

**Lincoln County Planning and Zoning Committee**  
**Thursday, May 14, 2009 at 8:15 a.m.**  
**Lincoln County Service Center, Meeting Room 156**

1. Call Meeting to Order - Meeting was called to order by Chairman Saal at 8:15 a.m. in meeting room 156 in the Lincoln County Service Center. Members present: Saal, Meyer, Mittelsteadt, Rusch and Eisenman along with Dan Miller, Zoning Administrator and June Winters; Program Assistant.
2. Tour sites that will be the subject of the public hearing that will be held at 10:00 a.m. – Committee Members & Miller left to tour the sites listed on the public hearing notice. Tour ran about 10 minutes late.
3. 10:00 p.m. Public Hearing – Hearings were held on the items listed in the notice. Hearings called to order at 10:10 a.m. by Chairman Saal. Saal announced that if anyone was attending for item #3 on the Public Hearing, the Calhoun CUP request, that request has been withdrawn by the applicant. Saal, Meyer, Mittelsteadt, Rusch and Eisenman along with Dan Miller; Zoning Administrator, June Winters; Program Assistant, Ray Kraemer; Court Reporter and approximately 17 other persons were present.
4. Discussion by the Planning and Zoning Committee and Decision on the Petition for Modification of the Subdivision Ordinance and Conditional Use request which were the subject of the Public Hearing.

**PETITION FOR MODIFICATION OF THE SUBDIVISION ORDINANCE**

1. A request by the Estate of Ella Rapel to create two lots within a county plat which do not have 30 feet of frontage on a public road but are accessed by a private road. The property is located in Section 3, T35N–R6E, in the Town of Bradley, and is located off of Rapel Road. The request is being heard under section 18.3.03(3) of Lincoln County Ordinances.

Craig Nienow, Attorney representing the Estate of Ella Rapel, was present to support the request. He stated that the personal representatives Jean & Phyllis Erickson were also in attendance. He explained the request stating that Lots 7 & 8 would be platted without public road frontage. The proposed private road would be the access for those two lots and Lot 11 which does have other public road frontage. The private road will be maintained at the expense of the property owners of those lots and a road maintenance agreement will be recorded with the final plat for that purpose. He stated that it had been proposed that Lots 7, 8 & 11 will likely remain in family ownership. Miller asked Nienow if he has the road maintenance agreement and Nienow responded he is still preparing it. Miller clarified that the lot numbering had been changed and made sure that the Committee was looking at the correct map. Nienow stated that this request has been before the Town of Bradley and understands that the Plan Commission and Town Board gave their approval with the recommendations listed by the Zoning Staff. Miller asked Nienow about the road maintenance agreement with regard to assigning & notifying owners of maintenance responsibilities. The agreement should be recorded and referenced on the plat. Miller suggested that it reference lot numbers and not names in the maintenance agreement so that it is tied to the property and easily transferred to the future owners. Nienow and the Committee concurred. Miller asked if the private road was to be paved. Nienow stated that he believed that it would be gravel at this time but that is not to say that it might not be paved at some future date when someone builds on the lots. Miller asked Nienow if the road supervisor in Bradley was satisfied with the layout. Nienow wasn't aware of any issues.

Saal read into the record the Town of Bradley approval for the request. The Major subdivision plat approval was discussed which included the Petition for Modification of the Subdivision Ordinance request. It was approved at both their 4/27/09 Plan Commission meeting and then at the 5/11/09 Town Board meeting with conditions as recommended on the Lincoln County Zoning staff report. Harry Gladwin, Town of Bradley Plan Commission Chair, was present. He stated that the road supervisor and road consultant reviewed the layout and were satisfied.

Motion by Mittelsteadt, seconded by Saal to APPROVE ON CONDITION the request. After the motion was made there was discussion prompted by Meyer. Motion by Mittelsteadt, seconded by Saal to amend #1 in the motion to include "and deeds". Motion to amend carried all ayes. Miller clarified the change.

**CONDITIONS:**

- 1) The plat and deeds will reflect the existence of the road maintenance agreement and special requirements for the lots which will be using the private road.
- 2) The private road maintenance agreement shall be submitted to the Planning & Zoning Department for approval prior to it being recorded.
- 3) The private road shall be named following the road naming protocols of the Lincoln County Land Information and Land Conservation Department in consult with the Addressing Coordinator.
- 4) The private road sign shall be posted according to Town of Bradley protocols and either by them or under their direction. The expense for the purchase of the sign and post shall be born by the developer. If the sign must be replaced in the future the expense shall be born by the owners of the lots named in the private road maintenance agreement.
- 5) The private road shall be constructed in adherence with the most restrictive of either Lincoln County or the Town of Bradley standards for private driveways serving more than one residence.

Amended motion carried all ayes.

**CONDITIONAL USE REQUEST**

2. A request by John and Colleen Staeck and co-applicant Cellcom to allow for a 300 foot self supporting telecommunications tower in a Rural Lands 4 zoning district. The property is located in the SW ¼ of the SW ¼ of Section 27, T33N-R8E, in the Town of Russell, and has an address of N5314 County Road X. The request is being heard under section 17.3.07 of Lincoln County Ordinances.

Miller mentioned that the Committee was being given copies of photo simulations of the project, letters of support from surrounding property owners and a letter received from Cellcom yesterday.

Jim Cheshire, Wireless Planning Consultant acting as an agent for Cellcom, was present to explain and support the request. He stated that there is an existing gap in coverage in that area between Merrill and Parrish. This was the location that seemed to meet theirs and Zoning requirements and be suitable to the surrounding area. He stated that not only Cellcom would be located on the tower but additional cellular providers also. He referenced a letter from Cellcom that stated that they would work with the County regarding Lincoln County co-locating on the tower if there is room available. He touched on broadband data access that will be available in the future with the equipment they are proposing. He asked that if the CUP is granted they be given 1 year instead of 6 months as stated in the ordinance for construction of the tower. Miller reviewed the wording in our ordinance that prompted the extension request. Cheshire explained how the site will be fenced and secured. Saal asked about the screening that will be used. Cheshire said that they will be planting 5 foot Mountain Junipers for the screening.

Coleen Staeck was present to support the request. She stated that they had provided Zoning with several letters of support. She and her husband are the landowners.

Norm Hodgson, Chairman of the Town of Russell, was present and stated that the Township approved the request. He said that there was no one in opposition to the request at their town meeting. Miller asked Hodgson if their Volunteer Fire Department had adequate coverage for their communications or if they could benefit from space on the tower at this time. Hodgson stated that he thought their coverage was adequate at this time. Saal read into record the Town of Russell approval dated 4/13/09 with no conditions stated.

Miller reviewed the Zoning Department staff report, recommendations and requested conditions. He did state that item #4 on that report should be disregarded after a discussion with the applicant and our corporation counsel. Cellcom submitted a letter with their intentions to be cooperative regarding Lincoln County co-locating on the tower. Miller's other major concern is the silt fence to protect the wetland during road and tower construction.

Meyer stated that she has received 8 or 9 phone calls from constituents who were in favor of the cell tower request being granted. Mittelsteadt questioned insurance requirement. Miller asked Cheshire if it is Cellcom's intent to list Lincoln County and the property owners as a certificate holder. Cheshire referenced page 6 of his application, #7 stating that was their intent and stated that it is quite common to do so. He also mentioned that they will obtain a \$30,000 removal bond in the event that the company becomes insolvent.

John Buckett was present in opposition to the request. He is a neighboring land owner. He considers the tower an eyesore and believes that it would impact their property value. He stated that he has AT&T as a cellular provider and says that they do not have a gap in coverage. He feels that there may be a more appropriate location elsewhere. He said that he was not aware of the meeting in the Town of Russell otherwise he would have attended that meeting. Mittelsteadt clarified the research that has been done on the tower locations for gaps. Buckett stated that he has done research also and that there are other options.

Harry Gladwin commented that he thought the FAA has a cap on the height of cell towers of 200 feet. Miller corrected that stating that it is 300 feet. There was discussion by the Committee regarding the regulation of cell towers. Mittelsteadt commented that Lincoln County is not the landowner and did not believe that the County being listed on the insurance certificate was necessary.

Miller reviewed the grid for cell towers and the co-location guidelines. There is not another tower within a 3 mile radius as listed in the guide lines. There were further comments by the Committee on the need for cell phone coverage in this day and age.

Motion by Saal, seconded by Rusch to APPROVE ON CONDITION the Conditional Use request.

After the motion was made there was discussion prompted by Eisenman. Motion by Saal, seconded by Rusch to add #4 in the conditions (regarding extension of construction timeframe). Motion to amend carried all ayes.

**CONDITIONS:**

- 1) All performance standards of section 17.3.07(7) are hereby incorporated as conditions of approval.
- 2) Lincoln County shall be named as an insurance certificate holder and be provided a certificate of liability insurance that adequately protects the company and the landowner from liability claims.
- 3) The wetland and stream complex that lies east of the proposed access road and tower shall be protected from construction impacts by the installation of silt fence on the upland edge of the complex. The silt fence shall remain until the road ditches and any exposed soil resultant from construction becomes stabilized by vegetation.
- 4) Under performance standards "Facility Construction", (j) the timeframe for construction be extended from 6 months to 12 months.

Amended motion carried all ayes.

3. A request by Gary Calhoun and co-applicant Northwoodstock Partnership to allow for a one-time outdoor assembly event in excess of 750 people comprising of camping and music over the July 4<sup>th</sup> holiday. The property is located in the NW ¼ of the NE ¼ of Section 23, T35N-R6E, in the Town of Bradley, and has an address of W5419 Muskellunge Lake Road. The request is being heard under section 17.3.05(9) of Lincoln County Ordinances. *REQUEST WAS WITHDRAWN 5/13/09 BY APPLICANT. NO ACTION REQUIRED.*

At 11:10 a.m. Saal called for a 5-10 minutes recess. Meeting resumed at 11:16 a.m.

5. Discussion and action on Preliminary Plat of Rapel's Subdivision 1<sup>st</sup> Addition (Town of Bradley) - Miller reviewed his "amended" preliminary checklist for the Committee. He discussed public lands dedication, soil borings, road frontage, wetland, dimensional standards, road naming, archaeological, critical habitat and Trans 233 issues. Craig Nienow stated that they are in agreement with the staff recommendations with the exception of item #3 regarding the walking trail and what will be Lot 1 on the plat. That lot is actually already created by a Certified Survey and is already under different ownership. Nienow stated that he will approach the owner of Lot 1 and see if that lot is to be included, but he could not force him to be part owner of the walking trail. So it may just be lots 2-19 that have common use of the walking trail. Miller concurred with that.

Motion by Meyer, seconded by Eisenman, to APPROVE ON CONDITION the Preliminary Plat.

CONDITIONS:

- 1) The private road will need to be named officially through coordination with the Lincoln County Addressing Coordinator and it shall be properly labeled on the final plat.
- 2) The road maintenance agreement must be referenced on the final plat by the recorded document number along with a note identifying which lots are encumbered by the agreement.
- 3) The common use trail (outlot 2) shall be labeled on the final plat as a common use trail for Lots 2-19.
- 4) A statement shall be placed upon the final plat that discloses the potential need for an archaeological investigation on lots 1-7 should a threshold be exceeded that obligates the owner to obtain a DNR permit for soil disturbing activities.
- 5) Lots 10, 14 & 15 should be identified as having portions of them lying within 500 feet of a federal highway and that they may be subject to highway noise, as required by the Dept of Transportation and Department of Administration on such plats with these conditions.

Motion carried all ayes.

6. Public Comment Opportunity - There was no public comment.
7. Discussion/decision on 2010 preliminary budget - Dan Miller reviewed the proposed budget with the Committee noting the fact that the vehicle purchase that was proposed for 2009 is pushed back to 2010. There was discussion on the proposed budget. Miller stated that the preliminary budget reflects a 1.1 % increase in the tax levy. Motion by Mittelsteadt, seconded by Saal to approve the preliminary budget as proposed and send to Finance. Motion carried all ayes. Committee signed the preliminary budget.
8. Approve the April 9, 2009 meeting minutes - Motion by Eisenman, seconded by Saal to approve the April 9, 2009 meeting minutes. Motion carried all ayes.
9. Administrator's Report - Miller reviewed with the Committee the activities since their last meeting. He shared with the Committee current activities for the Comprehensive Plan update regarding Ag/Natural Resources, and plans for Transportation & Housing issue presentations to the County Board this summer and quadrant meetings scheduled in June. The second set of quadrant meetings will probably be scheduled sometime in September. Harry Gladwin shared with the Committee that the Town of Bradley appreciates the "pre-application" consultation meetings that have taken place between the Applicants, Township & Zoning Staff. Providing they have all of the information these meeting have been very beneficial in expediting requests and identifying potential problems.
10. Adjourn - Motion by Eisenman, seconded by Rusch to adjourn at 11:45 a.m. Motion carried all ayes.