

MARION COUNTY PLANNING COMMISSION/BOARD OF ZONING APPEALS

RECORD OF PROCEEDINGS

October 25, 2007

Chairman David Mueller called the meeting to order at 7:30 p.m.

Roll Call was answered by Mueller, Bob Maxwell, Glen Unrau, Kent Becker, Willis Ensz and Jeff Bina. Mary Avery, Ervin Ediger and Marquetta Eilerts were absent. Mueller said there is a quorum present. Zoning Administrator Bobbi Strait and County Commissioner Dan Holub were also present.

Mueller asked for corrections or additions to the Record of Proceedings for the September 27, 2007, meeting of the Marion County Planning Commission/Board of Zoning Appeals. Ensz made a motion to approve the Record of Proceedings as written and Becker seconded the motion.

In favor: 6; Opposed; 0; Motion carried.

Item 4: An application by ALLTEL Communications, Inc., and landowners Floyd H. and Jo Ann M. Nickel, requesting a Conditional Use Permit (CUP) for a cell tower to be located on the south side of Goessel. Mueller said this application was published in the October 3, 2007, issues of the *Marion County Record*, *Hillsboro Star Journal* and *Peabody Gazette Bulletin*. Mueller reminded members they are acting as the planning commission for a recommendation to the county commission. Mueller asked members if anyone had a conflict of interest for this application, or if anyone had any outside communication concerning this application. No one had a conflict or outside communication. Becker asked if this is standard height for a cell tower. Joel Taylor was present to speak for ALLTEL and he said they try to keep some of the towers under 200 feet in height, so they don't have to light them at night. Maxwell read from a letter dated September 5, 2007, that said the tower will be lit in accordance with FAA requirements. Maxwell agreed it would be in compliance. Mueller said he appreciated ALLTEL working with our county's 911 system. Unrau asked how they determine locations for towers. Unrau read from a newspaper, quoting Goessel City Clerk Anita Goertzen that she had requested the tower be located in the city limits. Taylor explained tower locations are determined based on engineer findings. The operations department keeps track of dropped calls, reports from area reps, etc., Taylor explained. They pick a site that is feasible and meets all the specs, Taylor said. So, you do have several locations you consider before you decide where to locate, Unrau said. Yes, but the possible sites are very close together, Taylor said. It is not a broad area, he added. We have never been in contact with the city about doing business with them, Taylor said. Unrau said Anita Goertzen had talked to someone who said they would pass it on to someone higher up in the company. My orders come from Little Rock, Taylor said. Maxwell asked what the

advantage would be to locating the tower in the city limits. There is money involved, Unrau said. Is this one of the towers that if something would happen it would fall or collapse within itself?, Maxwell asked. Taylor said yes. Maxwell asked about the specs for the tower and Strait showed him some diagrams. Mueller asked where the nearest residence is located from the tower and was told it is 1,000 feet or more away. Mueller asked if anyone from the public wished to speak about this application. Randy Campbell, of Goessel, asked if there will be guy wires in his yard, or anything. He was told no. Strait explained the notification area for this application was the entire City of Goessel. Alden Schroeder, of Goessel, asked if the tower will be only for cell phones. Taylor said it will be primarily for cell phone use. Schroeder asked if there would be any static on radios or televisions, and he was told no. Maxwell asked about the number of transmitters on the tower. This tower is pre-designed for four, Taylor said. So, you are saying there is room for four others?, Unrau asked. There is room for four, which is three other carriers, Taylor said. If others want to attach, will they have to come to this committee?, Unrau asked and Strait said no. What 911 are putting on the tower is almost nothing, Taylor said. 911 were going to put that on the water tower down there, but they can gain additional height by putting it on the cell tower, Strait said. What is the transmission distance?, Unrau asked. Three or four miles around there which ties it into the other towers, Taylor said. It is talking to the other towers, so instead of dropping calls you should be able to continue on, Taylor said. Ensz asked how far away the other towers are. About six miles, Taylor said. Goessel City Clerk Anita Goertzen was present in the audience and she said she did have contact with a man out of Nebraska about the tower location and she told him several times the city had property they would give to them for a tower. We don't want to contest it, Goertzen said. How long until it goes up?, Goertzen asked. Hopefully in 60 days, Taylor said. Once it goes up, sometimes it takes a couple weeks to get the bugs out, Taylor said. Strait said she received a phone call from Don and Rosetta Hackney in support of the tower. Strait read a letter from Floyd Nickel, landowner. Mueller asked Strait for her staff report. Strait said she recommends waiving the fence requirement until we get changes made in our regs. They have proposed a chain link fence which fits right in with what is in the county now, Strait said. Strait reviewed her written staff report. Maxwell said the location is in a corn field. It had Milo planted there, but it has been harvested, Unrau said. It will increase communications in the area with cell phones and 911, Strait said. It is a huge benefit, she added. Strait explained when she typed her staff report she did not yet have the letter approving the 911 use on the tower. Mueller asked if there were any other questions or comments from the public. There were none. Mueller closed the public hearing for this application and asked members to begin deliberations.

It looks pretty clear cut and it looks like it is needed, Maxwell said. Becker made a motion to recommend approving application number ZP07-048 for ALLTEL Communications, Inc. and landowners Floyd H. and Jo Ann M. Nickel, for a Conditional Use Permit (CUP) for a cell tower to be located on the NW1/4 SW1/4

8-21-1, with two conditions: first condition that a chain link fence be allowed; and second condition that 911 service be allowed on the tower. Unrau seconded the motion. In favor: 6; Opposed: 0; Motion carried.

Strait explained the timeline for this application to go before the county commission for final approval. Strait said if approved by the county commission, a resolution will be published on November 21, 2007, and they may have their permit any time after that. Taylor asked if he needs to be present at the county commission meeting and Strait said it should not be necessary, and she asked Holub to confirm that.

Item 5: Building Codes and Contractor Licenses. Strait explained to members that before going into a lot of discussion and putting a lot of effort into this she needs to get the blessing from the county commission to proceed. She will propose this to the county commission on December 10, 2007, at 11:20 a.m., along with an engineer from Kansas City and the President of Heart of America Building Inspectors. She said the engineer won an award for code officer of the year and Heart of America received a chapter merit award for this quarter. So, we have pretty good representation from Kansas, Strait said. Mueller asked what the planning commission's role is. Do we make a recommendation to the county commission?, Mueller asked, and Strait said yes. For amendments to the zoning regs it requires one public hearing, Strait said. To adopt codes we have to have two public hearings at least two weeks apart, she explained. She said she may bring the proposal to the November meeting. She said there is one application for the November meeting. Mueller reminded members the next meeting is on November 15, 2007, and there is no December meeting. On all these cell towers, I am surprised there have been no aesthetic objections or blinking lights objections, Maxwell said. Strait said someone had a question about one tower where the lights were not blinking red. The lights are all computerized to alert them to malfunctions and it was fixed within 24 hours, Strait said. I think unless you are looking for the towers you don't notice them, Strait said. I don't agree, you see them, Maxwell said. I don't see them, Unrau said. In the daytime it blends right in, Mueller said. Mueller asked if there were other issues. Strait said there is a planning commission workshop through the company that Dave Yearout works for now. If you let me know by November 18, 2007, I will get your registrations in and paid for, Strait told members. Holub explained that Daniel King was turned down for a CUP for a junk yard. It is now in the hands of the state, Holub said. He has retained a lawyer, which is no big deal, Holub said. This all started with one individual that was parking stuff in the road, Holub said. The issue is between them and KDOT, Holub said. He wanted me to go to the county commission and demand they give him more time, Strait said. It is out of the county commission's hands and it is out of my hands, she said. I don't see any reason any of you would be subpoenaed, or anything, Strait told members. Maxwell suggested members should not comment since it is going into litigation. Holub said two of the man's neighbors have thanked us. Strait explained how the state uses a crusher to salvage and sell what they haul off. Becker asked if tax payers pay for it to be hauled off. The state collects money from the scrap and

uses it to reimburse for all the costs, Strait said. So, it doesn't cost the tax payer, Mueller said. Mueller asked if there were any other questions. Unrau made a motion to adjourn and Becker seconded the motion.

In favor: 6; Opposed: 0; Motion carried and the meeting adjourned at 8:28 p.m.

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David Mueller,
Chairman



Margo Yates,
Secretary