

**BOONE COUNTY PLANNING & ZONING COMMISSION**  
BOONE COUNTY GOVERNMENT CENTER  
801 E. WALNUT ST., COLUMBIA, MO.  
Thursday, April 20, 2006

Chairperson Smith called the meeting to order at 7:00 p.m., with a quorum present. Roll Call was taken by Commissioner Heitkamp.

Present:	Pat Smith, Chairperson	Perche Township
	Carl Freiling	Cedar Township
	Mike Morgan	Bourbon Township
	Russell Duker	Missouri Township
	Larry Oetting	Three Creeks Township
	Michael Morrison	Columbia Township
	Boyd Harris	Centralia Township
	Paul Zullo	Rock Bridge Township
	John Schloot	Rocky Fork Township

Absent:	Kristen Heitkamp, Secretary	Katy Township
	David Mink	Public Works

Also present:	Thad Yonke, Staff	Uriah Mach, Staff
	Bill Florea, Staff	Paula Evans, Staff
	Stan Shawver, Director	

The minutes of the March 16, 2006 meeting were approved with no corrections. Approved by acclamation.

Chairperson Smith read the procedural statement which stated that the Boone County Planning and Zoning Commission is an advisory Commission to the County Commission. The Commission is made up of individuals representing each township of the County and the County Engineer.

The Planning and Zoning Commission makes recommendations to the County Commission on matters dealing with land use. Tonight's agenda includes one conditional use permit request, one planned development, and eight subdivision plats.

In general, the Planning and Zoning Commission tries to follow Robert's Rules of Order, however, it is authorized by the Missouri State Statues to follow its own by-laws. The by-laws provide that all members of the Commission, including the Chairperson, enjoy full privileges of the floor. The Chairperson may debate, vote upon or even make any motion.

The following procedure will be followed:

The agenda item will be announced, followed by a report from the Planning Department staff. At that time, the applicant or the applicant's representative may make a presentation to the Commission. The Commission may request additional information at that time, or later following the hearing. After the

applicant's presentation, the floor will be opened for anyone wishing to speak in support of the request. We ask that any presentation made to the Commission be to the point.

Please give your name and mailing address when you address the Commission. We also request that you sign the sheet on the table after you testify.

Next, the floor will be given over to those who may be opposed to the request. Direct all comments or questions to the Commission and please restrict your comments to the matter under discussion. Please be considerate of everyone here. The agenda tonight may not be lengthy, and while we wish to extend an opportunity to everyone who wishes to speak, we ask that you not be repetitious with your remarks. We also recognize that some issues can be quite emotional. In that regard we ask that you refrain from applause, cheers, or other signs of support or displeasure. Please afford those with a different point of view than yours the same respect and consideration you would like yourself.

After those opposed to the request have had a chance to speak, the applicant will have an opportunity to respond to the concerns of those opposed to the request. Next the staff will be given an opportunity for any additional comments, as appropriate. The public hearing will then be closed and no further comments will be permitted from the audience or the applicant unless requested by the commission. The Commission will then discuss the matter and may ask questions of anyone present during discussion. Finally, a motion will be made to either recommend the approval or denial of the request to the County Commission. Please note that the Boone County Zoning regulations and subdivision regulations are considered to be a part of the record of these proceedings.

All recommendations for approval are forwarded to the County Commission. They will conduct another public hearing on Tuesday, May 2<sup>nd</sup>. Interested parties will again have the opportunity to comment on the requests at that time. The County Commission generally follows the recommendations of the Planning and Zoning Commission; however, they are not obligated to uphold any recommendation. Requests that are denied will not proceed to the County Commission unless the applicant files an appeal form within 3 working days. Please contact the Planning Office to see if a request that has been denied has filed an appeal as there will be no further public notification due to the short time between the hearing tonight and the County Commission Hearing. The County Commission hearing scheduled for Tuesday, May 2<sup>nd</sup>, will begin at 7:00 p.m. and will convene in this same room.

Chairperson Smith asked if there were any questions about how the meeting will be conducted.

## **CONDITIONAL USE PERMITS**

1. Request by Larry & Brenda Sample on behalf of Verizon Wireless for a transmission facility including a 150' tower on 10.36 acres, located at 10440 I-70 Drive SE, Columbia

Planner, Uriah Mach gave the staff report stating that the property is approximately 3 and ¼ miles to the east of the City of Columbia. The property is zoned A-2 (Agricultural). This property has A-2 zoning to the south, east, and west, with R-M (Residential-Moderate Density) and M-LP (Planned Light Industrial) zoning across I-70 to the north. The zoning of the subject property and the surrounding tracts are all original 1973 zonings, with the exception of the M-LP, which was rezoned in 2000.

A description of the lease area site has been submitted by the applicant as Exhibit A in the application materials. The lease area for the tower is approximately 10,000 square feet out of the 10.36 acre parent tract. No proposal has been submitted to subdivide the property. Given the proposed tower location,

subdivision would likely be impossible. The parent parcel has a single-family dwelling and two accessory structures present. A 150' monopole tower and small ground facilities are proposed inside a fenced compound. The application is technically incomplete, but was reviewed at the director's discretion. After review, the application is missing the following information:

- The submitted site maps lack information on the structures and zoning of adjoining tracts, and the location of nearest public recreation and wildlife areas as required by Section 15C(a)1 of the Zoning Ordinance.
- Search area information is lacking on the AAT site in Calloway County, approximately 4 and ½ miles to the east.
- The submitted engineer's report is unclear on whether the construction of the tower meets the 1996 BOCA National Building Code.

The property is located inside the Columbia C-1 school district and the Boone County Fire Protection District. The Master Plan describes this area as being suitable for agricultural and rural residential land use. Staff notified 30 property owners about this request.

Staff analysis of the request is based upon the application and public comments received following notification of the surrounding property owners.

(a) The establishment, maintenance or operation of a conditional use permit will not be detrimental to or endanger the public health, safety, comfort or general welfare.

If operated in conformance with existing county regulations, the use should comply with this criterion.

(b) The conditional use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted by these regulations.

The subject site is within a western line of site with one residence on an adjoining property. While the surrounding zoning will allow for a significant number of residential units, there is a lack of an adequate public road network to the surrounding properties to support the densities allowable under the current zoning. Screening or adjustment in the tower location within the parent parcel could help mitigate potential impact to the one residence near the proposed site. Adjustment of the tower location will require a new conditional use permit application. Public testimony may be indicative as to whether this criterion can be met.

(c) The conditional use permit will not substantially diminish or impair property values of existing properties in the neighborhood.

The application meets this criterion as per the zoning ordinance Section 15B section 4, subsection (e). However, this is a purely technical analysis as constructed by the regulations. Public testimony may better reflect any impacts on property values.

(d) All necessary facilities will be available, including, but not limited to, utilities, roads, road access and drainage.

The use has limited needs with respect to utility infrastructure and so the site has adequate facilities to support the proposal.

(e) The establishment of a conditional use permit will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoning district.

This area is zoned A-2, with residential uses limited to 2-½ acre tracts or larger. Future development of the area will be accomplished through the existing zoning, or will require rezoning to achieve a higher density of development. The nature of the site and its location with respect to road infrastructure will likely have a greater negative impact on the area development than the proposal. However, public testimony may be indicative as to whether this criterion is met.

(f) The establishment of a conditional use permit will not hinder the flow of traffic or result in traffic congestion on the public streets. This will include the provision of points of access to the subject property.

The proposed use is a minimal traffic generator and should not hinder traffic or cause congestion on public streets.

(g) The conditional use permit shall in all other respects conform to the applicable regulations of the zoning district in which it is located. The County Commission shall find that there is a public necessity for the conditional use permit.

The proposal conforms to other applicable regulations of the A-2 zoning district, particularly since no land division is proposed. It is staff's belief that public necessity for the conditional use permit is dubious based on the information provided in the applicant's propagation maps.

The applicant's propagation maps would indicate that the dead zones in Verizon's coverage areas can be served by co-locations at the AT&T, Spectrasite, and ATC towers, and the construction of a new tower across the county line in Callaway County.

Staff recommends denial of this conditional use permit.

As part of the staff report, Mr. Mach presented transparencies of the application material which overlay the location of all towers indicated in the last two paragraphs of the staff report for examination by the Planning and Zoning Commission.

Present: Curtis Holland, Attorney representing Verizon and the Sample's, 6201 College Blvd, # 500, Overland Park, KS.

Mr. Holland stated he is outside zoning council to Verizon Wireless and the applicant relative to this matter tonight. In addition to representing Verizon Wireless Mr. Holland represents the land owners, Larry and Brenda Sample. Mr. Holland introduced Brenda Sample who is in the audience, Velton Viles is a site acquisition consultant, he works for Selective Site Consultants. They are the consulting firm that works with Verizon Wireless to go in to the field to find sites for Verizon's system and in this particular case we are engaged to locate and negotiate a lease with the Sample's for their property for the communication tower that is the subject of this application.

Mr. Holland stated he wanted to address a couple of items relative to staff's report. Staff mentioned there were some technical deficiencies relative to the application. Mr. Holland has some paperwork he believes will correct those deficiencies relative to specifically the items concerning the adjoining zoning of the surrounding properties. Also, whether or not, or where is the nearest public recreation and wildlife areas. Mr. Holland has that information contained in what is essentially an updated cover letter to the

applicants' submission. Mr. Holland wished to submit it for the record. Mr. Holland stated he has a number of copies of these if the Commission wished to pass them out; it is essentially what the Commission has in their application. The first portion of it, the cover letter with some additional information relative to that. Mr. Holland stated he would like to indicate that the zoning of the surrounding property is already identified in the staff report and it has just been discussed. Finally, the public recreation and wildlife area, the nearest location of it is about 3.2 miles to the southeast. That is in this document. Mr. Holland stated he would like to submit it for the record. Mr. Holland stated he has other items he would submit for the record and with the Commission's permission he would do that all at the end.

Commissioner Duker asked if staff said there were some engineering issues with the tower itself.

Mr. Mach stated they were lacking specific notice that it does comply with 1996 BOCA National Building Code.

Mr. Holland stated he has a letter from an engineer that indicates that applicants do meet those guidelines. Mr. Holland stated he would submit that for the record as well.

Mr. Holland stated in regard to staff's report, relative to whether the applicants did their due diligence relative to an existing communication tower that is in Callaway County. It is the applicants' position that because it is in Callaway County it is not a tower that is the subject the applicant's due diligence. The applicants extent of due diligence would be to look at any communication towers in Boone County. Regardless, Mr. Holland stated he would explain that the Callaway County site is impossible for the applicants to use.

(Mr. Holland brought items to be viewed on the overhead projector. These items were not transparent and could not be viewed on the overhead projector.)

Mr. Holland presented the items to the Commission. One of the items was a sketch that Mr. Holland prepared in response to the staff report which he received yesterday. If you read the staff report, one would appear to believe that the staff would conclude with a recommendation for approval. It appears to state the applicants meet all of the guidelines and it really isn't going to have a negative impact on surrounding property owners however there is a conclusory statement at the end that suggests that there is an existing communication tower in Callaway County to our east that we could co-locate on. In response to that, Mr. Holland provided a written email response to staff which wasn't discussed before the Commission tonight. Mr. Holland presented the email response to staff.

Mr. Holland stated he would like to indicate that Verizon Wireless is a new entrant in to Boone County/Columbia. They didn't previously have a license area for Boone County. The applicants are going to be before this body a number of times over the coming months for new facilities. What occurred recently is that Verizon Wireless purchased what is known as the "F Block License" from the FCC. It is a 10 mhz band width license, it is a 1900 mhz PCS system. Generally the distinction is you have the 850 mhz systems and the 1900 mhz systems, the 1900 mhz system is being called PCS, the 850 mhz system used to be the old analog systems but most of those have been converted to digital systems. A big significant difference between the two is that the radio waves under an 850 system go a lot further than the radio waves from a 1900 system. It does constrain the applicants somewhat in that it would require the applicants to provide many more of their antenna facilities to serve the same area as would an 850 system. Applicants have purchased the F block license for Boone County and they will be a new entrant in to that market. There will be several applications before the County as well as the City of Columbia. As a new entrant, one of the advantages is that there are a lot of existing communication towers already

in the County and in the city. Wherever it is possible the applicants are collocating on existing tower structures so that they can minimize the number of tower structures that they would have to construct to build out their network. One, it is more efficient for the applicants to use existing tower structures because typically that is a faster process and installation process. Two, it is much cheaper to collocate on an existing tower structure than it is to build a brand new structure. In order to build an efficient and low cost system that makes Verizon competitive with the other carriers they are attempting to and are collocating on more than half of the new sites that will be coming in to Boone County and the Columbia area.

The applicants don't have an F license in Callaway County so they can't just simply go in to Callaway County and put their antennas on a communication tower in Callaway County. The applicants have two licenses in Callaway County, it is an A Block License and an E Block License; Verizon does operate in Callaway County but because of the license limitations you cannot propagate your signals if you have the F block license in Boone County you can not propagate your signal past Boone County's county line. Or likewise if you are in Callaway County; you have the A block and the E block license you cannot send radio waves in to Boone County under those licenses. What we are trying to do is build an F license system in Boone County and because of the FCC limitations we cannot send our signals across the county line.

Everybody in this room probably has a cell phone. Of course it is very difficult and frustrating for you when your phone doesn't work. In our case we don't really have an established system in Boone County so we are trying to establish a new network. One of the benefits again would be competition in the market. Relative to cellular service in general people are dissatisfied when their cell phones don't work. Mr. Holland referred to newspaper articles from the Kansas City Star. One is from the business section dated January 6, 2005 and it describes what we all know which is when our cell phones don't work we are not happy campers. Another thing that has come about in the cellular or wireless world is that our phones are more than just handsets that we drive down the highway with talking on the phone. They have become much more personal to us. They now can do many more things than previous; for example you can use them to keep your calendar, to access email, access the internet, they really have become a personal computer all in a small little handset. Another article from the Kansas City Star talks about all the different features, pretty soon we will be able to watch television on our phones. Not to suggest you should do that driving down the road but that will have the capability. The phone looks like a swiss army knife, meaning that it is multi-functional, multi-purpose. It is really a function of the public's demand for these types of services. Verizon along with all the other carriers are trying to satisfy that demand. Unfortunately in order to build a network and to provide the kind of coverage that our customers expect you have to have communication structures or tall structures, sites you can attach your antennas to. Verizon is no different; they need to do that as well.

The applicants did provide, as part of the application, propagation maps. What the applicants are trying to portray by these maps, as mentioned earlier, the applicants are collocating wherever it is possible. In relative to this particular section of I-70 which is on the eastern side of Boone County and western Callaway County, it is about a 10 mile section of road and there are four tower sites along that 10 mile stretch of road. There are three sites of the four existing towers that the applicants are collocating on. The applicants are trying to do that wherever they can because it lowers their costs and they are more efficient to use existing tower structures wherever possible. Unfortunately at this one particular location and that is the geographic area that we are trying to build which is the subject of this application there is not a communication tower that the applicants can utilize and provide the coverage in this area. This would be along the very eastern edge of Boone County. On the propagation maps would show essentially the areas that are the green circular area, those show the system that we are proposing be built starting from the west side going to the east we have an existing communication tower we call the Harg site that the

applicants are collocating on. On the far east end of this at this stretch of road is the site we call Kingdom City, it is in Callaway County. Applicants have an F license to provide service in Boone County and A and E licenses in Callaway County. Because of applicants FCC limitations they cannot send signals across the County line. The Kingdom tower site is about 3.5 to 3.8 miles away from the County line. The applicants are going to transmit their A license signals to the west towards the Boone County line but they have to tilt their antennas, lower the power, and do certain things to keep their signal from crossing county lines. The applicants can go in to or cross the County line very minimally. They are going to cover the far west side of Callaway County using this Kingdom City tower which they are collocating on. That anchors one end of their project. The other end of the project is Harg. In the sketch that was passed out there is the fourth tower that was mentioned earlier which is about two miles east of the Harg site. The applicants have points on the west end and points on the east end and the applicants are trying to fill in the point in between that will allow the applicants to provide coverage between that stretch over to the County line but it can't be situated such that it would propagate radio signals in to Callaway County. The propagation map represents that the site the applicants have chosen will fill that coverage gap and do what the applicants are wanting it to do and that is provide coverage over to County line but not extend too far in to Callaway County. The east end of the stretch of the highway is covered by the Kingdom City site.

The other maps that were shown; there is a statement in the staff report. The staff report indicates that the applicants could fill this hole that we are talking about by either using an existing tower that they referred to as the Spectrasite tower or by another tower that is in Callaway County. This propagation map shows what the coverage would be like if they used the existing Spectrasite tower. These sites need to be approximately 2 miles apart from each other. The 1900 PCS system; the radio waves don't travel as far, the 850 system does. The applicants' sites tend to be two miles apart. This Spectrasite is approximately 1 mile from the Harg site which is a collocation and it is also about 3.4 miles from the county line. If you were to put your antennas on this Spectrasite tower you would be causing a couple of things. One, since the signal doesn't go that far you are not going to have coverage all the way over to county line and you are going to end up with a coverage gap on the east end of Boone County. Second, you are going to have a tower that is only one mile from another tower that you already have an antenna on and you wouldn't put antennas on a tower so close to another tower where you already have antennas. It is inefficient, it causes issues with your system, it is inefficient, it is just not something you would do. That is not an available option for the applicants in this case.

In terms of the Callaway County site the applicants do not have an F license for Callaway County so the applicant's wouldn't simply go in to Callaway County and build a new tower as staff suggests and put their antenna facilities on it because they would be in violation of their license. The second thing the Commission needs to understand is that the tower that staff is talking about is right across the highway from the Kingdom City site which the applicants are collocating on with their A and B license antennas. The applicants have the west end of Callaway County covered already by the Kingdom City tower site which is right across the highway from the site or the tower staff is suggesting they could use to cover this gap.

Commissioner Freiling stated in the jurisdiction of Boone County is the applicant stating that when you cross the county line you are changing technology?

Mr. Holland stated yes; you have a dual band and your phone will be able to, as you are using it in west Callaway County and traveling in to Boone County your phone will operate and you won't notice a difference. Because of the FCC license restrictions you can't physically propagate those signals from those licenses across the county.

Commissioner Freiling asked the reason the applicants seek different licensing in different Counties.

Mr. Holland stated it is based on what is available and there are a number of factors but what is available to you and in Boone County all of the A through E licenses are already used up and taken by other providers. What is left is this skinny little bandwidth license, the F license, that the applicants paid a fortune for to cover Boone County.

Mr. Holland stated in response to the staff's comment there is really a logical engineering explanation for what it is that we are doing and why it is we are doing this particular site that the applicants are asking approval on. It is because the applicants' F license the system allows the applicants to propagate signals about every two miles but it doesn't allow them to propagate in to Callaway County so the Spectrasite tower being where it is is inefficient and too far away from county lines for the applicants to use it. Therefore the applicants are proposing the subject site which is on the Sample property.

Mr. Holland stated in addition to the difficulties of physical distance you also have difficulties due to terrain. The eastern portion of Boone County and in particular this site that we are discussing tonight is hilly and leads ultimately down to a low point which is Cedar Creek which is at the county line.

Mr. Holland presented photos to the Commission.

Mr. Holland stated the highway in that area is hilly and there are low spots and again, using the Spectrasite tower makes it impossible to cover the area and that is why the applicants are proposing the site.

Commissioner Duker asked how far you can broadcast with the A and E licenses.

Mr. Holland stated the E license, the 1900 license, so it is subject to sort of the same restrictions and limitations 1 ½ to 2 miles. The A license is 850 and so it does propagate a little bit further.

Commissioner Duker asked how far.

Mr. Holland stated it depends on terrain, tree foliage, and how many people are using it. It can be 3 to 5 miles radius so it does propagate further than the PCS licenses do. That is why on the Kingdom City site which is almost 4 miles from the county line, the applicants can cover that area with their A license signals because it will propagate to the county line. The applicants wouldn't be able to propagate using just their E license on that side.

Mr. Holland stated no one likes communication towers but we have to have them in order to make the phones work. As a company the applicant tries to minimize their impacts in the community and collocate wherever they can. The applicants are collocating on three of the four towers along this stretch of highway. There are certain things that no matter what you just can't get away from and that is the fact that people don't necessarily like to look at communication towers. They love their phones but they would just as well do without the towers, unfortunately that is not reality. In this particular case the applicants have attempted to locate it in an area where there is not a lot of residences because we tend to, where we have conflict, it is with adjoining residential properties and in this particular area there is a residence to the east. But except for the subject property that the Sample's own, they have a house there, and this property to the east the area is relatively sparse in terms of residences in the area. Mr. Holland stated he is not going to say people won't be able to see the communication tower, they certainly will from the highway which is a good thing because you want your phone to be able to see the tower. This tower is 150 feet tall which is good because it doesn't require lighting so at night there will be no lights

on this communication tower. That is frequently a complaint in these kinds of applications. The applicants are using what is called a monopole structure as opposed to a guyed tower structure or a self support or lattice type structure. The monopole is a single steel pole that tends to have a smaller profile and is considered to be the least objectionable of the different types of communication towers.

Mr. Holland stated relative to the surrounding property, there is a residence to the east. There is a mature line of trees between that property and where the tower will be located. Those aren't just deciduous trees where the leaves fall off in the winter and you can look through it. There are lots of cedar trees and evergreen trees along that property line in particular where their house is in terms of the line of sight to the west where they might see the tower. Because the trees are there the trees are fairly tall as well the house that is there is situated relatively close to the property line such that you would have to crane your head up over the trees to see the top and perhaps see the tower. Mr. Holland stated he is not sure you would see it even in those circumstances. The applicants were over there today and it would probably be very difficult if not impossible to see any part of the tower particularly during the summer time because of the trees the leaves are coming in. In the winter time there are many tall, mature cedars along that property line that should provide them some screening. Mr. Holland stated he is not going to say they wouldn't see the tower, they may, and hopefully they won't find it too objectionable.

Mr. Holland stated the complaint typically is people don't like the look of it; the applicants have tried to address it with the monopole. These communication towers are all over the place, they are in many different settings.

Mr. Holland presented some photographs that show communication towers in different residential settings. These photos were taken in various communities in Kansas.

Mr. Holland stated these are communication towers right next to residences where you can walk out your front or back door and see them. Many of these homes are very expensive homes.

Commissioner Duker asked how tall those towers were.

Mr. Holland stated one of them is 190 feet; the homes in this area are probably \$400,000 homes.

Commissioner Duker asked about the other towers.

Mr. Holland stated the other towers vary between 120 feet to 180 feet. One of the towers is in Liberty, Missouri and those homes aren't nearly as expensive and that pole is 30 feet from someone's back yard.

Mr. Holland stated we have come to live with these structures anymore they are seen as a need, maybe a necessary evil, we have to have them to use our phones. The other thing that is a big complaint with communication towers is the impact on property values. The property owners complain that these facilities will have a negative impact on their adjoining properties. This is an issue that has been studied many times across the country. Mr. Holland stated he has some reports from various MAI certified appraisers relative to communication tower applications in different communities but relative to the same particular issue. The near universal conclusion on these MAI certified appraisers is that these towers have little or no impact on property values.

Mr. Holland presented the appraisal reports for the record.

Mr. Holland stated the applicants ask for the Commission's approval. The applicants have tried their best to be good corporate citizens and to collocate wherever they can. It is unfortunate in this particular

instance that the applicants aren't able to accomplish that but given the location of it the applicants feel they have minimized its impacts.

Chairperson Smith stated the Commission has gotten a lot of requests for cell towers and this is the first time it has come up about crossing county lines with signals. The applicants indicated they could only get an F license in Boone County.

Mr. Holland stated yes.

Chairperson Smith stated the applicants didn't want that one they wanted another one.

Mr. Holland stated the applicants would love another license. Applicants have a narrow band width license here.

Chairperson Smith stated if the applicants didn't get an F license would some other company try to get an F license.

Mr. Holland stated it is valuable and the applicants paid a lot of money for it and someone else would probably like to do that.

Chairperson Smith stated when they talk about the coverage gap, how long is that coverage gap. If someone is driving down I-70 and their phone cuts out how long is it going to be out.

Mr. Holland stated it would be 2.5 miles.

Chairperson Smith stated for 2.5 miles traveling 70 mph there would be no cell phone use. That is not very many minutes.

Mr. Holland stated no it isn't but that is not the whole point. The point is that people want to use their phones; it is not only frustrating but the customer expects to be able to use their phone as they are traveling through the area. Verizon likes to provide seamless coverage; not interrupted coverage in order to make Verizon competitive with and to keep prices lower for the public.

Chairperson Smith stated there is seven criteria that the Commission has to look at before they can grant a conditional use permit and the applicants have to meet those. The last one is that it has to be a public necessity.

Mr. Holland stated on the necessity side; yes it is convenient for everybody to use one very important aspect of cellular service is the contributions it makes to the 911 emergency service providers. The applicants have, what has been documented by the industry as on average, 224,000 911 calls made everyday on cell phones which translates to about 81,000,000 phone calls. It is very much a public necessity in that regard.

Chairperson Smith asked if the applicants met the technical things with what the new information submitted.

Mr. Mach stated most of the information so far is propagation maps; the only inconsistency with the information Mr. Holland has provided is that the additional site that is located on one of the two transparencies is identified as Millersburg (New Location), which is over the Callaway County line. A tower at that location was recommended at the end of the staff report. That tower would be advantageous

in securing the holes in Verizon's coverage. As far as new material, the vast majority of material provided for the Commission tonight is new material. The staff has not seen it, except for the propagation maps that Mr. Holland has passed around.

Mr. Holland stated he would say to everybody, including staff, this is difficult, the technology and Mr. Holland trying to describe the F license and the A license and you can't cross county lines and we need them every two miles. Mr. Holland stated he didn't believe the applicants necessarily did the staff a favor in trying to explain it to them with their application. To be fair, Mr. Holland believes staff was at a slight disadvantage in trying to provide a real adequate staff report on that particular issue. It is a tough subject to try to describe.

Commissioner Schloot referred to the photos of other towers and stated the towers are nicer.

Mr. Holland stated the proposed tower is being built to allow for collocation. The applicants are building it so that it is structurally strong enough to allow for other carriers to place their antennas on the tower so that new communication towers may not be necessary. That photo shows what the tower could look like if it was fully loaded with platforms. The applicants are intending only to put a single platform at the top. The representation there would show there is space for three additional platforms; it is probably not going to be completely filled like that.

Chairperson Smith stated unless someone else comes in and the Commission makes them.

Mr. Holland stated unless three other carriers come in and need service in the area then the Commission could do what they did with everybody.

Commissioner Harris stated as Mr. Holland discusses these licenses and they have the F license then you go to Callaway County and they have the A and the E license. That F license is particular to the frequency on a phone that the applicants would sell to a customer in this market and that phone would have no other frequencies. If the applicants had this site to propagate their F license out to the county line and Commissioner Harris has one of the applicants phones when he hits Cedar Creek what happens to his Verizon phone and what happens to the signal then. Is this only to facilitate you to pick up a couple of miles that you were going to fall short anyway?

Mr. Holland stated the phone is designed to identify and accept transmissions and send signals that can be converted in either of the licensed areas. In a sense the subscriber has no idea but the phone technology is switching even though you don't know it is switching frequency and how it works as you cross the line. It is a seamless coverage you are just using a different license.

Commissioner Morgan stated the range is 2.5 miles.

Mr. Holland stated the range varies.

Commissioner Morgan asked if the applicants were just talking about coverage on I-70.

Mr. Holland stated yes.

Commissioner Morgan asked what if someone was traveling on highway 63.

Mr. Holland stated it is not just I-70 but in general the footprint for the coverage pattern for a PCS license tower is about 2 miles, it could be less than 2 miles in many instances.

Commissioner Morgan stated he didn't know how many square miles are in Boone County but even if we were talking about 2.5 miles a tower is going to be located every 2.5 miles in Boone County.

Chairperson Smith stated every 5 miles.

Mr. Holland stated in the corridors that we are covering we are going to need them every couple of miles and so yes; but the applicants are doing a lot of collocation for many of these that the applicants are not coming through here with 100 new towers.

Commissioner Freiling stated when the applicant says corridors "they are covering" is it I-70 and Highway 63.

Mr. Holland stated Verizon is covering particularly in the more rural areas. One of the things you are trying to target is density, population density, so on the outskirts of Columbia for example you are covering more highway because there is just not a lot of other development along the highways. Certainly in Columbia you are trying to cover all of Columbia.

Commissioner Morgan asked if the applicants have thought about putting an antenna on the water tower on Route Z not too far from the proposed site; it sits up pretty high. Commissioner Morgan stated he doesn't know what water district that is but it sits less than a mile south on Route Z.

Mr. Dawson stated Boone County will not allow anybody on their water tower.

John Dawson, radio frequency engineer, Verizon Wireless, address not given.

Mr. Dawson stated regarding the 2.5 miles it is between Harg and the county line where Cedar Creek is. If you look at the terrain there is an average drop of 80-feet from where Harg is to the border. The total distance is about 4.8 miles between Harg and the Kingdom City site. The problem is line of sight, what is happening is you have two low areas and two towers that is one problem in this area. This is going to get worse in the summer time when the leaves come out. Verizon currently roams on US Cellular; you initiate a call in Kingdom City and when you come to that spot it is absolutely gone. Verizon has a 10 mhz license in six counties which comprises the FCC license. Not of Missouri, that is called Missouri 8 that is part of the 850 mhz E band. But we do have an E license in Jefferson City. When we operate the FCC has given us this license the E and F license to operate T-Mobile down on the other side of the County. We have to get a consent agreement in such a way that it has to go to a certain point agreed upon the other party which is T-Mobile to get seamless coverage. CDMA works as such T-Mobile uses other technology, CDMA is good in a sense that you can put a lot of subscribers on it. But the only problem is the more subscribers you put the coverage radius will shrink. Especially after 5:00 p.m. when everybody gets on the road. When it shrinks it creates a hole and that line gets a call dropped when you are traveling across the highway or you can not use your phone. That is the problem we have. When we started designing this area we started at a Columbia site which is the intersection of highway 63 and east Columbia which is a couple of blocks to the east and we collocated on that and the applicants collocated on Harg. Mr. Dawson stated when he was coming over here he could see basically right across the road the highway the east Boone side, it is too close. The team could look at it and see what we need to do to bridge between this network and the other network. The way FCC issued the license as such from E to F and PCS. The applicants used to have the A license.

Mr. Dawson stated to answer the 2.5 mile question the FCC issued a 1900 mhz it is very good for the manufacturers when it comes to propagation it is not the finest, especially in the buildings. An 850 license won't get you inside a building unless you have the sites closer.

Commissioner Schloot asked if there was a reason why the applicants are choosing to place that tower closer to the existing home on the east side. Couldn't the applicants put it more toward the west side of that property.

Mr. Holland stated he believes it is centered; one is the setback requirements for Boone County require you to be a certain distance from the adjoining property line.

Open to public hearing.

No one spoke in support of the request.

Present speaking in opposition to the request:

Lester Bealmear, 10510 I-70 Drive SE, Columbia.

Mr. Bealmear presented a letter, a site plan, and a signed petition in opposition to the request.

Mr. Bealmear stated he is the landowner to the east of the property and read a letter he prepared to the Commission.

Commissioners, we own 7 acres of land adjacent to and east of the Sample property on the southeast outer road. We built a house and shop on our property in 1976. We have lived on this section of the outer road from Route Z to Purdy Lane longer than any of the current residents. We are both retired and spend most of our time at home in our yard and shop.

Shocked would put it mildly, was our reaction when we received the certified letter from Selective Site Consultants, Inc. concerning the Verizon 150 foot monopole. As you can see from the attached site plan (which the Commission received in their packets) the proposed pole is 200 feet from our house, 100 feet from our property line, and right across from it. At least it is in the Sample's backyard. It is right in my side yard. It is also located within a group of five houses, we are not the only house along there, all of which the owners oppose in this proposal. Also attached to that 47 neighbors have signed a petition opposing this. Imagine every time you looked off your deck, out of your dining room window, and the trees are not that tall, out of your garage and drive down your driveway, there is this 150 pole with an ugly triangular head right there beside your house.

In addition to the unsightliness of the proposed tower and building we, the Bealmear's, are concerned about the perceived health risks of being close to cell towers, not just for ourselves but for our seven grandchildren who spend a lot of time at our house playing in the yard.

Finally, for the reasons just mentioned, we have never heard of anyone's property value increasing by a cell tower being built next to it. Who would want to buy a house under a cell tower?

We think it is absurd on Verizon's behalf for wanting to locate this tower in among houses when there is vacant land all around this area. We think it is simply greed on the sample's part for agreeing to such a proposal in the first place and it shows their lack of concern for their neighbors.

Mr. Bealmear stated the Commission has copies of this letter and an additional site plan, a petition signed by those in the neighborhood that oppose the 150 tower. The signatures with asterisks live within 1000 feet of the proposed tower. This property is bordered by two property owners; the Bealmear's and the Winkler's and both strongly oppose this tower. In addition, Mr. Bealmear has questions. The survey plan provided by Selective Site Consultants is not accurate, the small pond shown to the east of the tower location is really an unfenced sewage lagoon. Was this lagoon listed under the request for a conditional use permit? It is a sewage lagoon not a pond.

Mr. Mach stated all staff has is the information received on the site plan.

Mr. Bealmear stated it shows a pond, it is not a pond. The survey plan accurately shows the location of the proposed tower building more accurately than a photo simulation prepared by Selective Site Consultants. The photo they used for the tower location at the Sample property was taken at an angle from the property line looking west. It makes the tower look a lot closer to the Sample's house and a lot further from Mr. Bealmear's property than it really is. Why was this location next to existing homes chosen by Verizon when there is other land around? The applicants did approach other land owners in that area. There is an industrial park at the Centralia exit, there is another one 1 mile away from this location, there is another one at ABC Labs a half mile away, there is water tower within a mile away. Why do we need another tower in this area? If Verizon needs an F license in Callaway County let them get an F license in Callaway County.

Chairperson Smith stated she believes the problem is that those towers are full and they indicated they couldn't put it on a water tower.

Mr. Bealmear stated he saw three sets of antenna's on a tower, the one on Route Z only has 2, the water tower doesn't have anything.

Mr. Mach stated the information provided in the application indicates one of the towers mentions near ABC Labs, the applicants are going to be collocating on it. The one on Trade Center Drive is currently available and does have a site for collocation, it is recommended within the staff report. Mr. Mach stated he is not aware if there was a tower on the water tower, but the water tower is there.

Chairperson Smith stated the applicants had stated that you couldn't locate on water towers.

Mr. Bealmear stated Verizon talked in their proposal like Mr. Bealmear's house was the only one there. There are a lot of houses right across I-70. If you look at the asterisks of the property owners around there everybody in that immediate area signed the petition that they don't want the tower there. Mr. Bealmear stated he has sat there and listened to a lot of engineering and as big as Verizon thinks they are that they can't do a better job than what they are doing. If you look at the plot plan shows the driveway going next to the property line, it is not even coming off the Sample's driveway and the reason the tower is being put there is because it is out of their sight and right beside Mr. Bealmear. There is no concern for Mr. Bealmear or even the neighbors next to him.

Commissioner Duker stated Mr. Bealmear indicated there is vacant land to the west.

Mr. Bealmear stated there is an open area, those people who signed the petition are also opposed to Verizon putting the tower on their land.

Commissioner Duker stated if the applicants could move the tower toward the other direction would Mr. Bealmear still be opposed to it.

Mr. Bealmear stated if they move it and put it ¼ mile or ½ mile away he wouldn't be near as opposed to it as having it in his back yard. Verizon stated Mr. Bealmear can't see it from his house; they are wrong. It is 200 feet from his house. If they want to put it somewhere put it by Cedar Creek and make a taller tower. Get an F license and put it in Callaway County, don't put it in somebody's back yard.

Commissioner Harris stated he picked up to in the presentation the representation of only one residence to the east of the property. As Commissioner Harris viewed this site this afternoon he counted five residences within a quarter mile to the east Mr. Bealmear is accurate.

David Huddlestonsmith, 10901 E. Bozarth Ln, Columbia.

Dr. Huddlestonsmith stated he is a retired physician also a high school science teacher and teacher for special education. Dr. Huddlestonsmith stated he is trying to be proactive about what he would like to explain. In the past Dr. Huddlestonsmith has been involved the epidemics of HIV when it first came out and they said it was a minimal problem. Then we had hep c and he ended up doing research. Supposedly this was not a problem; this is now one of the biggest epidemics we have ever had in the world over 400,000,000 people have this. In the 1950's because there have been problems in Europe people recommended the medication thalidomide for pregnancy for vomiting. Based on their word we started using it. As a physician he started taking care of thalidomide babies. We believed what other people were telling us instead of doing our own research. We all know the problems with lead from the lead based paints that we've used and the health problems that those have presented to us. We know about DNA, we've known about DNA since Watson and Crick first came up with this. This was the late 1950's. Dr. Huddlestonsmith stated what he is getting at is we know without any question of a doubt that radiation causes problems. It causes problems with our health, our childrens health, it causes problems with generations to come. What happens is when you have anything like the high wires which we have everywhere, each one of those creates an electromagnetic field. Electromagnetic fields are harmful to DNA if our DNA is harmed we are either going to suffer some problems and most likely will end up with forms of cancer. Without 100 percent proof to this point because of lack of funding and the apathy of the American public we don't have absolute proof. We have the very strongest of indications that children that are born that live within certain ranges of towers that put off these microwaves, they aren't just radio waves. It is like getting inside a microwave oven and turning it on, that is about where the range of these are. The reach from these microwaves is approximately ½ to 1 mile.

Dr. Huddlestonsmith stated he raises dogs and has a 13 year old daughter and he bought a house in an area that had the least amount of wireage in the air possible and now he is going to have this tower in his back yard. With the research that is being done right now in Europe in particular and now in Canada they are starting to have very harsh regulations about these towers because of the known association of increased frequencies, brain tumors, leukemia, problems of autoimmune disease, problems with our immune deficiency syndromes that we are seeing more of. In being proactive are we going to be stupid and allow this to go on without at least researching it or are we going to allow somebody like this company to go ahead with their plans because we don't have enough research done and do something like malicious negligence. Are they going to be willing to pay for medical damages in one or two generations from now caused by this tower for people that lived around there?

Closed to public hearing.

Chairperson Smith asked why the applicants didn't place the tower on the adjacent vacant land.

Mr. Holland stated the adjacent land to the west is owned by the Winkler's; the applicants did attempt to enter in to an agreement with the Winkler's and had started some negotiations with them. The ownership of that is among several different family members. Ultimately they didn't conclude in a successful negotiation of a lease; applicants did try to put the facility on the property to the west.

Chairperson Smith asked about the one tower which the staff referred to and Mr. Bealmear referred to as well.

Mr. Mach stated part of the recommendation identified it as the Spectrasite tower. Inside the application is part of the collocation information of Selective Site, who indicated that there was capacity and functionality of that tower. Their rejection was based on RF reasons and the response by the Spectrasite tower. They could still successfully collocate there; the information is inside the packets.

Mr. Holland stated he spent nearly half his time talking about that Spectrasite tower and went over it in great detail. It is too close to the existing facility, the Harg site, and it is too far away from the county line. Mr. Holland stated he objects to the representation or rather misrepresentation by staff that the applicants could put their facilities on that communication tower and cover this area. That is incorrect.

Mr. Yonke stated that is not actually incorrect. What the applicants are trying to make out is that staff is saying solely by locating on the Harg tower the applicants can cover their gap. That is not what staff is saying; what staff had said is from the information the applicants provided to staff in the application the applicants show that the Harg has space and they show a propagation map of what the coverage area would be covered if they located on the Harg tower and the Spectrasite one. If you locate on both of those you would cover a certain area; that area does not get all the way over to the line. It does cover areas that are part of that hole. Staff is not saying that solely locating on that one will solve your problem. What the application and what the staff report said is from the application if you look at the propagation map for locating on Harg and you locate on the one at Spectrasite and you look at the one that the application provided for across the Callaway line in Callaway County that all of the gaps that are shown on the area as being needed for coverage are filled.

Mr. Holland stated the one propagation map that shows that site across the line in Callaway County was provided in response to staff's suggestion that they could put a tower on the other side of Callaway County line because there is no zoning of communication towers in Callaway County. Mr. Holland stated he did address that; he did address it because we don't have an F license in Callaway County, the F license is owned by T-Mobile in Callaway County. If the applicants could go through and put a tower in Callaway County and not have zoning they would do that.

Mr. Yonke stated he is merely trying to clarify.

Mr. Holland stated he understands staff's confusion; he already conceded earlier that it is difficult to grasp this issues.

Mr. Holland stated he apologizes if it appeared the applicants misrepresented that this only affected a single property owner; Mr. Holland stated he perhaps overstated that. What he was trying to say is when you are there, there is not a lot of residences in the area. Mr. Holland conceded that the land owners to the east will be more impacted than the others. Mr. Holland stated he submitted an aerial to the Commission that shows the surrounding neighborhoods, there are residences in the area but if you go out and look at other communication towers in the County you will see that this tower is not situated so differently than those other communication towers relative to nearby residences. In nearly every one of these communication towers that we have discussed tonight, residences nearby, across the highway or

even closer to them. Mr. Holland stated he was merely trying to represent that in terms of its impact it really impacts more that person who lives immediately to the east than it does the others. If you do drive out to the area you will see that.

Mr. Holland stated in reference to Dr. Huddlestonsmith's comments; Mr. Holland stated he feels those comments irresponsible. As a comment at the beginning of this the health issues that get raised relative to communication tower structures; Mr. Holland stated he hears them all the time and has read all the studies. He has read the studies in Europe and in Canada and other places. Of course you probably know that the federal telecommunications act which regulates your decision making in this area indicates that you can not base a denial based on concerns of health or EMF associated with a communication tower. That said, there is no conclusion that these communication towers send out waves that are harmful to people. Dr. Huddlestonsmith mentioned microwaves; this is not a microwave system at all. Most of the studies that are done, they do look at the towers and the near universal conclusion is that there is no harm that can be caused by a cellular tower adjacent to you. The studies that do indicate, and it is not even a conclusion, the harmful effect has to do with the handset that you put up next to your head and use; it is not the communication tower. Mr. Holland stated he objects to all of the comments that Dr. Huddlestonsmith made relative to the health concerns. The Commission's charge is that they can't consider those. Mr. Holland stated he would like to inform the audience that this isn't the case and they shouldn't be fearful living near a cell tower. Mr. Holland stated he lives near a cell tower and has six kids and he isn't worried about it.

Chairperson Smith stated she noticed the study that Mr. Holland talked about which was passed around that said there was no impact on property values; that was a 1998 study.

Mr. Holland stated there are several there, there are later years too.

Commissioner Harris stated as a certified appraiser in the State of Missouri he would have some issue with those studies. A few years back in Commissioner Harris' office at coincidentally the same point in time one of his associates having been hired to prove the impact on negative value relative to the location of a large scale animal feeding operation at the same time coincidentally Commissioner Harris had been retained that there was no impact in value relative to the location of a large scale animal feeding operation. With the same set of data being a little selective of which ones were picked we could prove whatever point we wanted to. Commissioner Harris stated that he would tender while these reports are credible and they are made by credited appraisers the Commission has no way of knowing how subjective or objective they were in selecting their data. There is a case in Centralia on a property that the folks spent quite a bit of time working really hard to sell a really nice property because about 250 feet from that really nice house, a \$250,000 house there was a communication tower. They worked a long time to get that property sold and it was an impact on the value according to the broker.

Mr. Holland stated there is hard data in the County; if there is a question about it there are communication towers all over in this county and that can be verified.

Chairperson Smith stated the Commission's charge is really to see if this is appropriate land use. Is there any place else on the Sample property that this tower could go. Chairperson Smith stated the Commission has denied towers based on the fact that people looked right out their window and saw a cell tower and the Commission was very surprised the next month that the people who asked for it found another place on the same property for the cell tower.

Mr. Holland stated it is possible to move the tower on the Sample property to the south. There are some ponds on the property that somewhat how far south you can go. The Sample's have some concern that

there may be plans to widen I-70 and at some point their house may have to be relocated deeper in to the property. If that fact does occur they have left room towards the pond area to relocate their house. It would mean that the communication tower structure would be right out their front door. That is why the Sample's chose the site.

Commissioner Schloot asked if there was any reason why it could not go to the southwest corner; are there setback restrictions?

Mr. Yonke stated it has to be setback by the tower height.

Mr. Mach stated the two maps that the Commission has identify the Harg site, the Spectrasite site, the Kingdom City site, and identifies the propagation capabilities of those sites. There is also the Millersburg site (New Location), which is across the county line. Mr. Mach stated his analysis is based on the fact that for coverage to work as Verizon desires, they could relocate over there. The actual facts of the block license issue aren't really relevant to this situation. If they would require that particular license class, staff's recommendation would be for them to work with the existing owner of that license in Callaway County and get a tower built there and then collocate on it.

Mr. Yonke stated the first thing he wanted to point out is the applicants did make an argument that if you listen to the staff report they believe it actually recommended approval other than the fact that it actually said the opposite at the end of the report. That is a misunderstanding that we find with most of the tower companies that do provide these applications. When we do a staff report of a tower application there are a vast number of gate keeping functions that are required in order to be eligible to even get on an agenda to be able to make your argument. In many cases when we say the applicant has provided this information or we don't have any information that would counter this, that is not a definitive answer, what that means is that they are able to come and make their case to the Commission and they are still being measured against the conditional use permit criteria. The other thing to keep in mind is you have to meet all conditions of the criteria or you are required to be denied. If you don't meet even a single one of them the Commission is required to deny the request. Meeting all of the criteria is an important thing. Meeting most of them still doesn't get you where you need to be. The next thing to keep in mind, which is why staff doesn't make the comments on some of the issues, is that the application as submitted doesn't have anything in it talking about the value of the property. Staff does not make a conclusion for recommendation based on the property value criteria one way or the other because staff expects that to come out in testimony because there is nothing in the application. The staff report is based on the application as the application is presented to staff; staff didn't put any information in the application. Staff takes the application and analyzes it from within. That being said, in this instance we believe that it fails in staff's opinion to meet the necessity requirement based on the fact that staff can take the propagation maps that were provided in the application and we can show that coverage can be done by utilizing a tower in Callaway County and both of the other towers as collocates eliminates a tower in Boone County. The regulations are structured such that if you can do anything that will eliminate the need for a new tower located within the jurisdiction of the Boone County regulations then you aren't eligible for the new tower and therefore an application for such a tower must be denied. Furthermore, the staff analyzes the information contained in the submitted application so when the application indicates a coverage propagation map for a specific tower location but fails to give any information indicating that a tower can't be placed at that location then the only conclusion that can be drawn is that it fills the coverage area. So the issue of whether or not a tower could be built at that location is not relevant at this point because the tower was indicated in the information submitted without any information indicating problems with providing coverage based on this map and that really needed to be addressed as far as the application itself. We have seen other applications for similar situations, and again you can manipulate the engineering data by amongst other things choosing which license that you

purchase. If you could own one of the licenses here, choosing to purchase a different license you can position yourself with respect to certain technicality details about whether you can provide your connection across any specific area and does not necessarily oblige staff to make it convenient for you to do that when you could potentially use other means to do it. We have had one other occasion where we had a tower proposed near a county line and we did have the issue where they said they couldn't cross the line. When we actually got down to it what we found out was if they actually put a tower there and if they put the arrays only on one direction and beam the other way rather than in a circle and it bled over enough to provide coverage. They simply didn't want to do that is what it really came down to. In many cases what we have heard is that they don't find it logical from an economic sense to do certain things. But when we hear stuff like they can't go across the line, but they actually do go across the line these arguments become suspect. Of course they go across the line, they have to, they don't stop at the county line. The real question is how much can they go across the line, what happens when they go across the line, how do you hand that off, how does that work, and are there other ways to do that. Staff doesn't feel they have met the criteria to show that there is no other alternative to this tower with the provided information. Moreover it is incumbent on the applicant to make the case that they meet all of these criteria and if they don't actually present all of these criteria then again, they will fail simply on the fact that they haven't made a case that they meet all the criteria required to obtain approval for the conditional use permit.

Mr. Yonke stated the argument about logical or not logical is all in the eye of the beholder on what variables one chooses to put in to the engineering choices and not really explain. You can manipulate out a lot of this stuff by what you choose to do in terms of fixing which variables first. Staff asked for information about what would happen if you could put a tower on the Callaway County side; staff was given that information and that information shows that this tower the applicants have requested essentially would be redundant if you put one over there. At no point in the application itself was there any information provided to say they couldn't put a tower at the locations they showed so the application itself as a document stands to say they don't meet the criteria. That is why the staff report is structured the way it is. If the Commission has other questions staff would be happy to address them.

Commissioner Freiling stated the longer he sits on this side of the table even after 30 years of selling real estate the more he understands the Commission's obligation on this side of the table to protect a deal that was made 33 years ago when Planning and Zoning was voted in. The property owners surrendered property rights that they had in return for a promise of protection and preservation of the zoning map that was simultaneously accepted. That is the deal property rights were surrendered for a promise to protect property owners unless there is an overwhelming public interest. One of the things that has made Commissioner Freiling content to serve on this Commission for some time has been both staff and the Commission have carefully maintained the sense of responsibility to the people. Particularly when it comes to conditional use permits which don't allow the Commission any discretion, it is very explicit; either it meets these criteria or it is not subject to a conditional use permit. The public necessity issue is always the compelling issue when it comes to cell towers. If Commissioner Freiling understands the issue correctly the reason Verizon is building up with a less desirable band is probably because the more desirable bands are filled indicating that we are not short in cell coverage in Boone County; only that Verizon is. It is not the Commission's obligation or prerogative to grant a conditional use permit based on opposition when there is no public necessity but only a company necessity. The Commission is not able under their own laws to grant a conditional use permit in that circumstance. Aside from technical issues that are difficult.

Commissioner Freiling stated he would like to make a motion to deny the request based on two factors; the staff report and criteria G of the conditional use permit test. This application fails to meet the criteria that there is a public necessity for the conditional use permit.

Commissioner Freiling made and Commissioner Morgan seconded a motion to **deny** the request by Larry & Brenda Sample on behalf of Verizon Wireless for a transmission facility including a 150' tower on 10.36 acres, located at 10440 I-70 Drive SE, Columbia:

Carl Freiling – Yes	Mike Morgan – Yes
Larry Oetting – Yes	Paul Zullo – Yes
Russ Duker – Yes	Pat Smith – Yes
Boyd Harris – Yes	John Schloot – Yes
Mike Morrison - Yes	

Motion to deny request carries unanimously.

Chairperson Smith informed the applicant that this request has been denied and if the applicants wish to appeal to the County Commission they would need to file an appeal with the Planning Department staff within 3 working days.

\* \* \* \* \*

## **REZONING REQUESTS**

None.

## **PLANNED DEVELOPMENTS**

1. Request by Brandon Spry for a revised Review Plan Midway Electric (zoned M-LP, Planned Industrial) on 3.0 acres located at 7301 W. Henderson Rd., Columbia

Planner, Bill Florea gave the staff report stating that the property is on the north side of Henderson Road approximately 500 feet east of the intersection with Locust Grove Church Road. The original zoning for the property is R-S. In January of 2001 a rezoning of the property to CG-P was approved with conditions for the purpose of allowing an optical amplifier to be located. The required Review and Final Plans were not submitted. The tract was subsequently platted as Lot 1 of Midway Communications Subdivision Plat 1, also in 2001. A request to rezone to ML-P and a Review Plan was approved in February 2005. An original review plan was never submitted for signature. A Final Development Plan has not been approved. Therefore, the zoning of the property remains R-S. Construction of the building to the east is underway; a building permit was issued with the understanding that the Final Plan would be approved before construction was complete.

The previous review plan showed a location for a light industrial or warehouse structure of 6,000 to 14,000 square feet and a car wash of 3,000 to 6,250 square feet. The owner would like to change the use of the smaller building from car wash to warehouse/light industrial. This requires a revision to the review plan. In addition, the previous plan was approved with several conditions, some of which were linked to the proposed car wash use. Removal of those conditions also requires a revision to the Review Plan.

The site plan shows one entrance onto Henderson Road. This entrance is unchanged relative to the previous Review Plan. Traffic patterns internal to the development appear to be adequate.

Water service will be provided by Consolidated Public Water District Number 1. There is an existing 4-inch waterline along Henderson Road that can be tapped for domestic service and fire flow. The water district reports that the existing waterline is capable of provide the necessary 500-gallons per minute for fire protection. The developer has paid for the installation of one fire hydrant, the location of which is shown on the plan. The Water District is in the process of scheduling the hydrant installation.

The proposed allowed uses are the same as those on the previous review plan with the exception that car wash has been removed. All of the currently proposed Allowed Uses appear to be appropriate to the site.

A buffering and landscape plan has been included on the review plan. This includes fencing and plantings to minimize visual and noise impacts to the residence bordering the property to the west. Landscaping along the Henderson Road frontage is also provided to minimize the visual impact from properties to the south. The developer has requested flexibility in the landscaping plan in order to accommodate comments from Boone Electric. Those comments indicate a desire to keep trees out from under electric lines.

A stream crosses the northwest corner of the property. The Natural Resources Conservation Service has recommended a vegetated buffer be established along the stream. The buffer should be a minimum of 25-feet wide on each side of the stream. The developer has shown the buffer on the plan. Clearing has occurred within the designated buffer in some cases to within less than 5-feet of the stream bank. The buffer will provide water quality benefits to the stream and mitigate visual impact on the historic church to the north. A mitigation plan should be required in order to restore the buffer.

In order for the buffer to function more efficiently as a filter it is important that water sheet flow through it rather than flow through in a linear fashion. The drainage plan uses open ditches to convey stormwater to the stream, with a rip rap pad to dissipate energy at the end of the ditch at a point. A spreader structure is shown on the plan to distribute the stormwater that leaves the ditch so that it sheet flows through the buffer. That structure has not been installed. There are no erosion control BMPs visible on site except for a rock check dam in the tributary channel that is just to the west of the elevated drip field. .

The property scored 78 points on the rating system; staff notified 41 property owners about this request.

Staff recommends approval of the Review Plan subject to the following conditions:

1. There shall be no occupancy of any building on the property until a Final Development Plan is approved and recorded.
2. The developer shall submit an engineered erosion control plan for review and approval by Boone County Planning and/or it's designee. Installation of the erosion control measures shall be completed prior to Final Plan approval. The erosion control measures shall be maintained until the entire site has been stabilized.
3. The developer shall submit a mitigation plan for the stream buffer. The plan shall be developed under consultation with the Missouri Department of Natural Resources and/or the Missouri Department of Conservation. Boone County Planning will retain final approval authority over the plan.
4. The stream buffer shall be installed in compliance with the approved mitigation plan prior to Final Plan approval. All plantings shall be maintained; dead or dying plants shall be replaced

within one growing season. The buffer shall be maintained in perpetuity or until the requirement is removed through a Revised Review Plan.

5. Prior to final plan approval, an engineered wastewater system design shall be submitted to and approved by the Columbia/Boone County Health Department.
6. The level spreader shall be installed prior to Final Plan approval so that stormwater leaving the site flows through the stream buffer in a sheet rather than linear form. Direct discharge of stormwater into the tributary channel shall be avoided.
7. Since land clearing has already commenced at the site, all erosion control practices shall be installed prior to final plan approval.
8. A landscaping/buffer plan is shown on the Review Plan. Landscaping as shown on the plan shall be installed prior to Final Plan approval. The landscaping plan may be modified, upon approval by Boone County Planning, in order to address conflicts with overhead utilities. The vegetated buffer as shown along the west property line shall be installed as shown except within 25-feet of the Henderson Road right of way. All landscape/buffer plantings shall be maintained, dead and dying plants shall be replaced within one growing season.
9. All exterior lighting shall be directed inward and downward in order to prevent offsite glare.

Bill Marshall, Engineer, Marshall Engineering, 300 St. James St., Columbia.

Brandon Spry, owner, 7103 W. Elizabeth St., Columbia.

Mr. Marshall stated he received staff's comments today. The sewer system has been approved and has been completed. The plan shows some erosion control that was not installed and the applicants agree with everything on the report. It is just a matter of getting some of that done. The area where the contractor went a little further than he was supposed to. The applicants have no problem working with the Conservation Commission to develop something there. Mr. Marshall agrees that you don't put big trees underneath the electric line. Unfortunately the man who did that plan wasn't aware that there was an electric line and he put some large trees there; the applicants would like to move those more to the back of the area.

Mr. Spry stated the applicants will take care of what is on the list so they can get it done.

Chairperson Smith asked Mr. Spry if he had any problems with anything on the list.

Mr. Spry stated no.

Commissioner Freiling stated he believes this is a more appropriate plan than the preliminary.

Mr. Spry stated he took the car wash out; everyone was worried about headlight sweep and extra traffic on the road. The car wash was taken out and proposed a building similar in style for the spot; that will take care of all the traffic. It is a 7:00 to 4:30 business we don't have walk in customers so that should help the neighborhood.

Commissioner Morgan asked if there were going to be any small businesses operating out of this.

Mr. Spry stated he believed the zoning it is possible for a retail warehouse. Mr. Spry stated he didn't know all of what they were applying for, it is light industrial. As far as Mr. Spry's business he doesn't look for walk in traffic they aren't selling car stereos or cell phones out of the warehouse spaces.

Commissioner Morgan asked if there was going to be any tractor trailers on site.

Mr. Spry stated if there was going to be a tractor trailer it would just be for a job site and the businesses next door operate many straight trucks about the same size.

Commissioner Morgan stated he was wondering if there was room for a tractor trailer to turn around.

Mr. Spry stated a 53 footer can spin around no trouble.

Commissioner Morgan stated that is just the trailer.

Mr. Spry stated truck and trailer.

Open to public hearing.

No one spoke in favor of or in opposition to the request.

Closed to public hearing.

Commissioner Schloot made and Commissioner Morrison seconded a motion to **approve** the request by Brandon Spry for a revised Review Plan Midway Electric (zoned M-LP, Planned Industrial) on 3.0 acres located at 7301 W. Henderson Rd., Columbia:

John Schloot – Yes

Mike Morrison – Yes

Carl Freiling – Yes

Mike Morgan – Yes

Larry Oetting – Yes

Paul Zullo – Yes

Russ Duker – Yes

Pat Smith – Yes

Boyd Harris - Yes

Motion to approve request carries unanimously.

Chairperson Smith informed the applicant that this request would be heard before the County Commission on May 2, 2006 and the applicant needs to be present for the hearing.

## **PLAT REVIEWS**

1. SFMC. S1-T48N-R14W. A-R. Sidney and Wanda Powell and Lewis and Delores Mead, owners. James V. Patchett, surveyor.

The following staff report was entered in to the record:

The property is located approximately 3000 feet directly south of the intersection of Rollingwood Boulevard and US 40, in Midway. The 5-acre tract is being divided from an approximately 90-acre parent tract. The purpose of the subdivision is to create a parcel on which to locate a wastewater treatment plant to be built in conjunction with the Midway Crossings Subdivision.

Access to Rollingwood Boulevard will be provided by a 30-foot wide easement. Since the lot does not have frontage on a public road, no right of way will be dedicated. The applicant has submitted a request

to waive the requirement to provide a traffic study. It should be noted that a traffic study was completed to assess the impacts of Midway Crossings.

Consolidated Public Water Supply District Number 1 provides water service in this area.

As previously noted the purpose of this subdivision is to create a tract for the construction of a wastewater treatment plant. A plan showing a suitable location for an onsite wastewater system has been submitted in case the plant is not built and the owner decides to use this tract as a building lot.

The property scored 88 points on the rating system.

Staff recommends approval of the plat.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve** SFMC Subdivision.

- |                     |                        |
|---------------------|------------------------|
| Pat Smith - Yes     | Carl Freiling – Yes    |
| Mike Morgan – Yes   | Michael Morrison – Yes |
| Russ Duker – Yes    | Paul Zullo – Yes       |
| Larry Oetting – Yes | John Schloot – Yes     |
| Boyd Harris – Yes   |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

2. T. C. Lake Estates. S8-T46N-R12W. A-2. Terry Cole, owner. Curtis E. Basinger, surveyor.

The following staff report was entered in to the record:

The property is located approximately 1 mile west of Ashland, north of State Route M on State Route MM. It is an 8.95 acre tract being split into two lots of 5.82 and 3.13 acres respectively. The property is zoned A-2 (Agriculture) and is surrounded by A-2 zoning.

The property has frontage on State Route MM. At this time, the Missouri Department of Transportation declines to grant a driveway permit for access from lot 1 onto State Route MM for sight distance reasons. MoDOT may grant a permit if a sight easement and variance are granted. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Water service to these tracts will be provided by Consolidated Water District #1. Fire protection is provided by the Southern Boone Fire Protection District, and electrical service is provided by Boone Electric Cooperative.

On-site systems will provide wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 31 points on the rating system.

Staff recommends approval of the plat and the request waivers with the following condition:

1. That the property gain approval from the Missouri Department of Transportation for access to Lot 1 off of State Route MM. No access easement will be allowed to permit access to Lot 1 through Lot 2.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve T. C. Lake with waiver requests and the following condition:**

1. That the property gain approval from the Missouri Department of Transportation for access to Lot 1 off of State Route MM. No access easement will be allowed to permit access to Lot 1 through Lot 2.

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

3. Rocky Creek Estates. S23-T46N-R12W. A-2. GEM Property LLC, owner. Steven R. Proctor, surveyor.

The following staff report was entered in to the record:

This 3 lot final minor plat is located on the north side of Gilpin Road approximately 1/4 mile east of the intersection of Highway 63 South and Gilpin Road. The site is approximately 3/4 miles south of the municipal limits of the City of Ashland. The area being subdivided contains 11.69-acres out of a parent parcel of approximately 30-acres. The remaining portion of the parent parcel will be divided by administrative survey at some point and as long as it is larger than 20 acres does not have to be recorded concurrently. The property is zoned A-2 (agriculture) as is all the land to the north, east, and south. Land to the west is zoned R-S (residential single family). These are all the original 1973 zonings. The property is currently the site of a single family dwelling under construction on proposed lot 3. The site is in Consolidated Water District #1. Fire hydrants are not required for minor plats containing less than four lots such as this. The site is in the Southern Boone County Fire Protection District and the Southern Boone County School District. The site is in the Ameren UE Electric Service area. On-site wastewater systems are proposed and information acceptable to the Health Department is needed prior to final acceptance of the plat. A waiver of the cost benefit analysis for central sewer and a traffic analysis waiver have been requested. Staff concurs with the granting of these waivers. This plat has 54 points on the point rating scale.

Staff recommends approval along with the granting of the waivers for traffic analysis subject to the following condition:

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve Rocky Creek Estates with waiver requests and the following condition:**

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

4. Sunny Side Acres. S21-T46N-R12W. A-2. Sunny Side Slope LLC, owner. Neal R. Slattery, surveyor.

The following staff report was entered in to the record:

This 4 lot final minor plat is located on the south side of Dee Woods Road approximately 1/2 mile east of the intersection of Old Highway 63 South and Dee Woods Road. The site is approximately 1/4 mile south of the municipal limits of the City of Ashland. The area being subdivided contains 20.11-acres out of a parent parcel of approximately 62-acres which will be divided into by two tracts that are each larger than 20-acres. The property is zoned A-2 (agriculture) as is all the surrounding property. These are all the original 1973 zonings. The property within the area to be platted is vacant. The site is in Consolidated Water District #1 and a 6” waterline runs along Dee Woods Road and a 6” watermain extension and fire hydrants are required. Fire hydrants are required for minor plats containing more than three lots such as this. The site is in the Southern Boone County Fire Protection District and the Southern Boone County School District. The site is in the Boone Electric Service area. On-site wastewater systems are proposed and information acceptable to the Health Department is needed prior to final acceptance of the plat. A waiver of the cost benefit analysis for central sewer and a traffic analysis waiver have been requested. Staff concurs with the granting of these waivers. This plat has 62 points on the point rating scale.

Staff recommends approval along with the granting of the waivers for traffic analysis subject to the following condition:

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve Sunny Side Acres with waiver requests and the following condition:**

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

5. Campbell Acres. S16-T50N-R13W. A-2. Linda Lipscomb, Ronald Campbell and Robin Hall, owners. Steven R. Proctor, surveyor.

The following staff report was entered in to the record:

This 2 lot final minor plat is located on the north side of State Highway 124 at the immediate northwest corner of the intersection of Oak Grove School Road and State Highway 124. The site is approximately 3 miles east of the municipal limits of the City of Harrisburg. The area being subdivided contains 14.04-acres. The property is zoned A-2 (agriculture) as is all the land to the north, west, and south except for a small parcel of C-G (general commercial) zoning at the southwest corner of the intersection of State Hwy 124 and Highway YY immediately south of the proposed subdivision. Land to the east is zoned R-S (residential single family). These are all the original 1973 zonings with the exception of the C-G which was rezoned from A-2 in 1983. The property is currently the site of two homes a garage structure and a residential wastewater lagoon. The site is in Consolidated Water District #1. Fire hydrants are not required for minor plats containing less than four lots such as this. The site is in the Boone County Fire Protection District and the Harrisburg School District. The site is in the Boone Electric Service area. On-site wastewater systems are proposed and information acceptable to the Health Department is needed prior to final acceptance of the plat. A waiver of the cost benefit analysis for central sewer and a traffic analysis waiver have been requested. Staff concurs with the granting of these waivers. This plat has 33 points on the point rating scale.

Staff recommends approval along with the granting of the waivers for traffic analysis subject to the following conditions:

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve Campbell Acres with waiver requests and the following condition:**

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes

Boyd Harris – Yes

Motion to approve request carries unanimously.

\* \* \* \* \*

6. Rybolt Acres. S33-T46N-R12W. A-2. Lois J. Rybolt, owner. Brian David Dollar, surveyor.

The following staff report was entered in to the record:

The property is located south of Christian School Road, approximately 3 and ½ miles southwest of Ashland. This is a five acre lot being cut from a parent parcel of approximately 40 acres. The property is zoned A-2 (Agriculture) and surrounded by A-2 zoning.

This lot has access to Christian School Road via an easement recorded in Book 1179 Page 193. The remainder tract has access via a private access and utility easement off of the original easement cited above. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Domestic water service is provided by on-site wells. Fire protection is provided by the Southern Boone Fire Protection District, and electrical service is provided by Boone Electric Cooperative. There is currently no utility easement on this property and a minimum 10' utility easement must be granted to meet the standards of the Boone County Subdivision regulations.

On-site systems will provide wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 32 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve** Rybolt Acres surveyor **with waiver requests**:

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

7. Hall. S10-T48N-R14W. A-2. Jack and Betty Hall, owners. J Daniel Brush, surveyor.

The following staff report was entered in to the record:

The property is located south of I-70 on Dometroch Road, approximately 4 miles to the west of the City of Columbia. The parent parcel is 11.46 acres, and is being divided into two lots of 5.00 and 6.46 acres, with 0.3 acres being dedicated as new right-of-way. The property is zoned A-2 (Agriculture), and is surrounded by A-2 zoning.

The property has direct frontage onto Dometroch Road. Lot 2 has direct access on Dometroch, and Lot 1 has access via a private drive/utility easement. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Consolidated Public Water Service District #1 will be providing water service to the property. Fire protection is provided by the Southern Boone Fire Protection District, and electrical service is provided by Boone Electric Cooperative.

On-site systems will provide wastewater disposal. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

The property scored 27 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve Hall Subdivision with waiver requests:**

- |                     |                        |
|---------------------|------------------------|
| Pat Smith - Yes     | Carl Freiling – Yes    |
| Mike Morgan – Yes   | Michael Morrison – Yes |
| Russ Duker – Yes    | Paul Zullo – Yes       |
| Larry Oetting – Yes | John Schloot – Yes     |
| Boyd Harris – Yes   |                        |

Motion to approve request carries unanimously.

\* \* \* \* \*

- 8. River Ridge Estates. S26-T46N-R13W. A-2. FES, Inc., owner. Neal R. Slattery, surveyor.

The following staff report was entered in to the record:

This property is located on State Route M, north of where it meets the town of Wilton. The parent parcel is 32.71 acres, with three lots at 6.53, 6.52, and 7.95 acres, and an 11.56 acre administrative survey. The property is zoned A-2(Agriculture), and has A-2 zoning to the north, east, and west, with R-S to the south.

All three lots have direct access and frontage on State Route M. The applicant has submitted a request to waive the requirement to provide a traffic analysis.

Consolidated Public Water Service District #1 will be providing water service to the property. Fire protection is provided by the Southern Boone Fire Protection District, and electrical service is provided by Boone Electric Cooperative.

On-site systems will provide wastewater disposal, per the submitted wastewater plans. The applicant has submitted a request to waive the requirement to provide a wastewater cost-benefit analysis.

This property has an accompanying administrative survey for lot 3. That survey will wait on recording and approval until this plat is approved by the county commission and both documents will be recorded concurrently.

The property scored 28 points on the rating system.

Staff recommends approval of the plat and granting the requested waivers, with the following condition:

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Commissioner Morrison made and Commissioner Freiling seconded a motion to **approve River Ridge Estates with waiver requests and the following condition:**

1. That an on-site wastewater plan acceptable to the Health Department is provided and approved by the Health Department prior to the plat going to County Commission.

Pat Smith - Yes	Carl Freiling – Yes
Mike Morgan – Yes	Michael Morrison – Yes
Russ Duker – Yes	Paul Zullo – Yes
Larry Oetting – Yes	John Schloot – Yes
Boyd Harris – Yes	

Motion to approve request carries unanimously.

\* \* \* \* \*

### **OLD BUSINESS**

Mr. Shawver updated the Planning and Zoning Commission of the decisions made by the County Commission as follows:

The two conditional use permits were approved as recommended as well as all the plats presented.

### **NEW BUSINESS**

None.

### **ADJOURN**

Being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Boyd Harris,  
Planning and Zoning Commission

Minutes approved on this 18th day of May, 2006.