance from the City’s landscaping requirement.
- **Scale**—The proposed 20 foot by 40 foot compound, and 80 foot monopole are in scale to the commercial uses of the surrounding area.
- **Views**—The proposed facility will have no negative impact on views or vistas, including the view of the Capitol.
- **Landmark Structures**—The proposed facility will have no negative impact on landmark structures, historically or architecturally significant structures, or on any other views, vistas, or scenery.
- **Natural Resources**—The proposed facility will have no negative impact on natural resources, open spaces or recreational resources.
- **Co-location**—This facility will be constructed to meet the requirements of Section 27.68.110(d). As the site plans indicate, the monopole will be structurally capable of accommodating one future carrier, and there is sufficient room at the base of the tower for an additional equipment compound. The attached Co-location Statement,

indicates the land owner's willingness to reserve space and to consider the offers of other carriers.

- **Existing Structures**—As per Section 27.68.120(d), there are no existing structures within ½ mile suitable for antenna mounting.
- **Setbacks**—As per Section 27.68.110 (a)(6), all base equipment and structures meet the setbacks as stated by the Lincoln Zoning Ordinance for B-1 zoning. Distances from lot lines are indicated on the plot plans.
- **Fall Zone**—As per Section 27.68.110(g), Sprint requests a waiver of the requirement that towers shall be set back a distance no less than one half the height of the structure, as allowed by this section. Due to the location specifics of the site, it will be impossible to meet the fall zone requirement on the North and East sides. A reduction in the fall zone is proper because it will not adversely impact adjacent properties, or public health, safety and welfare, given the character of the surrounding properties. The tower will be built to collapse upon itself, and a fall onto the neighboring parcel in this direction would be onto a relatively untrafficked.
- **Antenna and Support Structure Safety**—As per Section 27.68.110(e)(1) the antenna and support structure will be designed to be safe, and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris. This is noted on the plot plans. Sprint will meet or exceed all EIA/TIA standards and requirements of the City of Lincoln, and will provide to the Planning and Building and Safety Departments design specifications for the specific tower to be used before a building permit is issued if necessary.
- **Wind Force**—As per Section 27.68.110(e)(9), the antennas and support structure will be designed to withstand a wind force of 100 miles per hour. This is noted on the plot plans. Sprint will meet or exceed all requirements of the City of Lincoln, and will provide to the Planning and Building and Safety Departments design specifications for the specific tower to be used before a building permit is issued if necessary.
- **Standards**—As per Section 27.68.120(a and b), the tower shall be constructed and maintained to meet or exceed EIA standards, and all applicable construction and building codes. This is indicated in the plot plans, and can be provided as a part of tower design specifications prior to the issuance of a building permit. Improvements or additions will also comply with these requirements.
- **Surety**—As per Section 27.68.120(e)(1), a surety in the amount of \$35,000 to guarantee the future removal of this facility is attached.
- **Indemnity**—As per Section 27.68.120(e)(2), Sprint will agree to the indemnification language in this provision by signing the letter of acceptance of the Special Permit.

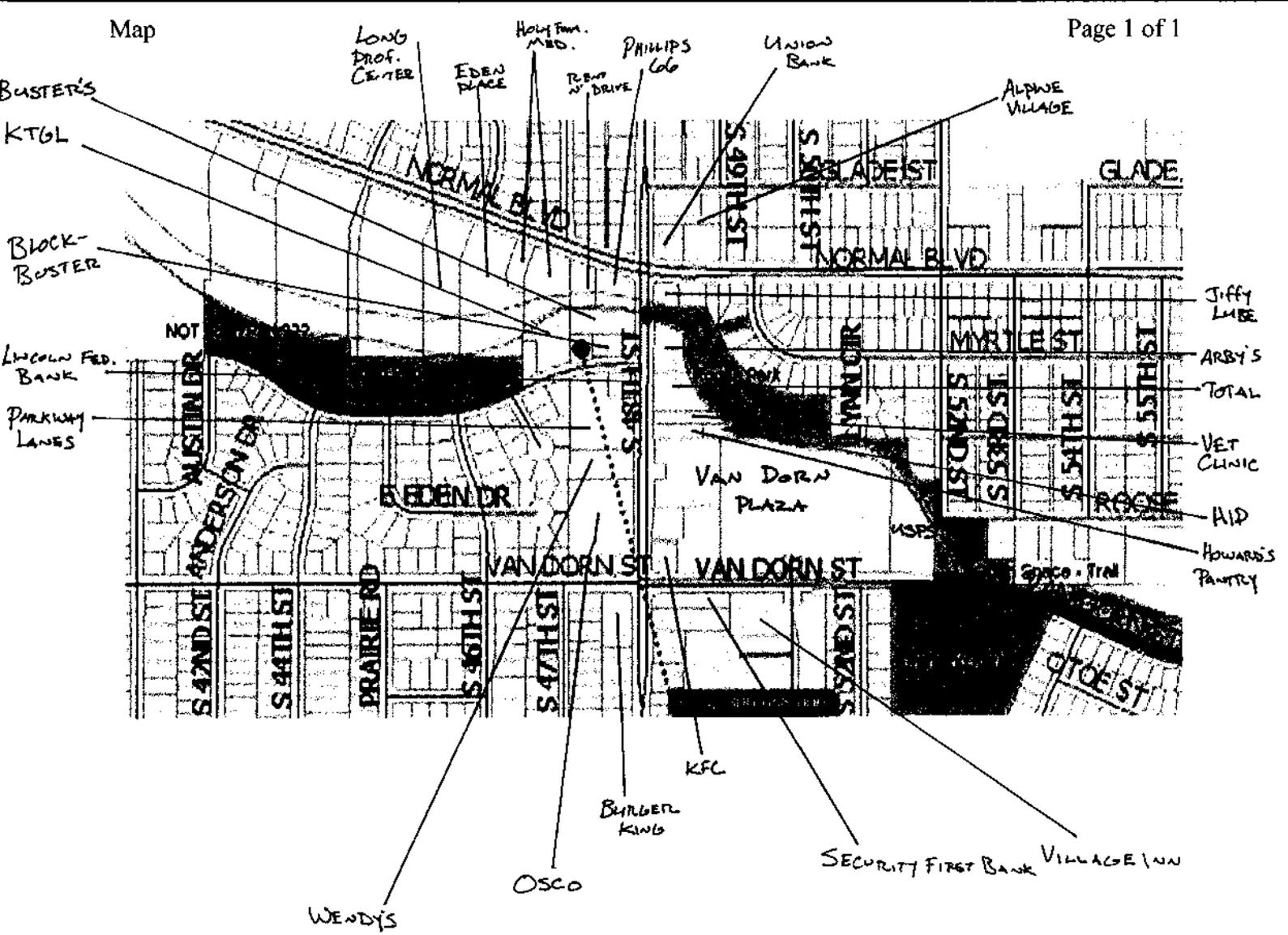
(b)(5) Maintenance and Monitoring

A description of standard operating procedure for maintenance and monitoring is attached to this application with applicable portions highlighted.

(b)(6) Environmental Documents

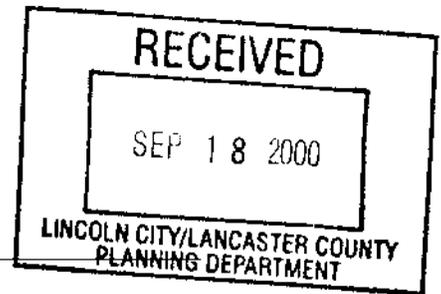
Environmental documents required by federal agencies for this site are attached.

Map





NEBRASKA STATE HISTORICAL SOCIETY
1500 R STREET, P.O. BOX 82554, LINCOLN, NE 68501-2554
(402) 471-3270 Fax: (402) 471-3100 1-800-833-6747 www.nebraskahistory.org



September 14, 2000

Jennifer Dam
Planning Department
555 South 10th, #213
Lincoln, NE 68508

RE: Sprint PCS/Antelope Creek Dental Monopole, #1873 (0008-134-01)
Qwest co-location @ 615 W Prospector Ct, #1874 (0008-135-01)
Qwest Wireless @ 1045 W Bond, #00017 (0008-136-01)
Qwest/Union College Monopole, #1875 (0008-137-01)
Qwest Wireless Walton, #00018 (0009-004-01)

Dear Ms. Dam:

We have reviewed the proposed projects and have no objections to the plans as they are presented at this time. If there are any changes, please notify our office. Thank you for your cooperation.

Sincerely,

L. Robert Puschendorf
Deputy State Historic Preservation Officer

NOB

LOWER PLATTE SOUTH
NATURAL RESOURCES DISTRICT



3125 Portia St., Box 83581, Lincoln NE 68501-3581
(402) 476-2729 · FAX (402) 476-6454

Memorandum

Date: September 12, 2000
To: Jennifer Dam, City Planning
From: Ed Ubhen, Projects Coordinator
Subject: Sprint PCS, Antelope Creek Dental Monopole

We have reviewed the referenced project and have no comment.

A handwritten signature in black ink, appearing to read 'Ed Ubhen'.

EU/eu

pc: file

046

Memorandum

To: Jennifer Dam, Planning Department

From: Charles W. Baker, Public Works and Utilities *CB*

Subject: Revised Special Permit # 1873, Sprint Flag Pole Tower

Date: June 4, 2001

cc: Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the revised site plan for the proposed Sprint Flag Pole Tower located at 4700 Antelope Creek Road. Public Works has the follow comments:

The parking stalls as now shown must be dimensioned to Design Standards with length, width and drive aisle dimensions.

A Parking Stall Table must be shown with number of required stalls and number of provided stalls.

Drainage changes must also be noted if surface drainage that flows to the north to the creek will be altered with the proposed construction in that area of the existing parking lot.

