

PLANNING ADVISORY COMMISSION
GOODHUE COUNTY, MN
August 20, 2007 MEETING MINUTES

The Goodhue County Planning Advisory Commission was called to order at 7:00 p.m. by Chair S. Michels in the Goodhue County Justice Center located at 454 West Sixth Street in Red Wing, Minnesota.

Present: Tom Webster Bernie Overby Dan Rechtzigel Larry Olson
 Mike Patterson Sam Michels Howard Stenerson Mike Wozniak

Absent: Randy Juliar, Suzanne Blue

¹*Motioned by B. Overby and seconded by L. Olson to approve the August 20, 2007 agenda. Motion carried 7-0.*

²*Motioned by D. Rechtzigel and seconded by H. Stenerson to approve the July 16, 2007 minutes. Motion carried 7-0.*

STAFF UPDATES – M. Wozniak announced resignation of Commissioner Juliar, having moved to Hager city, Wi.. M.Wozniak stated that the County board has authorized R. Juliar to pick a replacement, and the staff will present Mr. Juliar with a plaque.

CONFLICT/DISCLOSURE OF INTEREST – none.

Farm Country Co-Operative located on Highway 110th Avenue in Wanamingo Township is seeking a Conditional Use Permit to construct a new dry fertilizer building /office and related facilities. The Co-Op is intending to purchase an additional 2.8 acres of property situated immediately to the north of its current 7.2 acre site to accommodate construction of the proposed new structures and related site improvements.

Background

Farm County Co-Operative has applied for a conditional use permit to construct a new dry fertilizer building (144' x 124'), a new Office area (40' x 80'), a scale, a loading area and required parking and storm water ponding area. Plans submitted with the CUP application indicate that the current fertilizer facility and office buildings will be removed from the site.

Comprehensive Plan: Under Goal 2: Industrial Development, the plan includes the following policy:

8. Agricultural, forestry, and mineral resource-oriented industry will be accommodated in areas close to the resources utilized, provided that such industrial uses are compatible with any nearby urban development, city water supply and sewerage are not required, and waste discharges constitute no threat to the environment.

Since the Farm County Co-operative has been operating on the site for 40 years it appears that no significant conflicts exist with surrounding land uses. The Farm Co-Op site is situated in the A-3 (Urban Fringe District) approximately ½ mile west of the City of Wanamingo. Farm properties surround the site.

Zone District: The site of existing and proposed Farm Co-Op facilities is located in an A-3 (Urban Fringe District). Agricultural related business may be permitted in the A-3 Zone District by conditional use permit.

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The Farm Country Co-Op has stated in its application that the “new facility will speed up delivery to farm and store additional product needed for additional corn acres driven by increased ethanol demand.

Yard setback requirements: Provided that the existing parcel that current Farm Country Co-Op is located on is combined with the new parcel the proposed structure will meet required setbacks to the east, west and south property lines. However, the applicant is proposing a setback of @37’ to the north property for the Fertilizer Building. The north property line would be viewed as a side yard and would require a 100’ setback. The applicant’s options would include seeking a variance from the Board of Adjustment, adjusting the proposed location of the building or purchasing more property.

Storm water management: The site plan submitted by the applicant indicates that storm water runoff will be drained to the west portion of the site and that a storm water detention pond will be created. Staff would recommend a condition for the CUP that would require prior to building permit issuance for the project; submittal of a storm water plan to be prepared by a Civil Engineer or Landscape Architect that illustrates how storm water runoff will be handled including: storm water calculations and sizing of the ponding area to accommodate runoff for at least a 10 year storm event. In addition plans and specifications for erosion and sediment control measure during and following construction should also be submitted prior to issuance of a building permit for the project.

Parking, loading and driveways: The applicant’s plan includes a new driveway access off of 100th Avenue, but does not specifically identify parking for employees and visitors. Plenty of site area exists to meeting parking requirements. The site plan does identify a loading are that seems to meet zoning ordinance requirements. A recommendation should be included in action on this CUP to require the applicant to submit a more detailed site plan prior to building permit issuance that denotes the location of required parking spaces (Article 3, Section 17 – Goodhue County Zoning Ordinance.)

Beyond the above referenced issues the proposed plans for the Farm Country Co-Op project appears to meeting zoning ordinance requirements.

Wanamingo Township has signed the Zoning Application Summary Form, indicating their approval of the request.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **Section 25 is zoned A-1 Agricultural Protection District. Commercial uses that primarily serve agriculture may be allowed by conditional use permit.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for

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uses predominant to the area. **The Farm Country CO-Op has been operating for 40 years on the existing property. The site is situated about 1/2 mile from the City of Wanamingo and is surrounded by farmland**

- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. **A more detailed drainage is needed prior to building permit issuance.**
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **A more detailed parking plan included access drives should be provided prior to building permit issuance.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **Any site lighting necessary for security or visibility purposes should be directed downward in order to reduce the visibility off site.**

Staff Recommendation/Resolution

LUM Staff recommends that the Planning Advisory recommends approval of the Farm Country Co-Op Conditional Use permit subject to the following conditions

- 1) Conformance with plans and specification included with Farm Country Co-Op's Conditional Use Permit Application dated June 27, 2007.**
- 2) Modification of the site plan to comply with the 100' side yard setback to the north property line.**
- 3) Submittal of a storm water plan to be prepared by a Civil Engineer or Landscape Architect that illustrates how storm water runoff will be handled including: storm water calculations and sizing of the ponding area to accommodate runoff for at least a 10 year storm event. In addition plans and specifications for erosion and sediment control measure during and following construction should also be submitted prior to issuance of a building permit for the project.**
- 4) Submittal of a more detailed site plan prior to building permit issuance that denotes the location of required parking spaces (Article 3, Section 17 – Goodhue County Zoning Ordinance.)**
- 5) Combination of the existing Farm County parcel with the new parcel to be acquired to the north.**
- 6) Orientation of any proposed site lighting to the ground and away from abutting properties.**

M. Wozniak highlighted and stressed conditions.

Discussion;

H. Stenerson had 2 questions; first, controlling of lighting.

M. Wozniak answered that this was a typical local government requirement.

H. Stenerson asked about parking of cars.

M. Wozniak noted the performance standard for various areas and read from related ordinances.

B. Overby asked if they are dealing with propane onsite. Then asked does condition 3 apply or special regulations.

M. Wozniak stated propane onsite subject to state requirements.

D. Rehtzigel asked about condition 3; is this a common practice to require of rural businesses, or specific because of fertilizer.

M. W. recommended because of business use in area, having a hard surface non-pervious to storm water. Staff wants qualified professional to inspect finish grade for runoff concerns. This overall is looked upon as relatively uncommon situation. Staff is open to suggestions.

D.Rehtzigel asked if a certain sized operation merited these requirements.

M. Wozniak answered about prior situation from memory. He also noted that current applicant requested to construct a pond so would it could handle what it needs to handle for this property.

L. Olson asked if the old chemical building would stay.

N. F. general manager described pictures and chemical rinse pad/bulk storage area that would remain.

L.Olson asked where would the storage pond be located.

N. F. stated the storage pond would be located in the northeast corner of the property near an old railbed.

L.Olson stated east versus staff type up of west of site.

M. Wozniak agreed and noted correction.

T. Webster asked if business was currently tied into city sewer and water.

N.F. stated no.

B. Overby asked applicant if it is feasible to purchase adjoining land.

N. F. stated ok, not an issue.

C/S. Michels opened the public hearing.

Lloyd Johnson, nearby parcel owner stated he had no objection to proposal, just objections to the process politically. He added to record a letter addressed to him from Wanamingo Township explaining denial of use of his property as A-1 as per Wanamingo Township Zoning decision not A-3 as per Goodhue County Zoning District. He further asked if Wanamingo Township had given its approval of the current applicant. He wished to see the signature and approval sheet in the packet and the staff shared with him the packet to review.

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- M. Wozniak said the packet did not show signature yet, but it was discussed earlier and would be added.
- N. F. stated he had talked with Wanamingo Township multiple times, including recent meeting.
- B. Overby re-stated approval sheet in packet not signed yet.
- M. Wozniak stated Wanamingo Township would have to sign.
- N. F. stated he had that Township approval form with him.
- L. Johnson asked to see it from N.F., and it was made available for him to review.
- B. Overby asked if the area was zoned as A-3.
- M. Wozniak stated it is A-3 for the county zoning purposes, and A-1 for Wanamingo Township.
- L. Johnson asked about being considered A-3 versus A-1, and asked would Wanamingo Township need to see his request first before being able to reach county review.
- M. Wozniak answered by explaining state statutes in regards to how the county requires the township has approved or denied or tabled a concern, and that the county is not under obligation until the township has considered anything, as a courtesy and with useful information obtained from the township. He noted that this is not an uncommon situation.
- L. Johnson asked can the county override a township.
- M. Wozniak stated they can be stricter at township level.
- L. Johnson asked if it comes down to local politics.
- M. Wozniak re-stated regulations.
- B. Overby re-stated township rights to be stricter but that this has to be justified and has to be enforced on its own by townships if decision made to do so. Wanamingo Township has to handle this on their own he noted.
- L. Johnson asked if the township can say yes or no, will he then be out of luck.
- M. Wozniak stated there must be reason as local government to justify regulations and townships must also.
- B. Overby stated he has not seen county override a township decision.
- M. Wozniak shared a past situational example to describe regulation in past as subject to conditions.
- D. Rehtzigel stated Wanamingo Township has a zoning ordinance and in the past a planning commission and stated planning does not have to agree with a town board, just like at a county level. We look at approval decisions, not minutes, and not any final word.
- L. Johnson noted he does not like political process, but does not object to applicants proposal. He mentioned that maybe if he was related to the Wanamingo Township board he'd receive a different outcome.
- D. Rehtzigel asked if discussion was talking about a township issue?
- L. Johnson stated he sees his property as A-3, the township sees it as A-1, and he is never able to forward issue to county commission.
- M. Patterson asked N.F. about the 6 conditions from the staff.

S. Michels asked if any more comments. No further public comments for or against proposal.

Motion by S. Michels seconded by T. Webster to close public discussion on the matter. Motion carried 7-0.

N.F. answered M. Patterson and stated there were no issues with the conditions. He then re-stated and described conditions on the property related to the site use.

³ *Motion by B. Overby seconded by M. Patterson to approve the Conditional Use Permit for Farm Country Co-Op to construct and operate a new dry fertilizer plant. Motion carried 7-0.*

Jake and Colleen O'Reilly have applied for a Conditional Use Permit in an A-1 District to allow a Home Occupation Business at their property situated at 40683 215th Avenue in Zumbrota Township. The business includes a fabrication and welding shop and a mobile concrete dispenser. A site visit has confirmed that the business is currently in operation. Article 3, Section 13. Subd. 2., includes provisions that require a conditional use permit for home occupations involving more than (1) non-resident employee and/or being carried out in an accessory building exceeding 2000 square feet. The application submitted by the O'Reilly's indicated 2 full-time non resident employees and up to a maximum of 5-6 employees. The business is being carried out in an accessory building 3840 square feet in floor area and there are also exterior structures including a concrete mix plant and a series of bins created from large concrete blocks to store aggregate material.

Background

Jake and Colleen O'Reilly are seeking approval of a Conditional Use Permit to operate a home occupation business on their 3.6 acre property in Section 3, Zumbrota Township. The business includes a welding and fabrication business and a concrete mix plant and aggregate material storage structure. The business is currently in operation without having obtained necessary approval from Goodhue County.

The following standards shall apply to conditionally permitted home occupations in the A-1, A-2, and A-3 Districts.

- A. The number of employees employed in conjunction with a conditionally permitted home occupation shall be determined by the Planning Advisory Commission.
- B. The home occupation shall be incidental and subordinate to the use of the premises for farming and related farm activities.
- C. The conduct of a home occupation may be carried on in an accessory building the size of which shall be determined by the Planning Advisory Commission.
- D. No traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located.
- E. Only one non-illuminated sign not to exceed sixteen (16) square feet in area shall be allowed in conjunction with the home occupation.

F. No equipment or process shall be used in such home occupation to create noise, vibration, glare, fumes, odors, or electrical interferences detectable off the premises.

Issues:

- The business being conducted by Jake and Colleen O'Reilly does not appear to be incidental and subordinate to the use of the premises for farming and related farm activities. A site visit by LUM Staff and Commissioner Overby indicated a significant business operation on the 3.6 acre site which has a residence but does not meet the County's definition of a "farm" and is not large enough to conduct agriculture.
- Heavy truck traffic is associated with the business (documented with photographs) which appears to be beyond what would be customary for most agricultural land uses with the exception of mining operations. A bridge situated south of the O'Reilly property on 215th Avenue appears to be in disrepair with crumbling concrete decking and pilings evident. This bridge is weight restricted to 5 tons. LUM Staff is consulting with Goodhue County Public Works Director regarding the condition of the bridge.
- Home Occupations may be permitted in accessory buildings, but, there may not be external evidence of the business. In addition to the concrete plant and the aggregate storage a significant amount of equipment and materials related to the business are being stored outside of the accessory building.
- Staff will present a variety a photographs of the property at the PAC Meeting to offer evidence of the nature and appearance of the proposed home occupation.

Other than businesses that may qualify as a home occupation, agriculture related businesses may be permitted by conditional use permit. It does not appear that the O'Reilly's business operations would qualify as "agriculture related businesses".

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **The proposed home occupation business includes structures and equipment located outside of the accessory building. External evidence of the business is clearly viewable by property owners in the vicinity.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The nature of the business could**

impact the desirability of surrounding property for future residential use.

- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. **The existing bridge situated on 215th Avenue south of the property does not appear to be in adequate conditions to handle heavy truck traffic generated by the proposed business.**
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **It appears that adequate off-street parking and loading space have been provided on the site.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **The concrete plant operation may create dust and noise beyond what is customary for an agricultural property.**

Staff Recommendation/Resolution

It is recommended that the Planning Advisory Commission recommends denial of the conditional use permit to allow operation welding/fabrication and concrete home occupation business at 40683 215th Avenue based on the Findings of Fact included in this staff report. Further staff recommends that the Planning Advisory Commission direct staff to inform the applicant that they must relocate or modify their business operation to come into compliance with provision of Article 3, Section 13 (Home Occupations) of the Goodhue County Zoning Ordinance by December 31, 2007.

M. Wozniak added revised set of conditions (below) constructed on August 20, 2007, and adjusted previous (above) paragraph. He noted if validated as an agricultural based business it would be consistent with the A-3 (A-1) zoning district. All structures must be in compliance with state code within 90 days. No complete records exist for buildings on property, with lack of finalization on home garage construction issue. He mentioned the property must be in compliance with environmental health standards in 90 days, and the applicant needs to show evidence. He addressed concern 3, the bridge proposed for replacement with pictures made available. Staff indicated as condition the applicant must route traffic north to County 16 Boulevard not south over bridges. He stated concern 4, that both welding and concrete operations must substantially continue to serve agricultural uses or the Conditional Use Permit will be subject to revocation. He noted this will be hard to track, the county will be relying on accepting the word of applicant, but that the applicant must meet the conditions.

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**Revised Staff Recommendation for Jake and Colleen O'Reilly Conditional Use Permit (CUP)-
Commercial and/or Industrial Use primarily intended to serve the agricultural community.**

Staff Recommendation:

It is recommended that the Planning Advisory Commission recommends approval of the conditional use permit to allow operation of a welding/ fabrication and concrete business at 40683 215th Avenue (Parcel ID# 470030203) based on the following conditions:

- 1) All structures must be shown to be in compliance with the Minnesota state building code within ninety (90) days.
- 2) All Business and residential land uses on the property must be shown to be in compliance with the Goodhue County Environmental Health Ordinance within ninety (90) days.
- 3) Any expansion of the business beyond eight (8) employees or the addition of more than two thousand (2,000) square feet of building space shall require an amendment to the Conditional Use Permit.
- 4) Both the welding / fabricating and the concrete production businesses must substantially continue to substantially serve agricultural land uses or the CUP shall be subject to revocation.

Discussion:

B.Overby asked if this was in A-1 Zoning District.

M. Wozniak answered pardon me, yes it is A-1.

H. Stenerson asked if environmental health took longer , would there still be a good faith effort to comply.

M. Wozniak stated yes.

H. Stenerson asked if a re-zone is necessary.

M. Wozniak stated commission would have to review if appropriate for area and evaluate.

D. Rechtzigel stated his concerns on condition 3 about applicant responsibility on routing traffic to north, not to hold applicant responsible for truck drivers, and to possibly change the language to adjust to lay responsibility on truckers.

M. Wozniak stated staff had no problem with that provision.

H. Stenerson stated possible extra provision on applicants self-owned trucks

M. Wozniak stated that O'Reilly should inform customers of proper route. He stressed it is in no ones interest to have an injury by bridge problems.

J. O'Reilly introduced with wife Colleen O'Reilly. He described the welding activities as mostly farm related and stated situations of primary use in agricultural situations. He stated he has service trucks for off sight welding. He mentioned that concrete uses have been to farms with replacement of farm related concerns and structures. As far as the bridge , he mentioned he will post a traffic sign if needed. As far as the uninspected garage concern , he stated nobody showed up.

M. Wozniak stated it is responsibility of applicant to schedule inspections, and noted that county had sent letters in past informing them. The O'Reilly's must call to request it.

J. O'Reilly said anytime ok to inspect.

H. Stenerson asked if concrete operations are to be mixed on site.

J. O'Reilly said no it is taken in trucks and mixed on use site.

T. Webster asked if this creates flexibility for a farmer to buy what he needs.

J. O'Reilly stated yes.

C. O'Reilly stated yes.

T. Webster asked if year round operations.

J. O'Reilly stated market makes it situational.

D. Rehtzigel asked if most traffic goes north already.

J. O'Reilly said yes, not an issue already.

C. O'Reilly said that farmers know that already.

B.Overby stated his review of the on site visit and what they were welding;augers.

S. Michels noted he talked with Zumbrota Township, and he had no problems with road from O-Reilly business and stated he believed no additional maintenance needed.

C. O'Reilly stated Zumbrota Township board member present here too if questions need addressed.

B. Overby stated if this was a new business it probably would not go through because it is commercial in the country; a catch 22. He said he is concerned about the Goodhue County Comprehensive Plan if not speaking to this, would allow anything.

M. Wozniak stated Zoning Ordinance and Comprehensive Plan about agricultural businesses and zoning with reference to conditional use, may not be appropriate by a number of reasons. This situation has already been operating. He asked J. O'Reilly how long it has been operational.

J. O'Reilly answered operational for 4 years.

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M. Wozniak stated the nature of this business wasn't fully included in initial application, based on staff review it would merit denial as a home occupation. New staff requirements may protect area but business must serve agricultural community to stay.

L. Olson asked is there any issue on growth. He also asked is the sand and gravel trucked in to O'Reilly property.

J. O'Reilly answered yes, if it gets too big it'll be no longer economical. He also stated yes about the sand and gravel.

M. Wozniak stated he asked J. O'Reilly earlier during the day in a phone conversation if they plan for any future bigger buildings. He stated O'Reilly mentioned possibly yes, but not economically feasible right now.

T. Webster mentioned condition 1 and asked O'Reilly if all current structures are in compliance with code by state.

J. O'Reilly said he knows electrical work needs done, but no new needs or new buildings at present.

M. Patterson re-stated same intent for compliance with condition 1.

B. Overby asked about building size restrictions in A-1 if or when it's considered agricultural.

M. Wozniak said not a concern if A-1 agriculturally related.

M. Wozniak also stated Mr. Doug Morem, Goodhue County Building Official, would inspect and process the property for code requirements.

C/S. Michels opened the public hearing.

Roger Balsted, Zumbrota Township supervisor, stated that Township has no problems with O'Reillys'. He stressed that the bridge work nearby is caught up in funding and that should not be held against them because of budgeting and funding problems. He stated there has been no mention or complaint of noise problems, and further no complaints at all in the township. He noted the Zumbrota Township board said ok and understands they are taxed commercial already by county. He said that O'Reilly grew faster than he might have expected, was unaware of formalities in the past, and recommended approval and help for the O'Reilly's in the process.

T. Webster asked if Zumbrota Township is comfortable with new conditions.

R. Balsted answered yes, bridge non-issue, building size non-issue, no discussed problems on site, no township issues.

B. Overby asked if future expansion requests would go to township first.

R. Balsted said yes, the township looks at it first.

B. Overby stated it all needs permitted this time.

R. Balsted stated he agreed.

Clifford O'Reilly, a neighbor on 215th avenue, said he has no problems with business operations at all.

Dan Tipkey, local resident northeast of business, stated all farmers want competitive bids nearby and explained he liked it in the area too.

Bill Gariant, nearby farmer, does 90 percent of welding with applicant, and feels they are in agricultural community.

Tim Bjork, farmer who lives 2 miles north, said he benefits by having the shop near the home so it can be easy to get a hold of O'Reilly after hours to fix so that's helpful.

J. O'Reilly stated he had a petition signed by neighbors to show no noise pollution.

No one present wished to make further public comments for or against the request.

With no further comment it was moved by T. Webster and seconded by M. Patterson to close the public hearing. Motion carried 7-0.

H. Stenerson shared his thoughts on the current business stating it makes sense but as nature of business changes for new conditions it merits re-application if grows larger than 6 employees. He questioned possible traffic issues. He mentioned it is not business owners responsibility for drivers routes.

B. Overby asked if rewording of conditions appropriate.

H. Stenerson stated yes, there is no real way to route prior to getting to site.

S. Michels said that the bridge can handle anything.

B. Overby noted expansion issue in future and future CUP reasonable.

M. Wozniak stated he would add as condition 5 if consensus reached.

D. Rehtzigel asked wouldn't they have to come back anyway.

M. Wozniak stated applicants have in the past been able to build with permits unless conditioned and clear.

D. Rehtzigel asked if language in it would trigger CUP by applicant if future minor construction for home, etc.

M. Wozniak stated you can note exclusion of minor construction or internal minor alternations in conditions.

D. Rehtzigel said the concern is clear now but down the road it may trigger CUP by future staff.

M. Wozniak stated the current size limits are appropriate. He then asked the commission for their opinion.

L. Olson said square footage now small.

H. Stenerson moved for approval with recommendations of new condition 3 added.

B. Overby asked what size.

H. Stenerson answered wording of new condition.

⁴Motion by H. Stenerson and seconded by M.Patterson to approve Conditional Use Permit for Jake and Colleen O'Reilly for the use of a welding and concrete dispenser business on their property. Motion carried 7-0.

M. Wozniak read new condition 3 to commissioners.

T. Webster asked if it is taking away the townships rights.

M. Wozniak stated the applicants must comply with the township anyways, and the county is different.

D. Rehtzigel asked J. O'Reilly how many employees does he require.

J. O'Reilly said 2 mostly.

D. Rehtzigel asked if 6 as a maximum future limit would be ok

J. O'Reilly stated no.

M. Wozniak stated requirements for parking and other practical things considered with employees.

L. Olson asked if 1,000 square foot limit would be a future problem to growth.

J. O'Reilly said that if he needs to come back for a new Conditional Use Permit so be it, although there are no plans to expand in a year or two. He mentioned 1000 square feet doesn't cover much.

M. Patterson stated this would bring you back.

L. Olson agreed.

J. O'Reilly said the property is tight when business at peak.

D. Rehtzigel asked about wording of motion.

H. Stenerson. asked if O'Reilly workers are full time regular employees and made brief comment.

S. Michels restated motion and second. Went to vote again. Motion carried 7-0.

Verizon Wireless is requesting a conditional use permit for a Telecommunication Facility (250 self support tower along with a 12' x 20' equipment shelter) in the A-1 Agricultural Protection District. Wireless Communication Facilities are regulated under Article 22 (Wireless Communication Facilities) of the Goodhue County Zoning Ordinance. Towers up to a maximum of 400' may be permitted as a conditional use in the A-1 District.

Background

Verizon Wireless has indicated it "desires to improve their level of service in the area of Goodhue County including the City of Goodhue and Hay Creek Township. The Tower proposed to be sited on

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property leased from Calvin and Julia Bolin will enhance their already established network". Verizon has listed the following benefits to the community associated with the proposed Wireless Facility:

- ❑ Improved cellular reception and expanded service area.
- ❑ Probable source of communications at time of natural disaster.
- ❑ Communications link for personal safety and roadside emergencies.
- ❑ Available for expansion into future technology with wireless communications industry & 911 interface capability.
- ❑ Site will be made available for collocation with other wireless carriers.
- ❑ A location for the site that is of minimal visual impact to the community.

Wireless Communication Facilities are subject to compliance with various performance standards set forth in Article 22, Section 7, of the Goodhue County Zoning Ordinance.

The application materials submitted by Verizon Wireless indicate the proposal identifies a 100' x 100' site to be leased from Calvin and Julia Bolin, owners of the 160 acre property. Article 22, Section 7, Subd. 1, states "On a parcel of land that already has a principal use, the facilities shall be considered as an accessory use and a smaller area of land may be leased provided that all requirements of Article 22 can be met." The principal use of the Bolin Property is Agriculture and the Verizon Wireless Facility would qualify as an accessory use of the subject property.

Setback requirements from property lines for towers are set forth in Article 22, Section 7, Subd. 2, Paragraph A., as follows:

"Generally, tower structures shall be set back from the nearest property line a distance equal to the height of the tower. This setback may be reduced to one-half the height of the tower if the applicant submits a report stamped by a professional engineer registered in the State of Minnesota that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line."

Included with the applicant's submittal is a letter signed by Stephen Yeo, P.E., a State of Minnesota licensed Professional Engineer. Mr. Yeo's letter states that in the unlikely event of failure the proposed tower is designed to collapse within a radius of 50% of the height from the base. The proposed Tower setbacks to the north, east and west property boundaries will substantially exceed the height of the tower. The setback from the south property boundary would be approximately 210', well in excess of 50% of the height from the base of the tower.

Verizon Wireless has indicated to Land Use Management Staff that there are not existing opportunities for co-location that will satisfy technical requirements to enhance wireless service in this general area. Staff will ask the applicant to clarify this position at the Planning Advisory Commission

Meeting on August 20, 2007. Verizon has stated in its application that the proposed Wireless Communication Tower will be made available for co-location with other wireless carriers.

Featherstone Township has signed the Zoning Application Summary Form, indicating their approval of the request.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **Section 35 is zoned A-1 Agricultural Protection District. Wireless Communication Towers up to 400' may be permitted as a conditional use in the A-1 District.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The section is zoned Agricultural Protection. There are no foreseeable adverse effects on the accessory use of a small part (100' x 100' leased area) for location of the proposed Wireless Communication Facility. The proposed facility conforms with required setbacks from property lines.**
- Subd. 3. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. The proposed Wireless Communication Facility site will be accessed by the existing farm access road. **See attached site map.**
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **According to the site plan adequate parking and loading space will be available.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **The proposed tower will be subject to lighting requirements established by the Federal Aviation Agency (FAA) and Federal Communications Agency (FCC).**

Staff Recommendation/Resolution

The proposed location of the Wireless Communication Facility on the Bolin Property appears to be sited in a manner that offers a positive balance between visual impacts on the surrounding area with the benefits of improved Verizon Wireless Services for the area with additional opportunities for co-location by other providers. Staff

recommends that the Planning Advisory Commission recommend approve the Verizon Wireless Communication Facility to be sited on the Calvin Bolin property subject to the following conditions:

- 7) Conformance with plans and specification included with Verizon's Conditional Use Permit Application dated July 19, 2007.**
- 8) Obtaining Building Permit approvals from Featherstone Township and Goodhue County prior to construction.**
- 9) Compliance with all Wireless Communication Facilities Regulations included in Article 22 of the Goodhue County Zoning Ordinance.**

Discussion:

B. Overby mentioned his site visit and described the terrain, said ideal place to locate .

M. Wozniak stated purpose to provide better service for area as mentioned.

C. Walter introduced himself as Verizon agent, resident of Rochester. He represents Verizon, which is looking at upgrading the system formerly owned by Qwest purchased about 2-3 years ago with intent on updating and filling in gaps in coverage areas. Verizon picked this spot to cover highway 58 and links pre-existing sites in Red Wing, City of Zumbrota, and Cannon Falls, to fill in gaps. The Featherstone site was chosen because knob site is hard to farm, thus leased 100 foot by 100 foot area. The layout is connected right off existing driveway. Setback requests because of knoll location.

S. Michels asked how many co-locators can the cell tower handle.

C. Walter stated as many as you request. Standard plan shows 2 additional , but they will meet county guidelines. Could go to 3 on tower.

B. Overby asked if in future will the towers be combined as possibility.

C. Walter stated his personal thoughts are at some point it will all be better than now, trend is going wireless and with everything coming off these towers, site needs will increase and force co-locators in future. More and more data and companies will use existing structures more and more hopefully.

H. Stenerson stated past situations and asked why a new tower versus using existing towers in nearby sections.

C. Walter asked what locations.

C. Walter then stated he was aware of Goodhue tower, and Verizon engineers started looking for coverage. Sites exist just southwest of Zumbrota, site in Cannon Falls, and in Red Wing, but coverage between them is the goal. The city of Goodhue is covered well by other tower, yet Featherstone fills gap. If no tower then there is a gap.

L. Olson asked what is the range of the tower.

C. Walter said that depends on line of site on each location.

L. Olson asked what about this one.

C. Walter said 6 miles by car, inside a building a few miles inside coverage, if triangulated 10-12 miles line of site.

B. Overby asked would you need every 6-12 miles line of site for every coverage?

C. Walter answered correct.

L. Olson questioned you have one south of Zumbrota now.

C. Walter answered yes south near car dealership.

M. Wozniak stated towers more noticeable in rural areas.

L. Olson said high volume of towers near his location.

B. Overby stated focus should be placed on sharing towers.

C/S. Michels opened public comments;

John Kohler, resident located northwest of site, stated he is in favor of better wireless reception, he has multiple relatives outside state and he is for it, but co-location process adequate concern. Vital that access be for any other cell operators also.

M. Wozniak stated language that Goodhue County regulations already note operators allow for co-location at market prices already.

C. Walter wished to promote that concern also for Verizon.

Carmen Evenson, a nearby landowner, stated modern technology changes, and asked in the future who will take it down or maintain after use no longer needed.

'M. Wozniak stated Goodhue County regulations about requirements to take down by addressed time period, and as the operators obligation.

B. Overby asked if Verizon has yet taken any down.

C. Walter stated not that he was aware of.

B. Overby asked is that addressed in packet.

C. Walter said yes and in the lease.

M. Wozniak explained future value issue of cell towers. He described their potential for re-use as economic potential.

With no further comment it was moved by H. Stenerson and seconded by L. Olson to close the public hearing. Motion carried 7-0.

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H. Stenerson addressed questions for Planning Advisory Committee. First, he asked would the towers be available for co-location, but not forced, and is there a tower volume concern. Also, if placing conditions for co-habitation also required as possible consideration.

B. Overby stated it could be feasible to see towers every 6-12 miles because of great competition, so it is a concern, yet area must have communications ability.

C. Walter said that Verizon looks at co-locating first at existing structures. He noted expenditures at about 300,000 invested per existing structure, and a new site average cost at 500,000. Verizon, in one situation, had taken a look at Goodhue County Highway 19 in regards to an issue with T-mobile already locating a tower in a area that Verizon had put on development hold prior, adjusted to fit the T-mobile site then. The 2 requested sites now have no nearby coverage, so there needs to be locations along the 58 corridor to fit the gap.

M. Wozniak said staff will make it a point to show future co-locations to Planning Advisory Commission.

M. Patterson mentioned mandates may be beyond comfort level, and recommended approval as is.

⁵Motion by M. Patterson and seconded by B. Overby to approve the Conditional Use Permit of Verizon Wireless to install and operate a cell tower in Featherstone Township for better coverage in Goodhue County. Motion carried 6 -1.

Verizon Wireless is requesting a conditional use permit for a Telecommunication Facility (225' self support tower along with a 12' x 20' equipment shelter) in the A-1 Agricultural Protection District. Wireless Communication Facilities are regulated under Article 22 (Wireless Communication Facilities) of the Goodhue County Zoning Ordinance. Towers up to a maximum of 400' may be permitted as a conditional use in the A-1 District.

Background

Verizon Wireless has indicated it "desires to improve their level of service in the area of Goodhue County including the City of Goodhue and Hay Creek Township. The Tower proposed to be sited on property leased from Ray Mehrkens will enhance their already established network". Verizon has listed the following benefits to the community associated with the proposed Wireless Facility:

- ❑ Improved cellular reception and expanded service area.
- ❑ Probable source of communications at time of natural disaster.
- ❑ Communications link for personal safety and roadside emergencies.
- ❑ Available for expansion into future technology with wireless communications industry & 911 interface capability.
- ❑ Site will be made available for collocation with other wireless carriers.
- ❑ A location for the site that is of minimal visual impact to the community.

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Wireless Communication Facilities are subject to compliance with various performance standards set forth in Article 22, Section 7, of the Goodhue County Zoning Ordinance.

The application materials submitted by Verizon Wireless indicate the proposal identifies a 100' x 100' site to be leased from Ray Mehrkens, owner of the 142 acre property. Article 22, Section 7, Subd. 1, states "On a parcel of land that already has a principal use, the facilities shall be considered as an accessory use and a smaller area of land may be leased provided that all requirements of Article 22 can be met." The principal use of the Mehrkens Property is Agriculture and the Verizon Wireless Facility would qualify as an accessory use of the subject property.

Setback requirements from property lines for towers are set forth in Article 22, Section 7, Subd. 2, Paragraph A., as follows:

"Generally, tower structures shall be set back from the nearest property line a distance equal to the height of the tower. This setback may be reduced to one-half the height of the tower if the applicant submits a report stamped by a professional engineer registered in the State of Minnesota that certifies that the tower is designed and engineered to collapse upon failure within the distance from the tower to the property line."

Included with the applicant's submittal is a letter signed by Stephen Yeo, P.E., and a State of Minnesota licensed Professional Engineer. Mr. Yeo's letter states that in the unlikely event of failure the proposed tower is designed to collapse within a radius of 50% of the height from the base. The proposed Tower setbacks to the north, east and south property boundaries will substantially exceed the height of the tower. The setback from the west property boundary would be approximately 120', which exceeds 50% of the height from the base of the tower.

Site work necessary to construct the proposed Wireless Communication Facility includes grading to create a new driveway off of 390th Street and leveling the site area for the tower and equipment building which is being located on a sloped portion of the site. The access drive will be approximately 300 feet in length. The proposed grading of the site matches contours with abutting property to the west. Appropriate erosion and sediment control measures have been incorporated into the plans and specifications for the project.

Verizon Wireless has indicated to Land Use Management Staff that there are not existing opportunities for co-location that will satisfy technical requirements to enhance wireless service in this general area. Staff will ask the applicant to clarify this position at the Planning Advisory Commission Meeting on August 20, 2007. Verizon has stated in its application that the proposed Wireless Communication Tower will be made available for co-location with other wireless carriers.

Goodhue Township has signed the Zoning Application Summary Form, indicating their approval of the request.

Findings of Fact

No conditional use shall be recommended by the County Planning Commission unless said Commission shall find:

- Subd. 1. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the immediate vicinity. **Section 35 is zoned A-1 Agricultural Protection District. Wireless Communication Towers up to 400' may be permitted as a conditional use in the A-1 District.**
- Subd. 2. That the establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant to the area. **The section is zoned Agricultural Protection. There are no foreseeable adverse effects on the accessory use of a small part (100' x 100' leased area) for location of the proposed Wireless Communication Facility. The proposed facility conforms to required setbacks from property lines.**
- Subd. 3. Those adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided. The proposed Wireless Communication Facility site will be accessed by the existing farm access road. **See attached site map.**
- Subd. 4. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use. **According to the site plan adequate parking and loading space will be available.**
- Subd. 5. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result. **The proposed tower will be subject to lighting requirements established by the Federal Aviation Agency (FAA) and Federal Communications Agency (FCC).**

Staff Recommendation/Resolution

The proposed location of the Wireless Communication Facility on the Bolin Property appears to be sited in a manner that offers a positive balance between visual impacts on the surrounding area with the benefits of improved Verizon Wireless Services for the area with additional opportunities for co-location by other providers. Staff recommends that the Planning Advisory Commission recommend approve the Verizon Wireless Communication Facility to be sited on the Ray Mehrkens property subject to the following conditions:

- 10) Conformance with plans and specification included with Verizon's Conditional Use Permit Application dated July 19, 2007.**

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- 11) Obtaining Building Permit approvals from Goodhue Township and Goodhue County prior to construction.**
- 12) Compliance with all Wireless Communication Facilities Regulations included in Article 22 of the Goodhue County Zoning Ordinance.**

M. Wozniak noted error in names for locations (corrected on minutes).

Discussion:

S. Michels after pause asked if no questions.

C. Walter stated drawing should also show correct 12x30 dimensions.

C/S. Michels opened public comments; none.

With no further comment it was moved by H. Stenerson and seconded by T. Webster to close the public hearing. Motion carried 7-0.

Motion by M. Patterson and seconded T. Webster to approve the Conditional Use Permit for Verizon to install and operate a cell tower in Goodhue Township for better coverage in Goodhue County. Motion carried 6-1.

Discussion of possible Zoning Ordinance Text Amendments:

- Addition of Front, Rear, Side Yard Setbacks for Wild and Scenic District and Commercial Recreation District.
- Revision of Rear and Side Yard Setbacks for Agricultural Districts.
- Deletion of Lot Area Buildable definition. (Staff will present information related to this item at the PAC meeting)

Discussion:

B. Overby asked reasoning of why this is an issue now. He asked had the 100 foot setback changed to 30 feet in the past ordinance, and mentioned that situations now are not always feasible for 100 foot setbacks. He suggested to possibly make change to a 40-45 foot request on old farm sites. The issue that they can't do so now is why its here.

M. Wozniak stated there may be a change in the weather. A few flags have been highlighted to discuss for direction and comfort levels. He described before listed topics as issues to kick around. First, in the Wild and

Scenic district, setback distances to rivers vary, but staff found ordinance having not actually established side/rear setbacks. The regions are not an overlay district, so they need their own setbacks. A number of agricultural and non-agricultural residential properties exist in these areas. Staff researched what other counties in general area are requiring and found it varies. The average rear yard setback is 50 ft., side yard average setback typically 20-45 ft. for agricultural zoned areas. He mentioned Pierce County, Wi. as example. He discussed the point of Wild and Scenic areas with provisions for side yard setbacks not abutting rivers and creeks within that area. There exist more stringent requirements in that area already by regulations. The language addition would be filling in gap in technical area. He described each issue one by one. He stated in the Commercial Recreation district that only setbacks not yet really established because shoreland would apply already from water bodies. He looked at what county requirements for Commercial and Industrial are as front setbacks not less than 45 feet, as different and to consider. Also, the side setbacks at a 30 foot minimum and rear 50 foot minimum, unless shoreland overlap dictates. Lastly, amendment of Article 2 of the Zoning Ordinance for the "Lot Area Buildable" definition deletion issue. He noted Wacouta example about this. County has never enforced in past; staff considered this and felt it should be removed from ordinance because other provisions are better suited to address issue. This would also discourage more bluffland grading. There are already existing bluffland regulations and driveway standards for grade concerns. Floodplain requirements also will continue to exist. He stated this definition currently represents more problem than benefit, and existing properties have these issues. He said staff wants to avoid future issues. Wacouta township would have to adopt also if so inclined. He then opened potential discussion to Agricultural setback issues.

S. Michels asked would these changes help staff housekeeping.

M. Wozniak answered in the Wild and Scenic areas it is something needed to do accomplish by staff. The previous staff errored in past omission. As far as lot buildable definition staff has stated position. Beyond question of agricultural districts, as brought up before, consensus of a few hundred feet of distance between farmsteads is appropriate. The question of setbacks of homes versus animal buildings or accessory buildings is a open to discussion question of how far. Goodhue County is currently on the high side of distances as setbacks compared to other counties, their average more like 50feet, and it varies more if animals kept.

T. Webster asked are their a lot of calls about this concern to staff.

M. Wozniak stated a lot of folks in last couple years want to split home from farm in many cases in part for loans or selling off to relatives. They configure property lines between existing buildings and can't meet setbacks. Staff and commissioners can potentially build in flexibility for fairness. He asked what is best way. He mentioned even at 50 feet still some problems.

B. Overby said his local consensus said homes should stay at 100 feet, but more leeway on accessory building such as 30 feet.

M. Wozniak said staff can come up with creative solutions. What is needed is to see about concensus agreement for change on commission first?

B. Overby re-stated its 100 feet now without variance, so homes fine, but reduce setbacks on other buildings.

M. Patterson noted similar variances need ordinance re-visit by volume concerns as good idea. In these three mentioned staff concerns he had no change issues to add or delete.

M. Wozniak stated as a group they have to come up with reasonable numbers.

S. Michels stated he had no problems and there are alot of other factors to consider with often extenuating circumstances.

H. Stenerson stated if they get off issue onto to the other setbacks, all for 30 feet or whatever, beyond farms, his concern is new development of houses at 30 feet apart causing a possible separate issue from other structures.

B. Overby said good point.

H. Stenerson noted a typed error rear yard versus side yard on staff concern 2, number b. He said to not create an issue change language and define front yards better.

L. Olson asked if change adopted would homes potentially be within 60 ft of each other?

M. Wozniak said you could have, so look at spacing guideline. Odd circumstances of smaller lots or non-conforming lots next to each other could cause problems or be issue.

L. Olson asked would there be problems because sewer and water distances.

M. Wozniak noted we don't want to crowd, but not stuck on number. He asked commissioners for guidance.

H. Stenerson stated side yards setbacks based on past issues on side yard adjustments could cause problem.

M. Wozniak mentioned that a larger width standard could be established.

H. Stenerson noted if you want them spread out more.

M. Wozniak stated larger parcels usual in rural, yet with some issues.

M. Wozniak asked if we went less than 100 feet on side and rear setbacks would we want spacing guideline for dwellings.

D. Rehtzigel answered yes, people don't understand the concern for 100 feet away from nothing across a nearby border. There should be something creative with dwelling distances between still.

S. Michels asked does Goodhue County Environmental Health have enough information to keep them apart.

H. Stenerson commented on capabilities.

S. Michels responded.

M. Wozniak stated some circumstances might be affected by spacing guidelines, maybe then creating a legitimate hardship.

H. Stenerson asked if it would run into problem of homes every 100 feet along rivers with sewers.

M. Wozniak stated the width is greater along Wild and Scenic , but standards might apply also if on the water but not in riparian areas. Standard of 100 feet applying to those, yet this may be confusing.

B. Overby asked how far away from water now.

M. Wozniak said shoreland goes out 300 feet in shoreland ordinance. I believe 75 feet beyond, same for onsite system and class of river, but would have to confirm by area.

B. Overby said never mind.

M. Wozniak stated I stand corrected. 100 feet. public sewer area and 75 feet such as Cannon Falls.

D. Rehtzigel asked what is timetable for these Ordinance reviews.

M. Wozniak said he would like staff and commission to accomplish this fall. He noted if you want to discuss more before formal decisions then at September meeting to explore further.

B. Overby asked M. Wozniak were you at last Board of Adjustments meeting.

M. Wozniak answered yes.

B. Overby asked was it requested then to be put forward formally here.

M. Wozniak answered yes, however staff not comfortable yet, needed Planning Advisory Commissioners to digest information first. He asked is agricultural district change needed.

D. Rehtzigel stated if Board of Adjustment wanted a formal review to take it serious look at it.

M. Wozniak said he can present table of other counties setbacks and re-stated we are at high end of range.

D. Rehtzigel said lets look at not a public but a working seminar on it in September and he had no issue with these 3 present topics.

L. Olson stated 100 feet still good.

M. Wozniak said we can do a write in simply.

H. Stenerson stated that makes sense, its not going away, it's a long term issue, so solve problem by addressing side yard issue.

S. Michels said 50 feet setbacks give you 100 feet between.

M. Wozniak said if subdividing meats and bounds applicants must understand standards that we want so we don't approve splits that aren't valid.

B. Overby asked are we doing that now.

M. Wozniak answered no, proper setbacks used now.

B. Overby said people need more information.

M. Wozniak stated we help applicants so they know going into projects. No rules will satisfy everything.

T. Webster said there is always requests for variances anyway. Not all accommodated.

M. Patterson re-stated that if something is commonly occurring and commonly approved then the ordinance needs changed.

M. Wozniak. added in language about separation of homes between dwellings. He offered to do write up proposal on agricultural districts.

B. Overby asked why did it go to 3200 feet.

M. Wozniak said not really issue, past requirements and pressure to get rid of it.

B. Overby questioned it went form 100 to 30 then.

M. Wozniak stated it went from 30 to 100 feet.

H. Stenerson asked if townships roads right of way would be at 66 ft. He noted 30 feet plus edge then to 66 feet could cause hardships possibly, so something to consider.

M. Wozniak said he agreed, other counties have other setbacks on level of road it is. We don't.

H. Stenerson asked if back to A-3 further apart, mostly frontage issue.

M. Wozniak. Said if county felt good reason for health /public safety/welfare would be within right to do so.

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C/S. Michels opened public comments; none.

With no further comment it was moved by M. Patterson and seconded by T. Webster to close the public hearing. Motion carried 7-0.

⁶Moved by M. Patterson and seconded by T. Webster to adjourn the August 20, 2007 Planning Advisory Commission meeting at 9:45 p.m. Motion carried 7-0.

Respectfully Submitted,

Kelly Moriarty
Recording Secretary

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MOTIONS

¹ APPROVE August 20, 2007 agenda.. Motion carried 7-0.

² APPROVE July 16, 2007 minutes. Motion carried 7 -0.

³ APPROVE conditional use permit for Farm Country Co-Op with conditions stated in staff recommendations. Motion carried 7-0.

⁴ APPROVE conditional use permit for O'Reilly with AMENDED conditions stated in staff recommendations. Motion carried 7-0.

5 APPROVE the conditional Use Permit for Verizon Wireless Communications for cell tower installation and use in the A-1 Agricultural Protection District. Motion carried 6-1.

5 APPROVE the conditional Use Permit for Verizon Wireless Communications for cell tower installation and use in the A-1 Agricultural Protection District. Motion carried 6-1.

⁶ADJOURN August 20, 2007 Planning Advisory Commission meeting at 9:45 p.m. Motion carried 7-0.