



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

December 27, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following request:
  - A. Joseph and Mary Goodlove - Special Use Permit  
for a Bed and Breakfast Home
- III. Discussion
- IV. Conclusion



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

December 10, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, December 27, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petition:

1. Joseph and Mary Goodlove, RFD, Lowden (Owners) - Requesting approval of a Special Use Permit authorizing the location of a Bed and Breakfast Home on property located in the NW 1/4 of the SW 1/4, Section 12, T-82N, R-1W, in Massillon Township, consisting of 25.17 acres more or less. Said property is currently zoned A-1 Agricultural. This petition was tabled by the Board at the October meeting until information on access was provided.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petition. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator

PL:sl



Copies sent out on 12/12/01 to the following:

1. Joseph & Mary Goodlove - 152 Hoover Highway, Lowden, Iowa 52255 - Certified
2. John Toms - 113 Hoover Highway, Box 110, Lowden, Iowa 52255
3. Ferdinand & Patricia Burda - 2391 Highway 136, Oxford Junction, Iowa 52323
4. Donald & Dena Skinner - 172 Hoover Highway, Wheatland, Iowa 52777
5. Virginia Eves & Dorothy Clauss - 4462 Santa Monica Avenue, Ocean Beach, CA 92107-2904
6. Loren Schutt - 1615 Aber Avenue #8, Iowa City, Iowa 52246
7. Ginger Jackson - P.O. Box 188, Lowden, Iowa 52255
8. Howard & Nancy Ihns - 1245 20th Avenue SW, Cedar Rapids, Iowa 52405
9. Allen Moeller - 117 Hoover Highway, Wheatland, Iowa 52777
10. Ed Hudrlik - Oxford Junction, Iowa 52323
11. 5 Board of Adjustment members
12. 1 Copy to Tipton Conservative & Sun News on 12/10/01
13. 2 File Copies
14. 2 Copies for Bulletin Boards

CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

December 27, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on December 27, 2001, in the Courthouse, Tipton, Iowa. Members present were Lenker, Beyer, Penningroth and Hoy. Member absent was Johnson. Chairperson Claudia Beyer called the meeting to order at 3:00 p.m.

The members then heard the following petition:

1. Joseph and Mary Goodlove, RFD, Lowden (Owners) - Requesting approval of a Special Use Permit authorizing the location of a Bed and Breakfast Home on property located in the NW 1/4 of the SW 1/4, Section 12, T-82N, R-1W, in Massillon Township, consisting of 25.17 acres more or less. Said property is currently zoned A-1 Agricultural. This petition was tabled by the Board at the October meeting until information on access was provided.

Zoning Administrator La Rue informed the Board members that, due to an error on the zoning map, the property shows that it is zoned A-1, but stated that a small portion of the property was rezoned to R-1. Therefore, the property is zoned both A-1 and R-1. He stated that the Sidwell Map has been corrected.

Mrs. Goodlove was present and stated that their business will be all inclusive and limited to one family at a time. Their intention is to provide a quiet atmosphere for families to relax. Don Torney, County Engineer, questioned who will upgrade the road. Mrs. Goodlove stated that they would as they have been. Therefore, the County Engineer stated that he will file an objection because the road does not meet federal laws and there is a change in usage. La Rue then read Don Torney's letter which stated that because of the change in usage, an entrance permit must be obtained and the entrance side slopes need to be flattened. It would also require extending the existing culvert with 18 foot of 18" cmp on each end. Mrs. Goodlove stated that she feels her use will be less than in the past when there was a barbershop usage. Mr. Torney informed her that the laws have changed since then and federal law requires new driveways with flatter slopes. He stated that it would be her responsibility to fill in the ditches. Mr. Torney informed her that she must bring the access into code.

La Rue then read the written agreement between Howard & Nancy Ihns and Mary & Joseph Goodlove. This agreement stated that both parties agreed that the access roadway on Howard Ihns' property can continually be used by the

Goodlove's and their guests without recourse or expense to the Ihns'. It also stated that the Goodlove's will continue to maintain the roadway at their own expense. Howard Ihns was present and stated no objection to the Goodlove's using the entrance. Loren Schutt, adjoining land owner, was also present and stated no objection. Chairperson Beyer suggested that the Board could approve the S.U.P. subject to the entrance requirements.

After further discussion, Penningroth made a motion to approve the S.U.P. request subject to meeting the entrance requirements stated by the County Engineer. Hoy seconded the motion. Ayes all.

With no further business to be discussed at this time, the meeting was adjourned at 3:23 p.m.

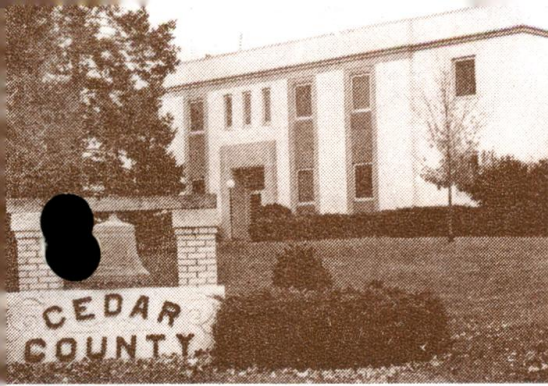
Claudia Beyer

Chairperson

Sharon Laucamp

Secretary





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

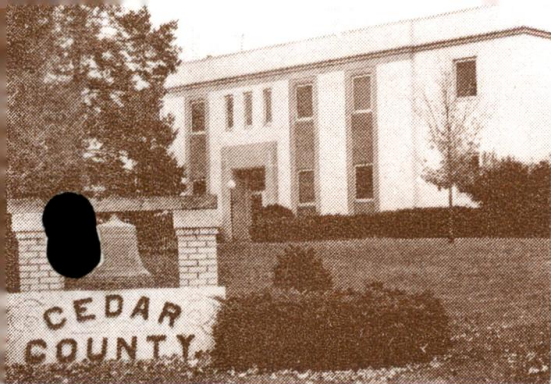
AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

November 29, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following request:
  - A. Wendling Quarries, Inc. - Special Use  
Permit for expanding their existing  
limestone quarry operation
- III. Discussion
- IV. Conclusion



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

November 5, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, November 29, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petition:

1. Wendling Quarries, Inc., De Witt, Iowa - Requesting approval of a Special Use Permit for the purpose of expanding their existing limestone quarry operation on property located in the NE 1/4 of the SW 1/4 and a portion of the W 1/2 of the SW 1/4 of the NE 1/4 and the NW 1/4 of the SE 1/4, all in Section 4, T-81N, R-1W, in Springfield Township, consisting of 44.65 acres more or less. Said property is currently zoned A-1 Agricultural.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petition. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator

PL:sl

Copies sent out on 11/8/01 to the following:

1. John Tuthill - Wendling Quarries, Inc., P.O. Box 230, DeWitt, Iowa 52742-0230 - Certified
2. Raymond C. Schneckloth Trust - % Gary Schneckloth, 2005 Dunn Road, Camanche, IA 52730
3. Russell E. Gifford - 1302 2nd Street, Comanche, Iowa 52730 - Contract Buyer
4. Todd Pruess - 717 Union Avenue, Lowden, Iowa 52255
5. George & Lucile Otey - 619 4th Avenue, DeWitt, Iowa 52742
6. Barry Clough - 2061 Hoover Highway, Lowden, Iowa 52255
7. Ralph, Denise & Brian King - 405 McKinley, P.O. Box 54, Lowden, Iowa 52255
8. Henry & Marilyn Niermeyer - 2096 Hoover Highway, Lowden, Iowa 52255
9. 5 Board of Adjustment members
10. 1 Copy to Tipton Conservative on 11/5/01
11. 2 File Copies
12. 2 Copies for Bulletin Boards



CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

November 29, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on November 29, 2001, in the Courthouse, Tipton, Iowa. Members present were Lenker, Johnson and Penningroth. Members absent were Hoy and Beyer. Penningroth presided as chairperson and called the meeting to order at 3:00 p.m.

The members then heard the following petition:

1. Wendling Quarries, Inc., DeWitt, Iowa - Requesting approval of a Special Use Permit for the purpose of expanding their existing limestone quarry operation on property located in the NE 1/4 of the SW 1/4 and a portion of the W 1/2 of the SW 1/4 of the NE 1/4 and the NW 1/4 of the SE 1/4, all in Section 4, T-81N, R-1W, in Springfield Township, consisting of 44.65 acres more or less. Said property is currently zoned A-1 Agricultural.

There were no written or verbal objections on file for this petition. La Rue advised the Board members to consider this petition in accordance with Chapter 17.18(2) of the Zoning Ordinance. He also informed the members that the Planning and Zoning Commission recommended approval of this Special Use Permit request at their meeting held on November 21, 2001, with the suggestion of future conifer plantings on the east property line and subject to appropriately placed driveway. The soil evaluation was reviewed and noted to be slight to moderate. The C.S.R. of most of the property is at least 75 points. The County Engineer has no objection but wants an access permit obtained.

John Tuthill and Mark Whitman, representing Wendling Quarries, were present and explained that this property has a 3 to 4 year window out before they will be actively operating the area. They stated that they will obtain the necessary permits at the time they need them. They presented an aerial of the site and explained their plans for the quarry site. They also stated that they would be glad to plant trees and preserve the land as long as they can for row crops. Mr. Tuthill and Mr. Whitman informed the members that the majority of their product has been used in the area in excess of 25 years. They stated that they will meet the 50 foot setback requirement for the state and county. They also stated that no direct route has been designated for truck traffic and there will be only one entrance. Wendling Quarries are currently stockpiling and will use it until exhausted. They are aware of the setback requirement of 500 feet to any residence of which there are not any at this time. No dust control will be needed because there are no houses along the route.

After a brief discussion, Lenker made a motion to approve the Special Use Permit request with the stipulation that access be approved at such time as needed, plantings be done on the east property line and subject to annual review. Johnson seconded the motion. Ayes all.

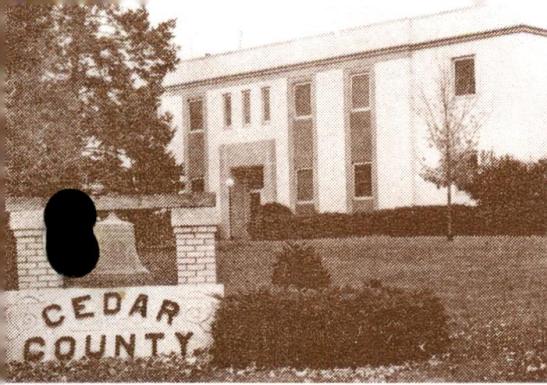
With no additional business to be discussed at this time, the meeting adjourned at 3:13 p.m.

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Chairperson Pro-tem

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Secretary



**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

October 8, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, October 25, 2001, at 3:00 p.m., in the Large Meeting Room of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petitions:

1. Joseph and Mary Goodlove, RFD, Lowden (Owners) - Requesting approval of a Special Use Permit authorizing the location of a Bed and Breakfast Home on property located in the NW 1/4 of the SW 1/4, Section 12, T-82N, R-1W, in Massillon Township, consisting of 25.17 acres more or less. Said property is currently zoned A-1 Agricultural.
2. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and David Litscher (Lessor and Owner) - Requesting approval of a Special Use Permit authorizing the location of a 250 foot tall Cellular Communication Tower on property located in the NE 1/4 of the NE 1/4 of the NE 1/4, Section 27, T-82N, R-3W, in Fremont Township, consisting of 5.74 acres more or less. Said property is currently zoned A-1 Agricultural.
3. Harry and Denice Wethington, RFD, Tipton (Owners) - Requesting approval of a Special Use Permit authorizing the location of a yard waste composting facility on property located in the SW 1/4 of the SE 1/4 of the SW 1/4, Section 32, T-81N, R-2W, in Fairfield Township, consisting of 0.5 acres more or less. Said property is currently zoned A-1 Agricultural.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petitions. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator



Copies sent out on 10/11/01 to the following:

1. Joseph & Mary Goodlove - 152 Hoover Highway, Lowden, Iowa 52255 - Certified
  2. John Toms - 113 Hoover Highway, Box 110, Lowden, Iowa 52255
  3. Ferdinand & Patricia Burda - 2391 Highway 136, Oxford Junction, Iowa 52323
  4. Donald & Dena Skinner - 172 Hoover Highway, Wheatland, Iowa 52777
  5. Virginia Eves & Dorothy Clauss - 4462 Santa Monica Avenue, Ocean Beach, CA 92107-2904
  6. Loren Schutt - 1615 Aber Avenue #8, Iowa City, Iowa 52246
  7. Ginger Jackson - P.O. Box 188, Lowden, Iowa 52255
  8. Howard & Nancy Ihns - 1245 20th Avenue SW, Cedar Rapids, Iowa 52405
  9. Allen Moeller - 117 Hoover Highway, Wheatland, Iowa 52777
  10. Ed Hudrlik - Oxford Junction, Iowa 52323
- 

1. Roger Hughett - U.S. Cellular, 850 Twixt Road N.E., Cedar Rapids, Iowa 52402 - Certified
  2. David, Duane & Neva Iitscher - 531 Kelly Avenue, Box 99, Stanwood, Iowa 52337 - Certified
  3. Kenneth Boyle - 417 E. Kiowa, Apt. 609, Colorado Springs, CO 80903-3422
  4. Steve Westrold - I.D.O.T., Right-of-Way Office, 800 Lincolnway, Ames, Iowa 50010
  5. Showalter Family LLC & Richard Showalter - 11483 W. 28th Avenue, Lakewood, CO 80215
  6. Robert & Patricia Coppess - 303 2nd Avenue, Stanwood, Iowa 52337
- 

1. Harry & Denise Wethington - 1347 Highway 130, Tipton, Iowa 52772 - Certified
  2. Doug Boldt - City of Tipton, 407 Lynn Street, Tipton, Iowa 52772
  3. Marjorie Wethington - 1327 Highway 130, Tipton, Iowa 52772
  4. Charles Jones - 1307 Red Star Road, Tipton, Iowa 52772
  5. Steve Maurer - P.O. Box 460, Clarence, Iowa 52216
  6. Stuart & Sharon Clark - 1353 Red Star Road, Tipton, Iowa 52772
- 

Copy to Tipton Conservative and Sun News on 10/8/01

5 Board of Adjustment Members

File Copies

Copies for Bulletin Boards



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

October 25, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following requests:
  - A. Joseph & Mary Goodlove - Special Use Permit for Bed and Breakfast Home
  - B. U.S. Cellular - Special Use Permit for a 250' Communication Tower
  - C. Harry & Denice Wethington - Special Use Permit for a Yard Waste Compost Facility
- III. Discussion
- IV. Conclusion



CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

October 25, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on October 25, 2001, at 3:00 p.m., in the Magistrate Courtroom of the Cedar County Courthouse, Tipton, Iowa. Members present were Lenker, Penningroth, Beyer and Johnson. Member absent was Hoy. Chairperson Beyer called the meeting to order at 3:00 p.m. Minutes from the last meeting held on August 23, 2001, were previously sent to the members. They were approved as presented.

The members then heard the following petitions:

1. Joseph and Mary Goodlove, RFD, Lowden (Owners) - Requesting approval of a Special Use Permit authorizing the location of a Bed and Breakfast Home on property located in the NW 1/4 of the SW 1/4, Section 12, T-82N, R-1W, in Massillon Township, consisting of 25.17 acres more or less. Said property is currently zoned A-1 Agricultural.

There were no written or verbal objections on file for this petition. La Rue advised the members to make their decision in accordance with Chapter 17.18(2) of the Zoning Ordinance.

Joyce Sirowy spoke on behalf of the Goodlove's in their absence. Ms. Sirowy informed the members that Joseph and Mary Goodlove would like to run a bed and breakfast home at their property accessing three bedrooms. She stated that there is plenty of parking available and the home is located one-quarter mile off Hoover Highway and has a large circular driveway. Don Torney, County Engineer, was present and stated no objections other than what he stated in his letter. He then stated that because of the change in usage, an entrance permit must be obtained and site distances adequate. He then explained the culvert regulations which would be the owners expense. He presented Ms. Sirowy a copy of the permit and a diagram which showed what the standards are for the culvert. He suggested that that the Goodlove's visit with him when they return. There is no sign request. Ms. Sirowy was advised that should the Goodlove's desire to have a sign, that it could not exceed 32 square feet. La Rue advised that the Goodlove's would have to comply with the fire regulations pertaining to the Iowa Administrative Code, Chapter 137C, specifically a smoke detector in each room, one in the hallway and a fire extinguisher available in the hallway.

Howard Ihns, adjoining land owner, was present and stated that the access road goes across his property. Don Torney then said that the County Attorney will have to determine if it is a county road. Mr. Ihns showed the members the access road going through his property on the Sidwell Map.



Mr. Ihns believes there is a court case on the road. Engineer Torney stated that if the road has been established for over 10 years, it is considered an access and does not mean that it is a county road. La Rue stated that apparently the previous owner, Gary Skinner, had an easement and was using the access across Mr. Ihns property. Mr. Ihns stated again that he believes that years ago there was a court case regarding whether it was an established road. Mr. Ihns stated that he shut it off. Assistant County Attorney, Sterling Benz, was present and recommended that the Board table this petition and the applicants provide some proof that they have the right to use this access. Evidence must be provided that this road is open to the public.

After further discussion, Penningroth made a motion to table this petition until information on the access can be provided. Johnson seconded the motion. Ayes all.

2. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and David Litscher (Lessor and Owner) - Requesting approval of a Special Use Permit authorizing the location of a 250 foot tall Cellular Communication Tower on property located in the NE 1/4 of the NE 1/4 of the NE 1/4, Section 27, T-82N, R-3W, in Fremont Township, consisting of 5.74 acres more or less. Said property is currently zoned A-1 Agricultural.

There were no written or verbal objections on file for this petition. La Rue advised the Board to consider this request in accordance with Chapter 17.18(2) of the Zoning Ordinance and Ordinance #30. La Rue informed the members that he had revised documents pertaining to the setback. According to the Planning and Zoning Commission Meeting, the setback is no longer 125 feet but is now 133 feet.

Roger Hughett and Patrick Armstrong, representing U.S. Cellular, were present and explained the tower's actual height will be 250 feet. Mr. Hughett stated that the facility will be enclosed by a chain link fence with barbed wire on top as well as signs will be placed as required by the F.C.C. Emergency contact numbers will also be posted. The facility will be placed on the southwest corner of Kelly Avenue and Highway 30. He stated that they work very closely with the D.O.T. regarding the future expansion of Highway 30 and the location is outside of the D.O.T.'s right-of-way. Don Torney, County Engineer, then stated that the new proposed tower is 140 feet from the center line which is only a total of 350 feet from the section corner. Torney then asked the D.O.T. to address the issue. Lee Benfield, District Planner for the D.O.T., stated that the site sits completely inside the study area boundary. He stated that the study area boundary is a pretty wide swath. He stated that basically what they do is take a look at what potential alignments there might be for any relocation. He made reference to the drawing noting the possible future centerline. He stated that the study area

is an expanded area that they identify and inside that boundary is where they do all of their environmental, cultural and historic studies so that they fully know what the impact of doing anything within that corridor is. The study area extends 500' in each direction of the centerline. He stated that the project is in a very preliminary stage at this time and probably won't see any construction for 5 to 10 years. Therefore, there are a lot of unknowns. Chairperson Beyer then asked Mr. Benfield what he recommends. Mr. Benfield stated that what they have shown is not workable and is in a potential impact zone. They will identify more specifically that corridor long before construction. He stated that he could not say today how this tower will be effected by the road project. Don Torney then stated that are a couple of scenarios to be considered. One is that the road is definitely going to be curving to the south from the existing road and during construction they will be utilizing some of the old road and also may need to have access. The corner of the property that is closest to the road is 290 feet from the existing right-of-way line of Highway 30. Mr. Torney suggested moving the location to the southwest. He questioned if there is a need for that tower to be in that type of zone for highway construction. Patrick Armstrong then stated their concern is to keep the tower near the town and highway and wants as much coverage as possible. He stated that as the site is moved further away from the highway, the circle will cover less of the highway. Engineer Torney suggested moving the site 200 feet to the west. Mr. Armstrong stated that U.S. Cellular is concerned about the terrain. Torney stated that if they placed the tower on the edge of the 500 foot area they would be 4 or 5 feet higher in elevation and further back from the county road. The members then reviewed the aerial maps. La Rue reported that the proposed site is prime agricultural land and has an average CSR of 96 to 97 points. He stated that there would be no problem with constructing a structure on this property with the soil limitations. The loss of farm ground is minimal. Chairperson Beyer then asked if the alternative suggested site could be considered. Mr. Armstrong stated that he is not comfortable enough to say at this time. Coverage area was then discussed. There are currently two towers in the area. One is the Atomic Tower (U.S. Government Tower) which lies to the west and northwest and the other is the Union Pacific Railroad Tower in the town of Stanwood. There is also the water tower in Stanwood. La Rue then asked Mr. Armstrong to explain to the Board how they came about selecting the proposed site and if they had considered the other towers. Mr. Armstrong explained what they do when they design a new site, they first look at the existing towers and the structure. He stated



that he looked at the Atomic Tower located about 2 miles west of the proposed site. He stated that it was too close to the Mechanicsville site and will not cover Stanwood very well. The Union Pacific Tower is located about 100 feet above ground level and is not tall enough to hand off. The water tower will not work structurally and is at about the same level as the Union Pacific Tower. He also stated that the water tower is old and the ground space is limited.

Chairperson Beyer asked how many locatable sites would be on the proposed tower. Roger Hughett stated they he believed they specified three additional co-locatable for a total of five. La Rue then stated that at the Planning and Zoning Commission meeting, discussion was held regarding whether or not they would need another tower down the road in the Clarence area because of problems between Lowden and Stanwood. La Rue questioned if this proposed tower was heightened (instead of being 266 feet and making it 320 feet as the same height as the Mechanicsville tower) if another tower would be needed between Stanwood and Lowden. He questioned if the height was increased, thereby increasing the coverage and number of carriers, if that could be a possibility. Mr. Armstrong stated the answer was no. He stated that the proposed site and height is best for them for coverage. Mr. Armstrong stated that the height of this tower will in no way affect their need for another site in Clarence. He stated that the proposed tower will have 5 locators with 30 feet of separation distance.

Sterling Benz stated that the object of the ordinance is to regulate the location of the towers and minimize the number of towers built. He also stated that if the towers were taller it would maximize the number of co-locators. Mr. Armstrong responded that no P.C.S. carrier would want to locate higher than 200 feet. Mr. Armstrong stated that the proposed tower would be dual lighted with red at night and white strob in the daytime. Beyer then stated that she was inclined to see what they would make of the alternative location which had been proposed to the west and south. La Rue stated that there would be no change in the soils evaluation if the tower was shifted from the east side to the west. He further stated that if the tower went to the southwest 500 to 600 feet, the only difference would be that the C.S.R. would go down. He also stated that there would need to be conifer plantings rather than deciduous trees which were on the information previously provided. Right-of-way was then discussed. Mr. Benfield, D.O.T., stated that at this time, they are just laying out alignments. Mr. Hughett asked what the D.O.T. considered a safe distance to move the tower site. It was noted that moving the location would not cause a problem for the setback requirements. Chairperson Beyer



again suggested a higher tower to accomodate additional co-locators. Sterling Benz suggested that the Board look into an opinion/analysis as far as impact on adjacent property owners. It was suggested that the tower representatives go back to Litscher's to inform them of the tower site being turned by 90 degrees. Roger Hughett stated that the Litscher's would not object and the new site would still be in the lease area.

After additional discussion, Penningroth made a motion to approve the Special Use Permit, subject to the site being relocated as far west as possible on the leased land, the tower have a height of 330 feet and be co-locatable for five carriers and subject to annual review. Johnson seconded the motion. Ayes all. Chairperson Beyer asked Mr. Hughett if he was agreeable to all of the stipulations that the Board has placed on this S.U.P. Mr. Hughett responded that he will agree and will reserve the right to research and come back to the Board if any changes need to be made. He stated that he is aware that he can not proceed until he has approval of any changes that they have to make. La Rue informed Mr. Hughett that there will be a resolution which has to be recorded referencing the lease prior to a building permit issuance. La Rue also informed him that he will also need to have approval of the driveway access prior obtaining the building permit.

3. Harry and Denise Wethington, RFD, Tipton (Owners) - Requesting approval of a Special Use Permit authorizing the location of a yard waste composting facility on property located in the SW 1/4 of the SE 1/4 of the SW 1/4, Section 32, T-81N, R-2W, in Fairfield Township, consisting of 0.5 acres more or less. Said property is currently zoned A-1 Agricultural.

There were no written or verbal objections on file for this petition. La Rue advised the members to consider this petition in accordance with Chapter 17.18(2) of the Zoning Ordinance. La Rue informed the members that the Planning and Zoning Commission recommended approval.

Doug Boldt, City of Tipton, represented Mr. Wethington and informed the members that the City of Tipton has already been using the Wethington's property as their yard waste composting site. He stated that he was unaware that a Special Use Permit was needed. Mr. Boldt apologized to the Board members for the city's oversight. He informed the members that the City of Tipton and Harry Wethington worked out an agreement similar to what they had previously with Russ Anderson. He stated that Mr. Wethington wants the yard waste applied to his farm ground. They are disposing anything bio-degradable which is put into the City's brown yard waste bags. The site is being used only for the residential customers of Tipton and is not open to the public. The site will be barricaded off by round bales.

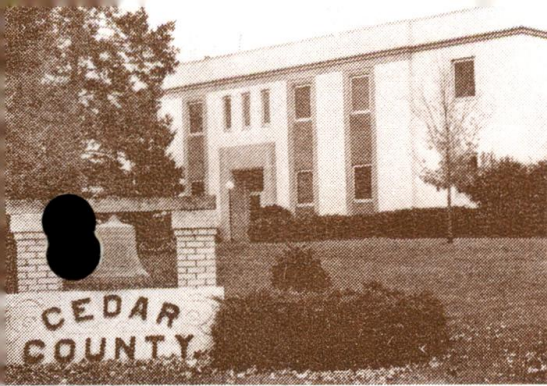
Mr. Boldt informed the members that the waste is land applied. Mr. Wethington windrows the material until he can get out into the field to land apply it. It will be spread with a manure spreader. It was noted that the site is not visible from the road and the Wethington's own all the surrounding area around the site.

After a brief discussion, Johnson made a motion to approve the Special Use Permit subject to annual review. Lenker seconded the motion. Ayes all.

With no further business to be discussed at this time, the meeting was adjourned at 5:15 p.m.

Claudia Bey  
Chairperson

Sharon Laucamp  
Secretary



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

September 12, 2001

Dear Board of Adjustment Members:

I am writing to inform you that there will not be a meeting of the Board on September 27, 2001, because no petitions were received.

At this time, it does appear that there will be a meeting on October 25, 2001, as a petition from U.S. Cellular has been received for a cellular tower site along Highway 30 just west of Stanwood, IA.

Personal note: I recall Forest Johnson asking, at the July meeting, the U.S. Cellular representatives of future plans for any additional towers along Highway 30. They stated none at this time.

If you have any questions, please feel free to contact me at your convenience.

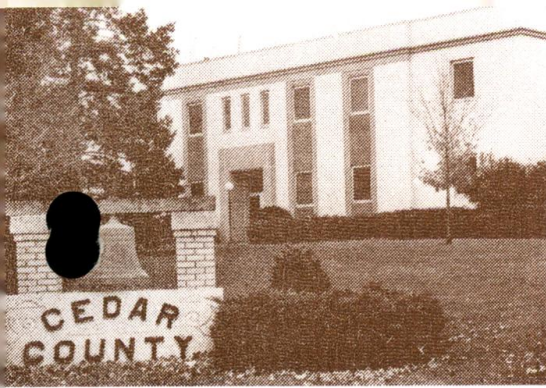
Sincerely,

Phil La Rue  
Zoning Administrator

PL:s1

Encl. (Copy of minutes from the August 23, 2001, meeting)





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

August 6, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, August 23, 2001, at 3:00 p.m., in the Large Meeting Room of the Courthouse, Tipton, Iowa.

At this time the Board will consider the following petition:

1. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Pam Farms, Inc. (Leaser and Owner), 300th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 280 foot tall wireless communication tower on property located in the NW 1/4 of the NW 1/4, Section 18, T-79N, R-4W, in Springdale Township, consisting of 4.42 acres more or less. Said property is zoned A-1 Agricultural. This petition was tabled by the Board on July 26, 2001.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petition. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

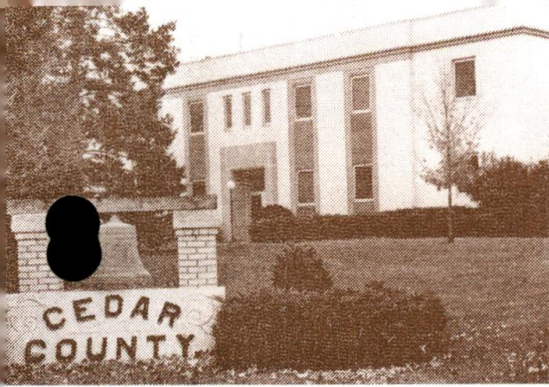
Phil La Rue  
Zoning Administrator

PL:sl

Copies sent out on 8/7/01 to the following:

1. Michelle Sweeney - U.S. Cellular, GM Selby & Associates, Inc., 2720 1st Avenue NE, Suite 105, Cedar Rapids, Iowa 52402 - Certified
  2. Pam Farms, Inc. - % Farmers National, 1929 Keokuk, P.O. Box 1488, Iowa City, Iowa 52244
  3. Farmers National Company - Suite 100, 11516 Nicholas Street, Omaha, Nebraska 68154
  4. Paul & Marie Hierseman - 2000 Cedar Johnson Road, West Branch, Iowa 52358
  5. Bruce & Carol Hierseman - 2002 Cedar Johnson Road, West Branch, Iowa 52358
  6. David John Kenney & Roxanne R. Crock - 2036 Cedar Johnson Road, West Branch, Iowa 52358
  7. Beltaine Trust - 2050 Cedar Johnson Road, West Branch, Iowa 52358-8630
  8. John Beecher Jr. - 123 Oliphant Street, West Branch, Iowa 52358
  9. Gary A. Milder - 21 300th Street, West Branch, Iowa 52358
  10. James & Rosalie Cahill - 2050 Cedar Johnson Road, West Branch, Iowa 52358
  11. Ty Doermann - 432 E. Main Street, West Branch, Iowa 52358
- 

- 1 Copy to Tipton Conservative on 8/6/01
- 1 Copy faxed to West Branch Times on 8/6/01
- 2 File Copies
- 2 Copies for Bulletin Boards
- 5 Board of Adjustment Members
- Sterling Benz - Assistant County Attorney



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

August 23, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following request:
  - A. U.S. Cellular - Communication Tower  
West Branch Site  
(Continuation of hearing held on 7/26/01)
- III. Discussion
- IV. Conclusion



CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

August 23, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on August 23, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Beyer, Penningroth, Hoy, Johnson and Lenker. Minutes from the last meeting held on July 26, 2001, were previously sent to the members. They were approved as written.

The members then heard the following petition:

1. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Pam Farms, Inc. (Leaser and Owner), 300th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 280 foot tall wireless communication tower on property located in the NW 1/4 of the NW 1/4, Section 18, T-79N, R-4W, in Springdale Township, consisting of 4.42 acres more or less. Said property is zoned A-1 Agricultural. This petition was tabled by the Board on July 26, 2001.

There have been no additional objections filed with the Zoning Administrator after the July 26, 2001, meeting. La Rue advised the Board to review the petition in accordance with Chapter 17.18(2) of the Zoning Ordinance and Ordinance #30. La Rue gave a short presentation on the availability of co-location sites on existing towers in the West Branch area. This information was provided to Michele Sweeney prior to the meeting. The closest tower is the IPCS site (now owned by Trinity Wireless Towers, Inc., Irving, Texas) located just north of I-80, in Section 7, Springdale Township, south of the West Branch High School. There are two sites available: One at 150 feet and the other at 170 feet in height on a 190 foot tall tower. The next tower reviewed is the Nextel Partners site in Section 9, Springdale Township, south of I-80 and there are several co-location sites available. Sites are available between 150 and 230 feet and 250 to 340 feet in height on a 350 foot tall tower. The tower next reviewed was the Iowa Wireless tower site, Section 2, Springdale Township, north of County Road F-44. There is one co-location site available at 175 feet in height. There has been no information received from the UNI-site/American Tower Corp. site east of Springdale. This tower has not been constructed.

Representing U.S. Cellular were Patrick Armstrong, Radio Frequency Engineer, Scott Van Roekel, Bruce Ahrens, Pam Farms Manager, Mark Morris and Brett Dublinske, Attorney for U.S. Cellular. County Engineer, Don Torney, asked Bruce Ahrens, property manager, of the change in access

to the site. He is aware and has no problems. Chairperson Beyer stated that the Board wanted to start the meeting at the point the discussion ended on July 26, 2001. She asked Mr. Morris to explain, based upon the information provided by Mr. La Rue, that given the information before the Board, what can U.S. Cellular do with the existing towers in the area. Mr. Morris then presented coverage maps for all existing tower sites. He described the technical limitations of each site. He began with the IPCS site; there is not enough height to adequately cover I-80 east of West Branch or south of town. Town coverage is fair. Next discussed was the Nextel Partner site; it does not provide adequate coverage to West Branch and not enough of the desired I-80 section at either 275 feet or 340 feet and does not adequately cover West Branch. Mr. Morris quoted the enclosed engineering report which states that there have been 7,000 dropped calls presently because there is no tower at the requested site. He continued that the Iowa Wireless tower also lacks sufficient height and does not provide adequate coverage on I-80 and West Branch. The proposed American Tower site at Springdale is too far away, and if co-location was made, the signal would be too close to their next tower and interference would result. The Telecorp tower in Johnson County does provide adequate coverage for I-80 west of West Branch but does not adequately cover the town of West Branch or south of town. There was then discussion of the proposed tower site in relation to residential properties. The location of the Cahill's property (relevant to their concerns) was reviewed. The placement of the existing towers and how they "hand-off" to each other was discussed, and what would be gained by the addition of the U.S. Cellular tower.

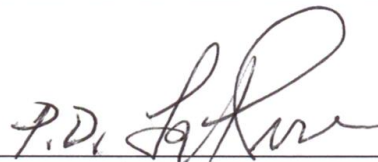
The soil evaluation was reviewed. The C.S.R. averages above 75 points for Downs Silt Loam. It is prime ag land. Mr. Morris explained that the area to be removed from production is an area 75 feet by 75 feet, plus anchor points. The effect should be minimal. Hoy commented that he sees many cell tower sites overgrown with weeds and felt that they are not maintained. U.S. Cellular representatives would agree to keep the area maintained.

Following discussion, Hoy made a motion to grant the Special Use Permit, subject to the tower having four co-location telecommunication sites available to others, the area be maintained and subject to annual review. Lenker seconded the motion. Ayes all.

With no further business to be discussed at this time, the meeting was adjourned.

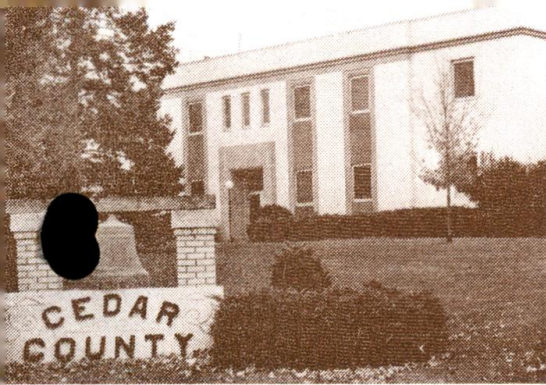


Chairperson



Secretary Pro-tem





**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

July 9, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, July 26, 2001, at 3:00 p.m., in the Large Meeting Room of the Courthouse, Tipton, Iowa.

At this time the Board will consider the following petitions:

1. Frank Hahn, RFD, Moscow (Owner) - Requesting a variance on the setback requirements for a dwelling in the AR-1 Agricultural Recreational District, on property located in Lot 26, in the Witmer Addition, in the N 1/2 of the NE 1/4 of the SE 1/4, Section 24, T-79N, R-3W, in Rochester Township, consisting of 0.191 acres more or less.
2. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Weets Farms, Inc. (Leaser and Owner), 350 Franklin Avenue, Mechanicsville, Iowa - Requesting a Special Use Permit authorizing the location of a 330 foot tall wireless communication tower on property located in the NE 1/4 of the NE 1/4, Section 23, T-82N, R-4W, in Pioneer Township, consisting of 4.34 acres more or less. Said property is zoned A-1 Agricultural.
3. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Pam Farms, Inc. (Leaser and Owner), 300th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 280 foot tall wireless communication tower on property located in the NW 1/4 of the NW 1/4, Section 18, T-79N, R-4W, in Springdale Township, consisting of 4.42 acres more or less. Said property is zoned A-1 Agricultural.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petitions. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator



Copies sent out on 7/12/01 to the following:

1. Frank Hahn - 167 Witmer Road, Moscow, Iowa 52760-9614 - Certified
2. Thomas LaPlaca - 2128 Monroe Avenue, Moscow, Iowa 52760-9615
3. John & Karen Keith - 171A Witmer Road, Moscow, Iowa 52760
4. Larry Klavemann - 165 Witmer Rd. #A, Moscow, Iowa 52760
5. John & Alice Voelkers - 163 Witmer Road, Moscow, Iowa 52760
6. Douglas & Susan Nauman - 161 Witmer Road, P.O. Box 597, Wilton, Iowa 52778
7. Walter Garlock - 159 Witmer Road, Moscow, Iowa 52760
8. Stanley & Glenda Sorgenfrey - 155 Witmer Road, Moscow, Iowa 52760
9. Clare Sterner - 1162 Moscow Road, Moscow, Iowa 52760
10. Gina Rife - 169 Witmer Road, Moscow, Iowa 52760
11. Mark & Carla Lyons - 1832 Sterling Court, Iowa City, Iowa 52240
12. David King - 173 Witmer Road, P.O. Box 371, Moscow, Iowa 52760
13. Ronald Cross - 175 Witmer Road, Moscow, Iowa 52760
14. Mark & Peggy Weih - P.O. Box 162, Wilton, Iowa 52778

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1. U.S. Cellular Michelle Sweeney GM Selby & Associates, Inc. 2720 1st Ave NE  
Suite 105 C R IA 52402 - Certified
  2. Weets Farms, Inc. -2- 350 Franklin Avenue, Mechanicsville, Iowa 52306 - Certified
  3. Vernon & Marie Boots - 109 W. First Street, Mechanicsville, Iowa 52306
  4. John Moffit - 299 Echo Avenue, Mechanicsville, Iowa 52306
  5. Pauline Hansen - 308 Franklin Avenue, Mechanicsville, Iowa 52306

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1. U.S. Cellular - Michelle Sweeney - GM Selby & Associates, Inc., 2720 1st Ave. NE,  
Suite 105, Cedar Rapids, Iowa 52402 - Certified
  2. Pam Farms, Inc. - % Farmers National, 1929 Keokuk, P.O. Box 1488, Iowa City, Iowa 52244 - Cert
  3. Farmers National Company - Suite 100, 11516 Nicholas Street, Omaha, Nebraska 68154
  4. Paul & Marie Hierseman - 2000 Cedar Johnson Road, West Branch, Iowa 52358
  5. Bruce & Carol Hierseman - 2002 Cedar Johnson Road, West Branch, Iowa 52358
  6. David John Kenney & Roxanne R. Crock - 2036 Cedar Johnson Road, West Branch, IA 52358
  7. Beltaine Trust - 2050 Cedar Johnson Road, West Branch, Iowa 52358-8630
  8. John Beecher Jr. - 123 Oliphant Street, West Branch, Iowa 52358
  9. Gary A. Milder - 21 300th Street, West Branch, Iowa 52358
  10. Ty Doermann - 432 E. Main Street, West Branch, Iowa 52358

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Copy to Tipton Conservative on 7/9/01  
Copy Faxed to West Branch Times on 7/9/01  
5 Board of Adjustment members  
2 file copies  
2 copies for bulletin boards

CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

July 26, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on July 26, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Beyer, Lenker, Johnson, Penningroth and Hoy. Minutes from the last meeting held on June 28, 2001, were previously sent to the members. They were approved as presented.

The members then heard the following petitions:

1. Frank Hahn, RFD, Moscow (Owner) - Requesting a variance on the setback requirements for a dwelling in the AR-1 Agricultural Recreational District, on property located in Lot 26, in the Witmer Addition, in the N 1/2 of the NE 1/4 of the SE 1/4, Section 24, T-79N, R-3W, in Rochester Township, consisting of 0.191 acres more or less.

There were no written or verbal objections on file for this petition. La Rue advised the members to make their decision in accordance with Chapter 17.18(3) of the Zoning Ordinance.

Mr. and Mrs. Hahn were present and explained their plan to construct a 40' x 24' addition on to their existing dwelling for a one car garage, enlarging their living room and adding more closet space. Mr. Hahn stated that he had talked to his adjacent neighbors who had no complaints regarding their request. The ordinance requires a 50' front yard, 50' rear yard and 15' side yard setback. Mr. Hahn stated that they are currently 63' back from the center of the road and if they put a 4' addition to the front, they will be approximately 58' from the center of the road. The property is not on a county road and is located on a dead end road. In order for the Hahn's to build their addition, they would need a variance of 10' on the side yard to the south and a variance of 38' on the front yard to the east. The addition would not be encroaching on the septic system and they would be building on top of the well pit. He stated that he would build an access door over the well pit which houses his pressure tank. The Board members acknowledged that the Hahn's request is not a hardship created by them because of the odd shaped lots in the Witmer Addition.

After further discussion, Johnson made a motion to grant a variance allowing the Hahn's addition to be located 5' from the side property line to the south and 12' from the front property line to the east. Lenker seconded the motion. Ayes all.

2. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Weets Farms,



Inc. (Leaser and Owner), 350 Franklin Avenue, Mechanicsville, Iowa - Requesting a Special Use Permit authorizing the location of a 330 foot tall wireless communication tower on property located in the NE 1/4 of the NE 1/4, Section 23, T-82N, R-4W, in Pioneer Township, consisting of 4.34 acres more or less. Said property is zoned A-1 Agricultural.

Chairperson Beyer requested the Assistant County Attorney to address the legal issues of communication towers. Sterling Benz then stated that he had done some research prior to the meeting, and with regard to the application for a S.U.P. on the tower near Mechanicsville, he stated that there are three different ordinance provisions that are applicable specifically and one potential State Code section that is applicable. He stated that the State Code, Chapter 319, Section 1, states that regarding obstructions in highways, the Department of Transportation shall cause all obstructions in highways to be removed which is also applicable to the Board of Supervisors and the Secondary Road Department. He stated, that in this case, we are talking about Highway 30 so that provision requires that the D.O.T. remove or have removed all obstructions in the highway which would include the states right-of-way. He further stated that Cedar County's Communication Tower Ordinance states that all general zoning ordinance requirements shall apply. The Zoning Ordinance, with respect to the Mechanicsville tower site, he felt there were a couple of provisions that were applicable in Chapter 3 of the Zoning Ordinance, Section 7, Subsection B, which states that no structure shall be located closer than 1,000 lineal feet from the end of any runway in relevant part. Further, under the regulations in Chapter 5, which pertains to the A-1 Agricultural District, Subsection D, Subsection 12, states that subject to Chapter 17, Section 17.18, Subsection 2, states that the Board of Adjustment may permit the following and Subsection 12 states that communication towers, provided that they will not interfere with the operation of any landing strip in relevant part. He stated that in going through the minutes of the Planning & Zoning Commission, one of the objectors indicated that he had a private landing strip and that is why he is bringing the Board of Adjustment's attention to these specific sections of the Zoning Ordinance. These sections are made applicable according the Cedar County's Communication Tower Ordinance. He stated that communication towers may be provided for if they will not interfere with the operation of any landing strip which pertains to Subsection 12 of Section D of Chapter 5. He was questioned about the range of interference to which he stated that the ordinance does not say, and that the Board would have to develop further facts in making a decision regarding whether it would interfere with any landing strip. He further stated that there are some general provisions in the Zoning Ordinance when the Board is making special use exeptions to the



Ordinance. It requires that in reviewing an application for a special exception, the Board shall consider the most appropriate use of the land, adequate open spaces for light and air, the promotion of the public safety and the general welfare of the persons residing or working in the general area (Chapter 17.18, Subsection 2, Subsection D on page 81 of the Zoning Ordinance. He stated that it also states that the Board shall duly consider the general compatibility with surrounding properties and felt that these have general applications to the issue. He stated that an argument could be made that if a cellular tower would be placed at the end of a landing strip, the potential aircraft could strike the tower, automobiles, etc. in landing on the ground. Attorney Benz then stated that regarding the West Branch site, the issue that Cedar County has recently had so many applications for cellular communication towers, our Ordinance, Section 6, the applicable conditions states that co-location, prior to consideration of a permit, applicants must show which existing or alternative tower structures which are available at publicly owned sites and available privately owned sites are unsuitable for co-location in operation of their facility. A separate tower is not allowed if co-location can be found upon an existing and alternative tower structure which meets the engineering requirements of an applicant's cellular network or other broadcasting needs within a one-half mile radius of another tower site. He stated the last part is an absolute prohibition which means that if there is a tower that meets the requirements within one-half mile, there can not be another tower. It is not the absolute standard for their inquiry if the tower is located within 3/4 mile of the proposed site that does meet the engineering requirements and otherwise, is available for co-location. He stated that the Board, in deciding whether to grant a S.U.P., may consider the other tower as requiring co-location upon it. He stated that they can not permit location within one-half mile if there are other towers that are suitable. Chairperson Beyer stated that the Board, in the past, have taken a position that they expect companies to seek to co-locate and demonstrate to the Board that they have tried to do so and suggested that it be provided to them in writing.

Zoning Administrator La Rue then advised the Board that he did have a written objection on file by adjoining property owner, John Moffit, who is the adjacent property owner of a private airstrip landing facility which lies to the west of the proposed tower site. He then read the letter received from Mr. Moffit. Steve Weets, son of the landowner, was present and stated that the air space, as well as the ground under it, is owned by his father. He further stated that they physically have

control of the air space above the farm and below it. He did not feel that any one had the right to fly above their ground and have height requirements like airlines. Michelle Sweeney, representing U.S. Cellular, stated that the D.O.T. has never stated as to buying an easement of the land with a definite location of where it would be as far as building a tower under the applicable telecommunication regulations and applicants technical design requirements.

Chairperson Beyer then requested information from Attorney Benz regarding obstructing of highways from I.D.O.T. Benz stated, that according to the minutes of the P & Z Commission, reflected that there were some issues about whether or not the improvement of Highway 30 through Cedar County would be over this proposed site. La Rue advised the Board that the P & Z Commission voted 2 to 2 for a recommendation on this site. He advised that the two against were for concern that this proposed tower site may be very close, if not in, the proposed Highway 30 Project's right-of-way and also the issue of Mr. Moffit's air strip. Don Torney, County Engineer, then stated that he brought a copy of the proposed plan and asked Lee Benfield, District Transportation Planner from the D.O.T. to explain the plans to the Board. Mr. Benfield stated that two public informational meetings were held in December of 1999. He stated the plan is very preliminary with the plan to expand Highway 30 from DeWitt to Lisbon from a 2 lane to a 4 lane facility. The plan is to by-pass the seven communities along the route. The concern in the Mechanicsville area is the Union Pacific Railroad north of existing Highway 30. Therefore, the D.O.T.'s plan is to go south. He presented an aerial map showing a potential alignment and the location is based on where then can place the interchange for Mechanicsville. Once they can locate where the potential alignment is, they then will define the study area boundary which is basically going to be an area inside of which they will gather environmental information and all kinds of data to get environmental clearances, to evaluate all impacts, etc. He said they take a fairly broad area so that they can make little adjustments to the alignment without having to go out and restudy another area. He pointed out the study area boundary on the south side. He stated that the tower location site does sit within the study area boundary. The study area boundary bears no relationship to the right-of-way. He stated, that presumably, the highway will be located somewhere within the study area boundary. He further stated that the parcel involved might be in the highway right-of-way. Chairperson Beyer stated that if the Board approves the tower construction, it would be between the D.O.T. and the landowner at the point when the highway is constructed. The Board can not authorize an obstruction that is in or out of a



right-of-way. Attorney Benz then stated if it was in the purchased right-of-way, the Ordinance or the states statue would not permit the Board to permit its location within the right-of-way. In those cases, the Board of Supervisors and the engineer would have to be consulted. Beyer stated that at this time, the Highway 30 Project has not been finalized. Benz then stated that the proposed route is not a prohibition but a factor to consider.

Michelle Sweeney then addressed the proposed Highway 30 right-of-way project. She stated that since the last meeting, she had Hall & Hall Engineering do a survey of the proposed Highway 30 Project and presented copies to the Board. She pointed out the proposed location of Highway 30 showing the approximate centerline and the location of the proposed right-of-way. She stated that the boundary of the lease area is approximately 240 feet from the proposed Highway 30 centerline which would meet the 100 foot right-of-way. Lee Benfield then questioned how Hall & Hall established the centerline. Michelle Sweeney then presented another survey showing the approximate location of the proposed highway. She stated that the tower site could be moved west 450 feet and as far south as possible out of the study area, rather than one-half the height of the tower to the south edge of the present I.D.O.T. study boundary. The Board then asked about the proximity of the tower to John Moffit's landing strip. Ms. Sweeney presented aerial photographs showing the landing strip and the tower site. Mr. Moffit was asked about the usage of his landing strip. He replied that there is not alot of usage as it is a private strip and take off direction depends on the wind. He also stated that small private planes can land on the strip which is about 1,000 feet long. Chairperson Beyer stated it is a question of fact to determine whether there is interference because of the tower. Mr. Moffit expressed his concern due to a tower being close to his air strip. The Board established that, in its present form, the air strip is over one-quarter of a mile away from the proposed tower site.

Patrick Armstrong, Radio Frequency Engineer, then spoke regarding why this location was selected. He described the need to improve reception in the Mechanicsville area and the need to improve coverage for a portion of Highway 30. The search area indicated this present site to be the best location to provide the level of coverage required. The Crown Castle Tower, presently on the Weets farm is not adequate to meet their goal for in-building coverage in Mechanicsville and Highway 30 because it is too short and too far away from town. Where U.S. Cellular can place their antenna array is not high enough to meet their technical objectives and they can not place their array on the top. Mr. Armstrong was unsure of the exact height that they would



be allowed to place their array on the tower but thought the height was about 270 feet. The Board questioned the presented coverage maps and why one was not presented showing what the coverage would be like if U.S. Cellular had co-located on the Crown Castle Tower. Mr. Armstrong then presented this information which had not been provided to the Board. Mr. Armstrong explained the coverage map and why use of this site, at about 270 feet in height, would affect in-building coverage in Mechanicsville on the northeast side of town and reduce coverage on Highway 30. The Board asked if there is a letter from Crown Castle stating that U.S. Cellular can co-locate but only at the height presented in the presentation. Ms. Sweeney stated she had this information. The Board requested this letter for the file. The Board noted that there are no other towers suitable for co-location in this area at this time. The nearest tower is east of Mechanicsville and is only 190 feet tall and co-location site(s) are at about 170 feet. Mr. Armstrong was asked if analog and digital antennas can exist on the same tower. He stated yes. The tower proposed is co-locatable for other companies. The exact number of co-location sites depends on the design. Chairperson Beyer asked how many towers U.S. Cellular has and have co-location sites on them. Tim Wench, U.S. Cellular then spoke and stated that he does not know the exact numbers of towers, as antennas are placed on other suitable structures (buildings) also. Overall, they have between 2,500 to 3,000 sites which includes co-locating on towers owned by others. They have an active co-location program. If co-location on an available site is possible, then that is always pursued. Sometimes co-location is not possible due to structural or height issues. The future need for more towers along Highway 30 was then discussed and depends on the need. Pertaining to co-location, the Board can require that the tower be designed to accommodate a certain minimal number of carrier sites. Discussion continued on the site of this tower. The petitioners stated that the tower can be moved to better cover Mechanicsville but coverage on Highway 30 will be reduced. The Board asked if the tower could be moved east of Mr. Weets' home to the top of the hill or closer to County Road X-40. The petitioners stated that moving the tower is possible, but the tower would then be closer than one-half mile to the Crown Castle Tower. The Board was advised by Attorney Benz that approval of a new tower is absolutely prohibited by the telecommunication ordinance if the equipment for a new carrier can be technologically or structurally accommodated (co-located) on an existing tower within one-half mile and the technical goals of the new carrier met. The petitioners stated that Crown Castle will allow co-location only at about 270 feet in height (No letter from Crown Castle on file stating this) and this height would limit their coverage. Three hundred thirty feet is needed. Attorney Benz asked about the

possibility of increasing the height of the Crown Castle Tower. Mr. Wench and Mr. Armstrong discussed the engineering problems rebuilding the tower and need for approval from the existing tower owners to do this. Benz again stated the need for the Board to decide whether or not the facts justify construction of a new tower within one-half mile of an existing tower. They (the Board) must decide whether or not U.S. Cellular could be reasonably, technically and structurally, accomodated on the existing tower at an estimate height of 270 feet which the petitioner states would create a gap in the proposed coverage area. The Board could find, that because of a gap in coverage, that the available site on the existing tower does not reasonably accomodate the technology of the proposed carrier, but stated that this is what every carrier which has come before this Board prior to this has said. The Board must also find, if the permit is to be granted, that it does not interfere with Mr. Moffit's airfield. County Engineer Torney then asked if they have had a response from the F.A.A. for a site evaluation and approval. Mr. Armstrong stated that their consultant has been requested to do a study, and their consultant found no airports in this area and did not believe this tower would violate any F.A.A. regulations. They consider only registered private airports. Mr. Moffit's airstrip is unregistered at this time. U.S. Cellular does not have a written response from the F.A.A. for this site. Discussion then followed between Engineer Torney and Mr. Armstrong pertaining to their F.C.C. license. Tower lighting and color was discussed as was the proposed access.

Discussion continued on the alternative tower sites within one-half mile of the existing tower and whether or not the petitioners technology can be reasonably accomodated. Attorney Benz again pointed out that the petitioners have not discussed and explored the option of restructuring the Crown Castle Tower to extend its height. Mr. Wench again described the problems associated with restructuring the Crown Castle Tower. They do not have access to the engineering drawings. But, as Attorney Benz pointed out, the Board does not know how difficult it would be because the petitioners did not ask the Crown Castle Tower Co. Attorney Benz stated that this Board is getting these requests without any information from the owners of the existing towers on what can or can not be technologically or structurally accomodated on the towers. He continued that Crown Castle Tower Co. has not been asked, nor has the petitioner presented information whether or not the Crown Castle Tower could be made taller or the petitioner would be required to co-locate at 270 feet. He feels that the Board has been given a probability in terms of facts that the Crown Castle Tower would not accomodate U.S. Cellular's plans for co-location. Mark Morris, representative of an engineering firm, stated that his company construct towers



all over the world and do base it on the foundation. He asked if Crown Castle submitted plans showing that it could be extended. He was informed that the Crown Castle tower was built before the Board had the authority to approve them. Attorney Benz then stated that the burden is upon the applicant. Mark Morris informed the Board members that his company designs the antennas and structures for what they can hold. He stated that he could not tell the Board without looking at the structure if the tower could be extended or co-located on. He further stated that tower companies will not give out that information. Benz then asked if that same thing would happen with U.S. Cellular after the tower is built and not give out information to any one wanting to co-locate. Mr. Morris stated that they would tell them where they could co-locate and at what level. He stated that his company would not tear down their tower and reconstruct it for another company to co-locate. He stated that, as a rule, they do not build foundations to hold larger towers than what they put on them. He also stated that building taller towers (500' to 1,000') would get into F.A.A. regulations. Benz asked if this tower would accomodate increase usage when Highway 30 is built. The U.S. Cellular representative stated that this tower will accomodate where it is placed for any traffic on Highway 30. They stated that is not an issue in the area that it will cover but in the issue that they only have so wide of a frequency and is an issue in the number of phone calls that they can carry within the band of frequency. He stated that as he reads Cedar County's Ordinance, that they have to look at existing towers and stated that a 330' tower does not exist. Attorney Benz stated that the part he was referring to was Paragraph F, Section 5, which states "for which the tower is being constructed cannot be technologically or structurally accommodated on an existing or approved tower". Therefore, his question was whether the Crown Castle Tower could be structurally modified to accommodate their cellular service. U.S. Cellular stated that it could not be done without taking the tower down. They do not feel the Crown Castle Tower could structurally accommodate a 30' extension. Michelle Sweeney then stated that she did get a statement from Crown Castle Co. stating that they did not entertain going any higher. Member Johnson questioned Steve Weets regarding moving the location to the east or going over towards the blacktop. Mr. Weets stated that he did not have any objection. Ms. Sweeney then stated that her client has already incurred a lot of costs up to this point and would like to keep the location where it is. She stated that if the site is moved, everything will have to be refiled and there would be additional costs. U.S. Cellular stated that they did not want to move the location. Chairperson Beyer then stated that, in reviewing the law, the Board will have to deal with the petition as it was presented.



She stated that since there has been some discussion regarding an alternative site as a possibility, depending on how the Board rules, U.S. Cellular would need to come back and time would be needed to give notice since the location would be in another section. She asked for a motion for the proposal. Penningroth then stated that he would like to make a comment stating that he feels the original site would have less impact on Mr. Moffit's airstrip than the other two sites discussed. Penningroth then made a motion to approve the original petition and questioned if they needed any thing in the motion regarding what the D.O.T. might have on the highway for the future. Attorney Benz stated that they did not and that it was a factor that the Board was to consider in making their decision. He stated that they can consider both the current and potential uses of the land. He further stated that one of the standards is the best use of the land. He also stated that if the Board wanted to decide that, because it is in a potential highway corridor, this use of the property would not be appropriate and stated it was up to the Board. Penningroth then withdrew his motion. Chairperson Beyer stated that they need to clarify the surveys from U.S. Cellular and the D.O.T. The D.O.T. stated that, at this time, there is no way of knowing where the centerline would be.

Hoy then made a motion to approve the S.U.P. with the stipulation that the tower be built with the structural strength to accommodate a minimum of five telecommunication carriers not higher than 330' at the site requested and subject to annual review. Penningroth seconded the motion. Ayes all.

3. U.S. Cellular, Cedar Rapids, Iowa (Leasee) and Pam Farms, Inc. (Leaser and Owner), 300th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 280 foot tall wireless communication tower on property located in the NW 1/4 of the NW 1/4, Section 18, T-79N, R-4W, in Springdale Township, consisting of 4.42 acres more or less. Said property is zoned A-1 Agricultural.

Administrator La Rue informed the members that there is a letter of objection on file for this petition received from Rosalie and Jim Cahill. He then read the letter to the Board stating their concerns. La Rue then also read the letter received from Ty Doermann, City Administrator of West Branch.

The landowner was not present at the hearing. Ms. Sweeney then presented arials on the site, along with a certified appraiser's opinion on the impact of the evaluation on the adjacent property owners. Ms. Sweeney stated that she visited with Mrs. Cahill and her family to go over the proposal. La Rue asked if the tower site, as proposed,

is half the tower height away from the county road right-of-way. Ms. Sweeney stated that it is. County Engineer Torney stated that the driveway location was moved. Ms. Sweeney stated that the survey did not show the setback which the Cedar County Ordinance requires. Another survey was done with the dimensions on it and stated that she worked closely with Don Torney in regards to where he would like the access road placed. She stated that the Secondary Road Department marked it from the west boundary corner of the northwest corner and going 210' east. She stated she had the surveyor mark out 210' where the proposed driveway would be.

Chairperson Beyer then stated that there are a number of towers in the area and asked what U.S. Cellular has done to pursue co-location. Ms. Sweeney stated that, as far as the towers in the area, their radio frequency engineering standpoint to be objective. She stated that they were not close enough for any co-location. Attorney Benz asked if they had checked with the new tower being built by UNI-site in Springdale. He then informed them that UNI-site is building a tower in Springdale, which is not built yet, but has been approved. They are building a 315' tower with the intent to lease space. He stated that UNI-site indicated to the Board that placement of the tower would provide seamless service. U.S. Cellular stated that they did not know the existence of this tower which will be located about 4 1/2 miles from West Branch. The U.S. Cellular's representative stated that the way towers work, there are two issues: 1) coverage of a certain area with the tower and 2) towers are set up so that they can hand off to each other so when the signal gets weak on one, the other tower picks up to go forward. They are looking at providing the coverage area, and then as they fill out the coverage area, they are looking at having these things properly hand off. He stated that what will happen is if they are pushed off 4 miles to the east, it would create an issue for them to the west where they would have a problem. Chairperson Beyer then questioned why they could not piggy-back on the existing towers in the area and the proposed new UNI-site's tower. She asked for information regarding that they can not co-locate on these towers. Ms. Sweeney stated that the ideal location is in this area and the search ring was very small. Chairperson Beyer questioned why they could not co-locate on several towers in the area and accomplish the same goal. Patrick Armstrong stated that his concern with the other towers is that none of the towers would adequately cover and fulfill their goals. Attorney Benz questioned whether, technologically, the other towers would provide the coverage. Ms. Sweeney stated that they do not have all the information needed at this time. Chairperson Beyer suggested that she would like U.S. Cellular to talk to all the other tower companies and possibly co-locate on a couple of towers and add in



the tower which is not shown located across the interstate highway from the proposed site closer than 3/4 of a mile. The Board then reviewed the aerial maps and the other tower sites. The Board felt that U.S. Cellular should check with the other tower companies in the area. Tim Lynch then suggested that, since they were not aware of another tower (Illinois P.C.S. Tower) in the area, the meeting be tabled until the next meeting and they could come back with some better information. Attorney Benz stated his concern is that the ordinance states that they shall contact all the other towers in the area regarding co-location.

After further discussion, Johnson made a motion to continue this petition at the next meeting with the requirement that additional information be obtained regarding co-location. Penningroth seconded the motion.

With no further business to be discussed at this time, Lenker made a motion for adjournment. Johnson seconded the motion. Ayes all. Meeting adjourned at 5:35 p.m.

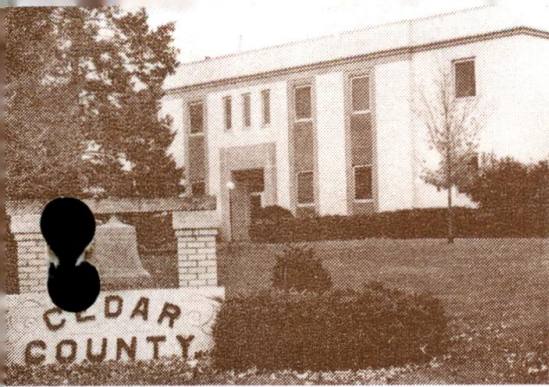
*Claudio Benz*

Chairperson

*Sharon Laucamp*

Secretary





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

July 26, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following requests:
  - A. Frank Hahn - Variance request on setback requirements.
  - B. U.S. Cellular - Communication Tower (Mechanicsville Site)
  - C. U.S. Cellular - Communication Tower (West Branch Site)
- III. Discussion
- IV. Other
- V. Conclusion



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

June 28, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following requests:
  - A. UNIsite, Inc. - Communication Tower
  - B. Wendling Quarries - Special Use Permit  
(Expansion of existing quarry)
  - C. Discussion on letter from Pauline Hansen  
regarding request for more time to remove  
2nd dwelling trailer and other materials.
- III. Discussion
- IV. Other
- V. Conclusion

CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

June 28, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on June 28, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Lenker, Beyer, Johnson and Penningroth. Member absent was Hoy. Minutes from the last meeting held on May 24, 2001, were previously sent to the members. They were approved as presented.

The members then heard the following petitions:

1. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Robert and Sherry Pearson (Leaser and Owners), 575 290th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 315 foot tall wireless communication tower on property located on Lots 13, 14 and 15 in the S 1/2 of the SE 1/4 of the SE 1/4, Section 1, T-79N, R-4W, in Springdale Township. Said property is zoned A-1 Agricultural. This petition was tabled by the Board at the May 24, 2001, meeting.

Chairperson Beyer stated that this petition was a continuation of the meeting held on May 24, 2001. La Rue advised the Board to consider this petition in accordance with Chapter 17.18(2) of the Zoning Ordinance, Chapter 5, Section D. and Ordinance #30. LaRue then read letters received from concerned residents who were unable to attend. The letters stated their concerns of microwave radiation and radio frequency and enclosed information from OSHA for the Board's review.

Representing UNIsite, Inc. were Matthew Hickey & Kevin Schmontzy. Mr. Hickey then responded to the letters and stated that they will take them into consideration but he would like to go on record that they were not signed. Regarding the radio frequency emissions, he stated that they have been determined not to be a threat and so, therefore, may not be considered. He stated that he would like to go on from where they left off and not re-hash. He stated that he believed that they have made a creditable record for their conditional use. He then addressed the issue regarding moving the location of tower a short distance to accomodate the concerned citizens. Kevin Schmontzy, Radio Frequency Engineer, then submitted an updated, more detailed study on radio frequency. Mr. Hickey stated that this re-interates what they proposed last time that the tower has to go where they proposed it to avoid any coverage holes. He stated that a carrier is not going to locate on a tower that does not provide seamless coverage. He then presented 5 coverage maps to the members. Mr. Schmontzy stated that he ran a more detailed analysis on why they could not move the location across the street. He informed the members



that there would be a coverage hole by moving the proposed location. He stated that what he is trying to show with each of the maps is that if they move just a small amount south, to the east or to the west, a coverage gap will be created. Mr. Hickey stated that he would like to incorporate the application they submitted into the record. Mr. Schmontzy stated that these maps are very high resolution studies. He informed the members that the green color means that a phone call can be made from a building, outside or from a vehicle anywhere. Yellow means that a phone call be made from a vehicle and outside but not in a building. Red means that you can only make a phone call outside. Presently, they are providing coverage for I-80 and eventually will have to be everywhere. Mr. Hickey stated that they do not install the towers unless there is a need for it. He stated that because of the difficulty of going through zoning, it is difficult for them to get a carrier to outright commit. He stated that if they got the S.U.P., they could get carriers within a couple of days. He again stated that they are trying to stop the proliferation of towers. He stated that 2010 is the target date for 90% of seamless coverage throughout the United States.

Pat Maher, adjacent property owner, then questioned Mr. Hickey regarding UNIsite attempting to purchase ground from Mr. Pearson who refused, then went to a neighbor's ground who also refused and then went back to Mr. Pearson's ground and got permission. Mr. Hickey stated that it sounded true because Mr. Pearson's ground was the ideal site and had probably tried to look for an alternative site. Mr. Hickey stated that it would have had to be a different tower if they would have obtained land there. Mr. Schmontzy stated that the company usually gives him 6 or 7 candidates and he must make the approval. He stated that usually 6 of those candidates will get denied because of a coverage hole. Robin Anderson stated that she doesn't understand coverage gaps and has no problem with her cell phone. Mr. Hickey stated that she may have an AT&T phone but there are still 7 or 8 other carriers who are required to cover I-80. Chairperson Beyer stated that she felt the Board needed to focus more tightly, that they have a proposed site here and what they need to hear are comments directed to that site. Attorney Benz then stated that Cedar County's Ordinance is designed to encourage co-location and questioned whether different companies would co-locate on this tower. Mr. Schmontzy responded that since they are not a carrier, they are not worried about competition. He stated that they want as few towers as possible so they want co-location. He stated that 4 PCS carriers can co-locate along with microwaves added. Benz then stated that for the Board's benefit one of the letters submitted talked about a bond for removal.

He stated that when the ordinance was being drafted, the initial draft had language about bonding. However, in discussion with the Board of Supervisors, before it's final adoption, it was removed and he does not think that it is a condition that the Board of Adjustment can require. Mr. Hickey stated that the Ordinance does have a stipulation that if they fail to use it within a certain amount of time, they have to take it down. Benz then informed the Board that it is within their authority that it can be a condition of the Special Use Permit that, in the event the tower is constructed and companies are not located within 180 days upon completion of construction of telecommunications equipment on that tower, that the S.U.P. would expire. Mr. Hickey stated that, in a loose sense, yes, but he can't say for sure because he can't produce a letter of intent until they receive zoning approval. He stated that they would be happy to comply with that condition. Dennis Pruess, Zoning Commission member, expressed his concern about existing towers that are too short. Mr. Hickey stated that this is addressed by the fact that the government now says that all towers must be co-locatable. Attorney Benz then explained that Phil La Rue brought it to his attention that the county ordinances weren't providing any guidelines as to the location of towers. A model ordinance was then created. He stated that in regulating these towers, they have to make sure that Cedar County's ordinance and the actions of the Board of Adjustment comply with the Federal Communications Act. He also stated his reading prohibits the Board of Adjustment from considering health evidence of the towers. He stated that, according to the current ordinance, it does not allow the Board to require a particular height, but it does allow the Board to require that these towers be designed to allow for co-location. Mr. Hickey then stated that he had a signed letter in his application that their towers are co-locatable. Attorney Benz stated that the Board of Adjustment will have to look at each application and renewal applications each year. He stated that the Board has received expert testimony that this tower is designed to allow for co-location. Mr. Hickey stated that they are establishing their towers to provide a link between the two existing towers in Cedar County.

After further discussion, Penningroth made a motion to approve the S.U.P., subject to the requirement that they have signed leases filed within 180 days upon completion and subject to annual review. Lenker seconded the motion. Ayes all.



2. Wendling Quarries, Inc., Dewitt, Iowa - Requesting approval of a Special Use Permit for the purpose of expanding their existing limestone quarry operation on property located in the NE 1/4 of the NE 1/4, Section 23 and the NW 1/4 of the NW 1/4, Section 24, T-80N, R-3W, in Center West Township, consisting of 31.00 acres more or less. Said property is currently zoned A-1 Agricultural.

La Rue advised the Board members that the Planning and Zoning Commission recommended approval of the request and explained that the minutes reflected that there would be no heavy truck traffic onto King Avenue from the site. He also informed the members that they had a copy of the letter from Wendling Quarries regarding the concerns of adjoining property owners Rick Rochau and Ed Odeen. In this letter Wendling Quarries stated that the ground lying east of the yellow line and north of King Avenue, west of Rochau's easement (driveway) and south of the Rochau/Wendling property line will remain in an agricultural state unless expressed written permission is obtained from Rick Rochau and Ed Odeen or the subsequent owners of their properties to change the usage. The Zoning Commission also recommended Area A, the Reserve Area, shown on the aerial photograph, is the only area to be quarried. La Rue stated that Wendling Quarries will be required to maintain 500 feet separation between the nearest place of assembly or dwelling.

John Tuthill and Mark Whitman, Wendling Quarries representatives, then presented an aerial of the site. Mr. Tuthill explained that the quarrying operation is a much more compatible use in the neighborhood. He stated that this petition is an identical request to the S.U.P. granted to them on July 27, 2000, by the Board. He explained their plan to quarry the limestone straight south of their present operation. There would be no quarrying work to the east of their proposal. Limestone excavation will only be in Area "A", the reserve area. Overburden storage/berm and quarry screen area is shown as Area "B". Area "C" shall remain agricultural cropland. He also informed the members that he had met with Rick Rochau and Ed Odeen and stated that he had submitted a letter stating that Wendling Quarries made an agreement with the two parties to restrict the future usage of a part of the Special Use Permit area to agriculture or make it a condition of the permit. Mr. Whitman stated that they have taken out about 1 1/2 acres this year from the Goodale farm. The combination of property will give them approximately 22 to 25 acres of reserve and approximately 1/2 acre of stone is crushed each year. La Rue then requested that they explain to the Board what they are required by state law when they finally have exhausted the

reserves for this site. Mr. Whitman stated that on an ongoing basis, they have to have their site bonded. He stated that the bond is increased as the site expands. Upon the time of completion of the reserve, there are standards which must be followed. A large pond will be created at the site when done. New seeding will be required to control erosion. He also stated that everything at the quarry is regulated. Mr. Tuthill stated that he thinks the greatest concern in the neighborhood is the truck traffic on King Avenue. He stated that nothing is going to change as far as the operation of the quarry. No comments or objections have been received from residents on Stone Mill Road.

Mrs. Ruth Cigedly, adjoining property owner, explained to the Board where her sister's and her farm is located. She stated that she went to the hearing on May 16, 2001, for the scheduled subdivision request, and found out that it was cancelled. Subsequently, she stated that two weeks later she heard that the property had been sold to Wendling Quarries. She stated that she had certain concerns which are addressed in a letter received on June 27, 2001. She then read the letter to the Board members requesting the Board's input and stated she wanted protections for their farm and pond. Mr. Tuthill responded that he is not aware of any negative impact on any properties. Mrs. Cigedly admitted that there has not been any negative impact on the pond but wants the protections she stated be written into this S.U.P. because they want to know what is going to happen at this site. Chairperson Beyer stated that what she was discussing is beyond the purview of the Board and what happens at the end of the functional use of the site is up to the State of Iowa. Mrs. Cigedly stated that she is also asking for the maximum size of the quarry. La Rue responded that it would be the reserved Area "A". Mr. Tuthill stated that they have not yet prospected all of the area and there is a possibility of future planning through Rick Rochau. Again, Mrs. Cigedly requested that written stipulations be made on this petition. Chairperson Beyer stated that all they can deal with is the proposal that is presented to them now. She stated that what might happen in terms of purchases and uses down the line is beyond the Board's purview. Mrs. Cigedly asked what her other recourse or action could be. She again asked for written guarantees. La Rue advised the Board that the C.S.R. is below 75 for the areas to be used for the quarry. The east one-third of the property is to remain in cropland as per Wendling Quarries letter. Mrs. Cigedly asked whether or not the goal of the county's land use plan is to preserve agricultural areas. La Rue responded that, although this is true, quarry operations must occur in the agricultural areas and not in residential areas because that is where the product is available.



Because quarrying is an industrial/commercial operation, the county has regulations to insure compatible land uses. Mrs. Cigedly desired assurances that the S.U.P. would restrict in what way the property is used in the future. The Board then addressed each item of Mrs. Cigedly's letter:

1. The Board recognizes that Wendling Quarries may need access to the property from King Ave. However, the main truck traffic will only be on Stone Mill Road. Mr. Tuthill was in agreement.
2. The only area planned for blasting and excavation is Area "A", consisting of 8 acres.
3. The Board is aware that these rules are already in place by county ordinance and state laws. Mr. Tuthill stated that they are required to comply with applicable regulations and be bonded.
4. Cedar County can not be held responsible beyond the terms under which the S.U.P. was issued. Chairperson Beyer stated that anything beyond the terms in which the S.U.P. was granted would be a civil matter. Mrs. Cigedly demanded that someone be responsible for any damages. Again, Beyer stated that her course of action would be to bring civil suit if she suffered property damages.
5. This item is addressed by state and federal laws pertaining to mining operations.
6. Mrs. Cigedly feels that this operation is a hazardous commercial enterprise and wants protection and to know who is responsible for the conditional use of the property and its effects. Chairperson Beyer stated that this is a use allowed in the agricultural district and, to the Board's knowledge, Wendling Quarries has operated in good faith and been a good neighbor. She continued that protections are specifically in place by county ordinance and state law for the expansion of quarries and their abandonment. The Board has no knowledge of personal injury or property damage caused by the quarry to adjoining properties. Mrs. Cigedly was advised that the S.U.P. is reviewed annually for compliance with the terms for which the use was granted. La Rue again stated that in the zoning ordinance, within its realm, provides protection by separation requirements between the quarry operation and residences, etc. Chairperson Beyer again stated that every year the S.U.P. is reviewed, and if a problem has arisen, it is then dealt with. Tuthill suggested, that if necessary, he would be glad to meet with the Board and explain what has changed each year.

After additional discussion, Johnson made a motion that the S.U.P. be granted with stipulations that removal of product will be off of Stone Mill Road only and abide by the agreement between Wendling Quarries and Rochau and Odeen and also subject to annual review. Penningroth seconded the motion. Ayes all.

The Board members next discussed a letter received from Pauline Hansen, RR, Mechanicsville, regarding her letter of request for more time to remove the second dwelling mobile home and other materials from her property. A variance was granted to the Hansen's on April 23, 1998, by the Board granting them permission to temporarily permit two dwellings and a mobile home on the property with the stipulation that once they move into the new home, the old house and mobile home be removed within 180 days. Mrs. Hansen, in a written letter, requested an extension of their variance for six months due to health reasons. The Board noted that the Hansen's have made some effort toward compliance of the variance. The Hansen's moved into their new home in December 2000. After discussion, Johnson made a motion to grant the Hansen's another 6 months extension to allow more time to meet the requirements of the variance. Lenker seconded the motion. Ayes all.

Dennis Pruess, member of the Zoning Commission, was present and questioned the Board what procedure they use at their annual review for communication towers. He was concerned about what happens in the future when the towers are vacated. La Rue stated that the perhaps the Zoning Commission and the Board of Supervisors need to consider amending Ordinance #30 and putting bonding requirements back into the ordinance. He also stated concern about Section 5, Subsection F., regarding evidence that the applicant contact owners of all existing or approved towers within a one-half mile radius of the proposed new tower site, including county-owned property, and that the equipment for which the tower is being constructed cannot be technologically or structurally accommodated on an existing or approved tower. He would like that radius to be increased to 1 to 2 miles. The changes would have to have the recommendation of the Planning and Zoning Commission and approval of the Board or Supervisors, at which time the ordinance may have to be amended.

With no further business to be discussed at this time, the meeting was adjourned at 4:45 p.m.

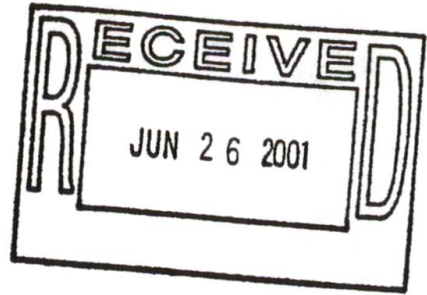
*Claudia Baya*

Chairperson

*Sharon Laucamp*

Secretary





June 22, 2001

Mr. Phil LaRue  
Cedar County Zoning Board  
Environment & Zoning Office  
Cedar County Court House  
Tipton, IA 52772

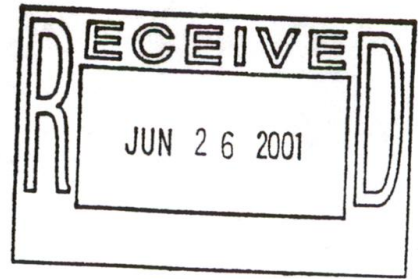
Mr. LaRue and the Zoning Board Members:

As specified on May 24<sup>th</sup>, 2001, we the residents of Springdale are notifying you of our findings pertaining to the construction of a 315-foot telecommunication tower to be located on Mr. & Mrs. Robert Pearson's property, located at 575 290<sup>th</sup> Street – Springdale, Cedar County, IA. And leased by Unisite, Inc.

We were unable to obtain the services of an engineer to verify the data supplied by UniSite Inc.

We are hereby stating we are still in opposition to the construction of said tower so close to our town and residents of Springdale, Iowa.

The residents of Springdale  
290<sup>th</sup> Street  
West Branch, IA 52358



To the Zoning Board Members:

Pertaining to the Special Use Permit to construct a 315-foot telecommunication tower on the property of Mr. & Mrs. Robert Pearson located at 575 290<sup>th</sup> Street – Springdale, Cedar County, Iowa by Unisite Inc., we would like to request the following:

If a bond is a stipulation to receive the above mentioned special use permit, we would like it stated that whoever has the legal possession of the tower and/or lease must carry a bond to cover the costs of dismantling and disposing the tower and any equipment located on the property at 575 290<sup>th</sup> Street – Springdale, Cedar County, Iowa.

Documentation of said bond is to be sent to the Cedar County Zoning Department, Court House, Tipton, Iowa 52772 upon the bond's activation and each and every year the tower is located on the property at 575 290<sup>th</sup> Street – Springdale, Cedar County, Iowa. We would also like it stated that if the bond is terminated for any reason, the Cedar County Zoning Department is to be notified by the current owner/leaser within 10 days.

We would also like to have Unisite, Inc. or the legal owner/leaser to notify the Cedar County of the name and address of each and every antenna that is installed and/or removed from the tower within a reasonable time frame.

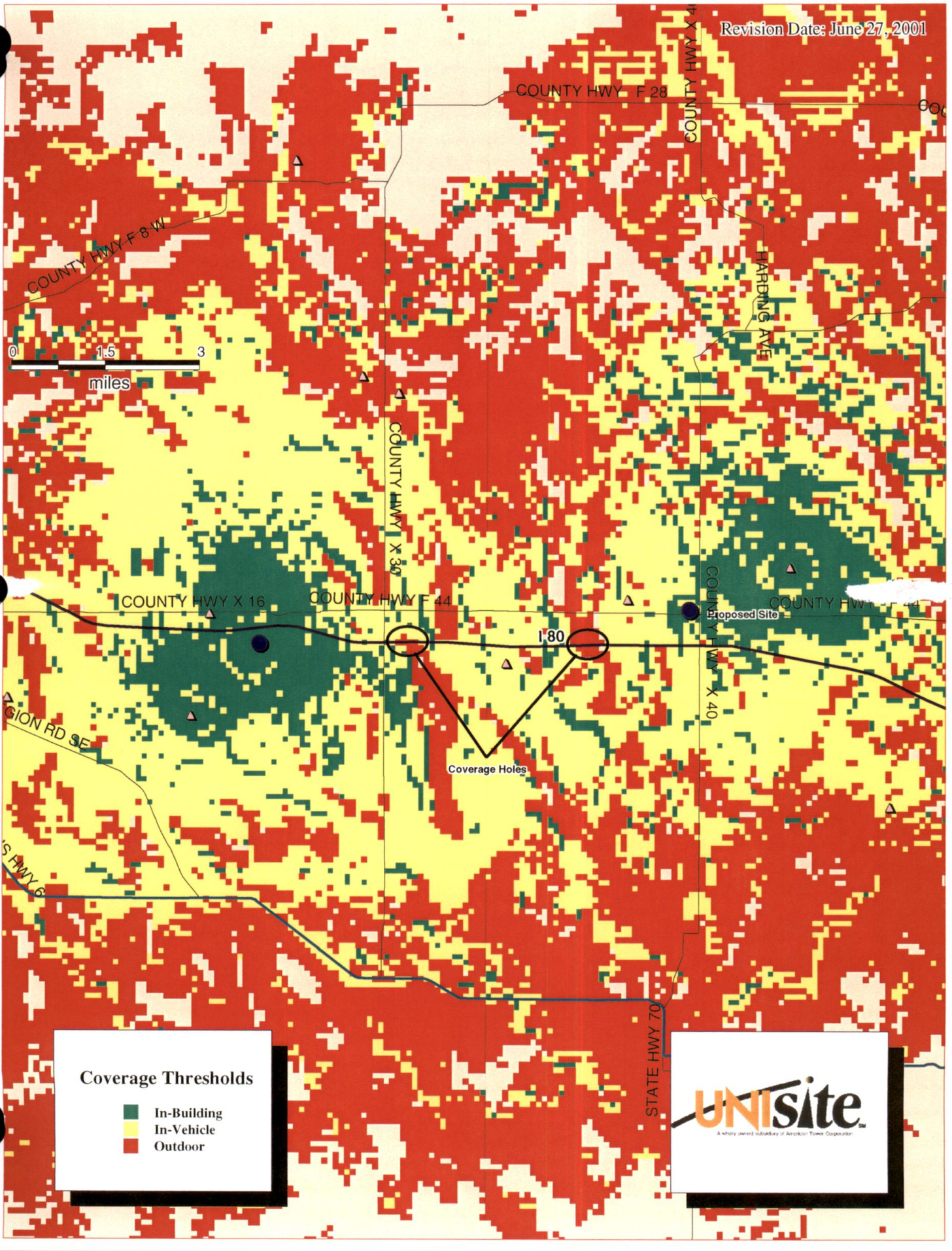
The residents of Springdale



# Coverage with Existing Tower and 50817

Cedar County, IA

Revision Date: June 27, 2001

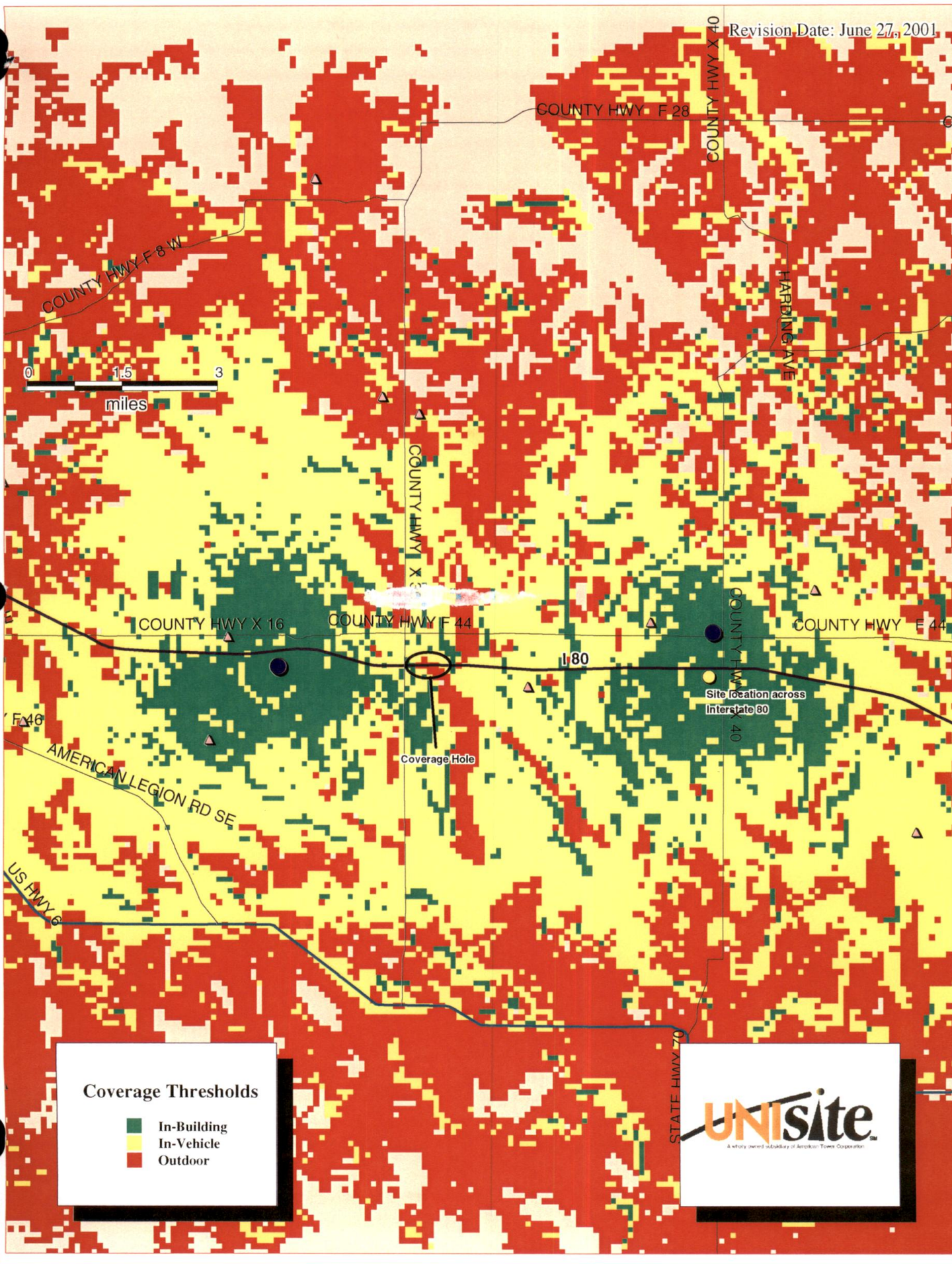




# What if the site was moved across I-80?

Cedar County, IA

Revision Date: June 27, 2001



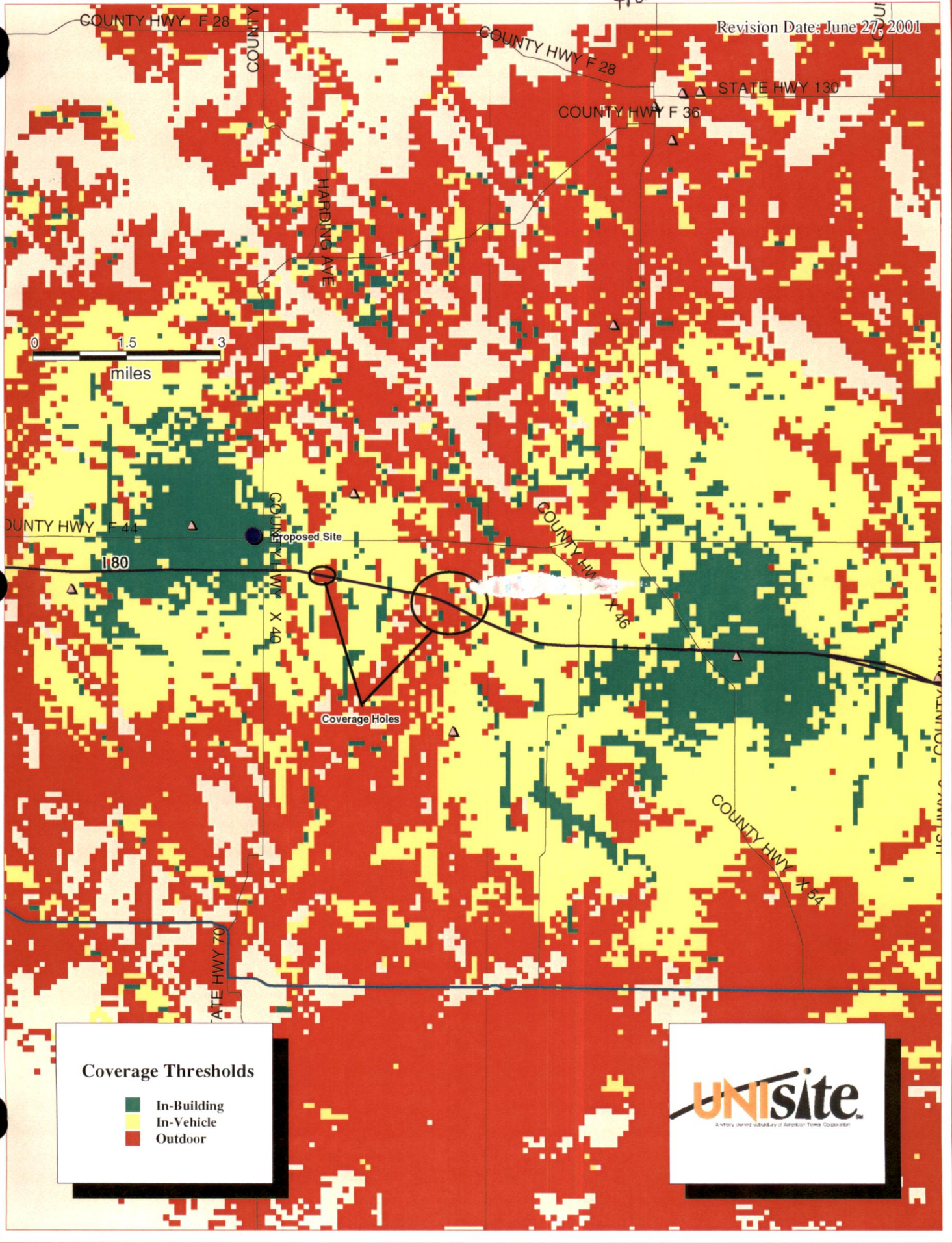


# Coverage from Alternate Existing Sites

*without their tower*

## Cedar County, IA

Revision Date: June 27, 2001

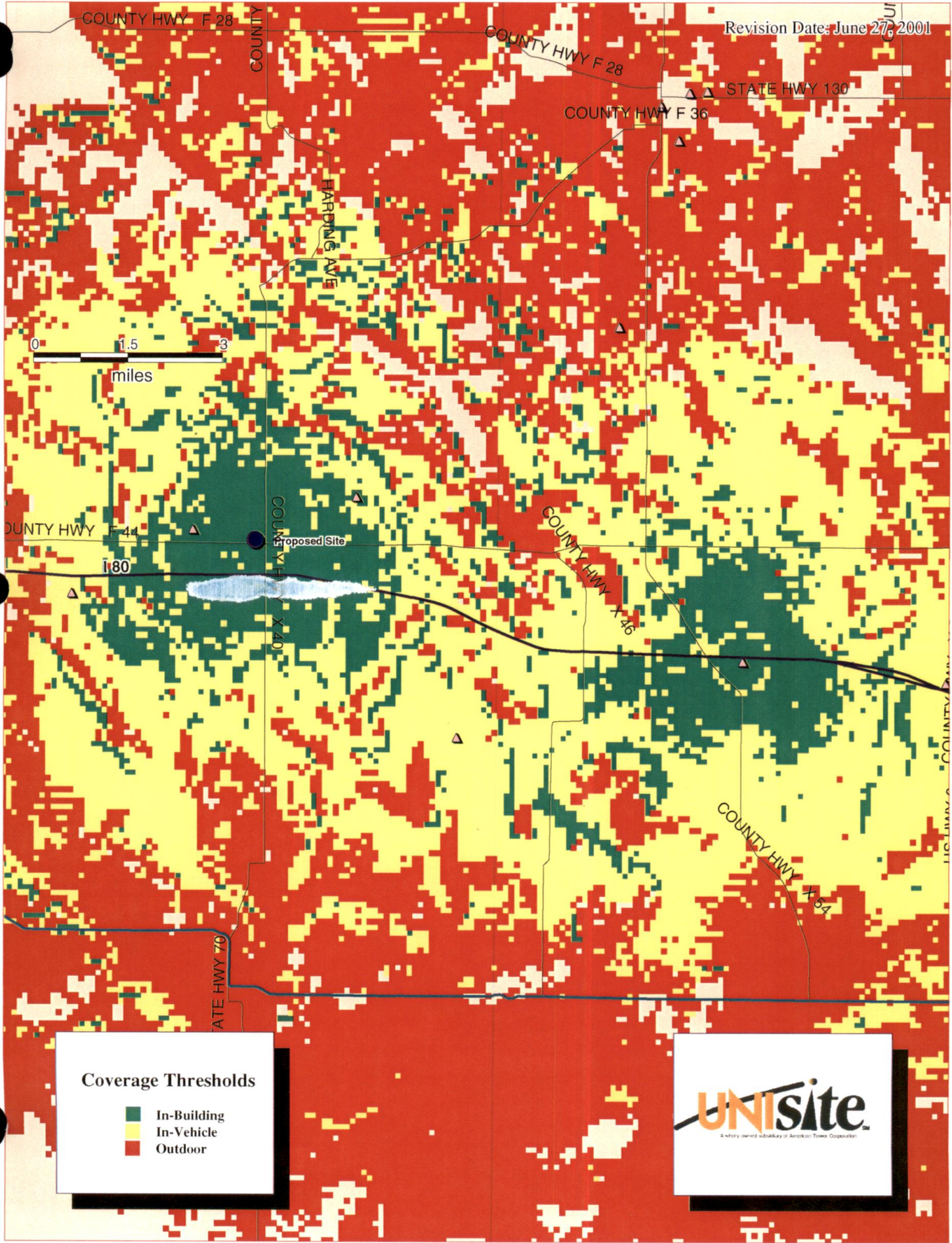




Coverage for Proposed Site @ 300'

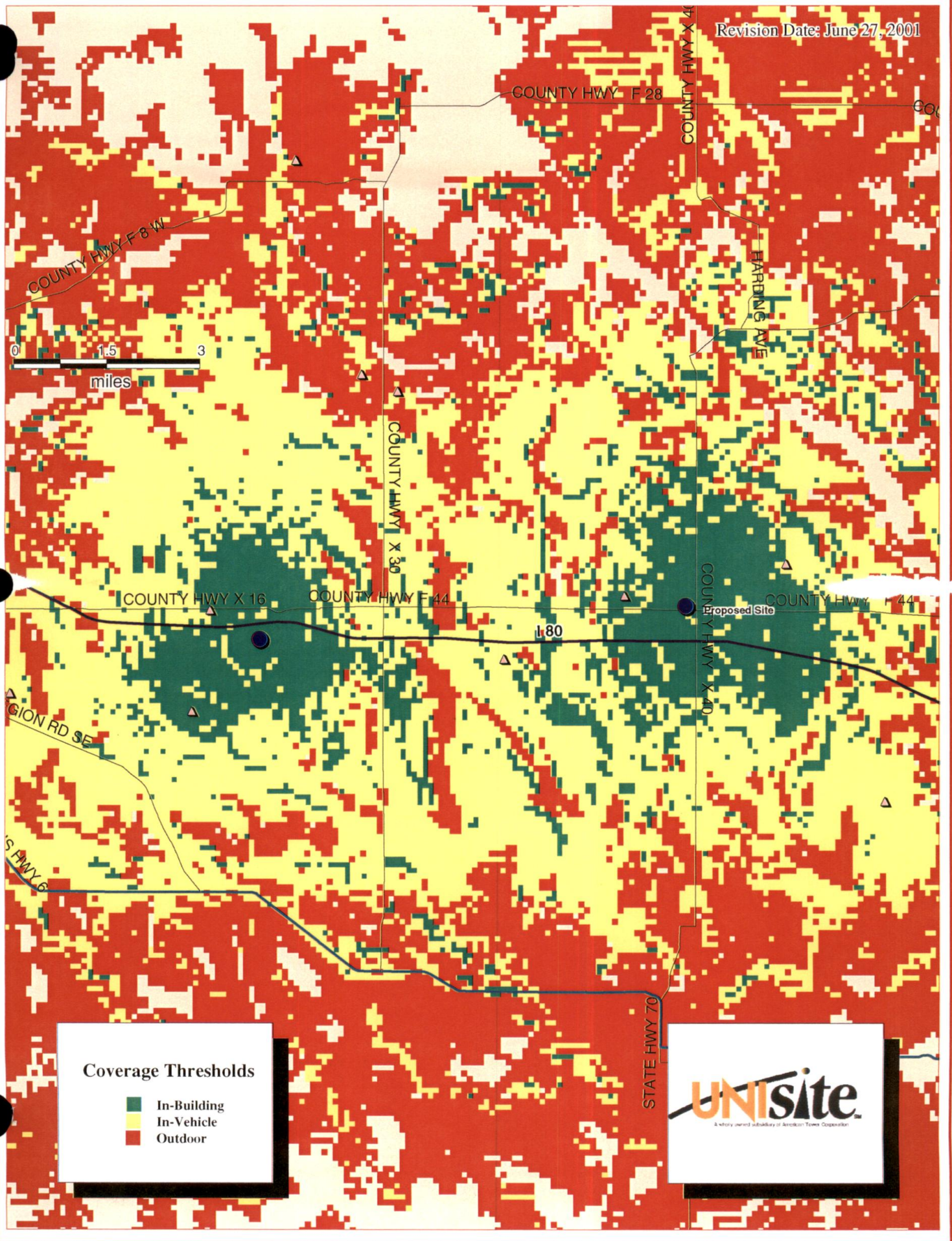
Cedar County, IA

Revision Date: June 27, 2001



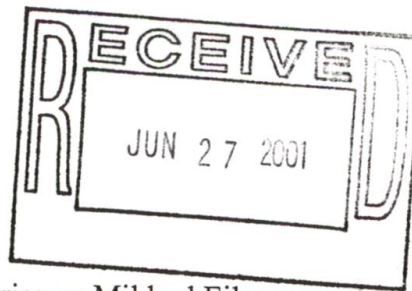


## Revision Date: June 27, 2001





TO: Cedar County Board of Adjustment  
Cedar County Board of Supervisors



RE: Special Use Permit - - Request by Wendling Quarries on Mildred Eiler property in NW¼  
Section 24 and NE¼ Sec. 25, Center West Township, Cedar County, Iowa.

I am filing this statement on behalf of my sister, Catherine Johnson and myself, which sets forth our concerns, and restrictions which we believe should be mandatory and incorporated into the granting of any Special Use Permit for the above referenced property.

We respectfully request that the following use and restrictions be established as covenants running with the land and binding on the parties:

1. Neither Wendling Quarries or any successor in interest should ever be allowed to utilize a direct access for ingress or egress to King Road as a part of the operation of its business.
2. Any permit allowing blasting and excavation should be limited to the area designated as Tract A and should set forth for the maximum number of acres subject to excavation or blasting within this tract.
3. There should be a statement that the County along with the State shall be responsible for oversight and compliance with the terms, conditions and operation of this site.
4. A statement should be included setting forth the continuing obligation of the County and/or Wendling Quarries for any damages to our property and other affected properties. We have been told at the planning and zoning meeting for instance, that if the dynamiting/blasting causes cracks in our pond and the water seeped away, that the County would be responsible. We request a statement be included and agreed to, which identifies the types of responsibility of all parties and the recoverable damages.
5. We request that any permit be granted, only if a specific agreement is reached as to the remediation of the site, once its active use as a Quarry ceases. This should include the specific steps to be taken, remedies, a reasonable time period for compliance and the parties



responsibility.

6. An agreement as to which agency is ultimately responsible to enforce the terms and conditions of the use of the property and effects thereof.

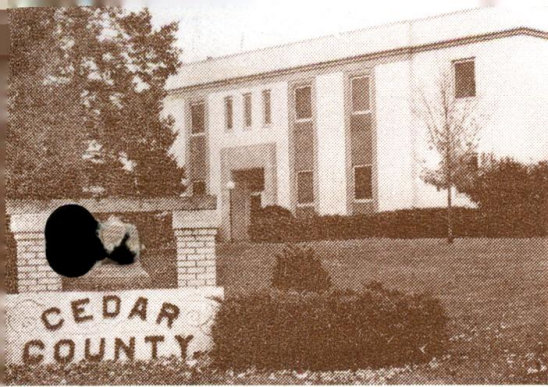
7. We are the owners of land in Section 13 & 24 of Center West township contiguous to the site.

8. We believe that it is essential to the continued beneficial use and enjoyment of our property and all other affected property, that the Board carefully weigh the negative impact this business does and may continue to have on the agricultural use of the surrounding property. We request that strict guidelines and conditions be considered and incorporated into any action on this application. We believe that we have the right and the expectation that the agricultural usage of our property should be given the utmost consideration in this process. We believe that the county officials have a duty to protect our interest and to not compromise any of our rights without fully weighing and protecting the same.

Dated: 6/27/01, 2001

Respectfully submitted,

  
\_\_\_\_\_  
Ruth Cigledy



**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

June 4, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, June 28, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petitions:

1. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Robert and Sherry Pearson (Leaser and Owners), 575 290th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 315 foot tall wireless communication tower on property located on Lots 13, 14 and 15 in the S 1/2 of the SE 1/4 of the SE 1/4, Section 1, T-79N, R-4W, in Springdale Township. Said property is zoned A-1 Agricultural. This petition was tabled by the Board at the May 24, 2001, meeting.
2. Wendling Quarries, Inc., Dewitt, Iowa - Requesting approval of a Special Use Permit for the purpose of expanding their existing limestone quarry operation on property located in the NE 1/4 of the NE 1/4, Section 23 and the NW 1/4 of the NW 1/4, Section 24, T-80N, R-3W, in Center West Township, consisting of 31.00 acres more or less. Said property is currently zoned A-1 Agricultural.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petitions. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator



Copies sent out on 6/4/01 to the following:

1. Matthew J. Hickey - Richard Connor Riley & Associates, LLD, 7600 S. County Line Road, Burr Ridge, Illinois 60521 - Certified
2. Bob Pearson - 575 290th Street, West Branch, Iowa 52358
3. Herschal & Harriet Gray - 1861 Garfield, West Branch, Iowa 52358
4. Kenneth & Janice Mather - 799 290th Street, West Liberty, Iowa 52776
5. Herman Paulsen - 569 290th Street, West Branch, Iowa 52358
6. Darin & Sherry Wolf - 1910 Garfield Avenue, West Liberty, Iowa 52776
7. Leone & Joseph Maher - 126 Foster Drive, West Branch, Iowa 52358
8. Anders Mather Trust - 683 290th Street, West Liberty, Iowa 52776
9. Roscoe & Helen Millet - 1772 Grant Avenue, West Branch, Iowa 52358
10. Bob & Louis Massey - 570 290th Street, West Branch, Iowa 52358
11. Cynthia Green - 576 290th Street, West Branch, Iowa 52358
12. Russ Leighty - 540 290th Street, West Branch, Iowa 52358

- 
1. John Tuthill - Wendling Quarries, Inc., P.O. Box 230, DeWitt, Iowa 52742 - Certified
  2. Mildred Eiler - 1664 Snaggy Ridge Road, Tipton, Iowa 52772
  3. Rick & Kim Rochau - 1509 King Avenue, Tipton, Iowa 52772
  4. Arlin & Vanita Esbaum - 6122 Northwest Blvd., Davenport, Iowa 52806
  5. Ed & Schelly Odeen - 1510 King Avenue, Tipton, Iowa 52772
  6. Willer and Michaels, LLC - Attn: Catherin Johnson, Manager, 242 Ferson Avenue, Iowa City, Iowa 52240
  7. Kirk Sissel & Cindy Beverlin - 1526 King Avenue, Tipton, Iowa 52772
  8. Richard Martin Moylan - 1549 King Avenue, Tipton, Iowa 52772
  9. Farmers National Co. - Suite 100, 11516 Nicholas Street, Omaha, Nebraska 68154

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5 Board of Adjustment members

1 Copy to Tipton Conservative on 6/4/01

1 Copy Faxed to West Branch Times on 6/4/01

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CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

May 24, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on May 24, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Lenker, Beyer, Johnson, Penningroth and Hoy. Minutes from the last meeting held on April 26, 2001, were previously sent to the members. They were approved as presented.

The members then heard the following petitions:

1. Robert and Judy Wright, RFD, West Branch (Owners) - Requesting a Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance, and a variance of the front yard setback requirements in the A-1 Agricultural district. This dwelling will be located at the site of a mobile home which was removed in 1999, in the W 1/2 of the NW 1/4 of the SW 1/4, Section 15, T-80N, R-4W, in Gower Township.

There were no written or verbal objections on file for this petition. La Rue advised the members to make their decision in accordance with Chapter 17.18(2) for the Special Use Permit and Subparagraph 3 for the variance request.

Mr. Wright was present and presented pictures of the proposed site. He stated that there has been a trailer on the property since 1969 and is in the house yard and not the field. He stated that they will bring the septic system up to code. The previous trailer sat 21 feet from the edge of the road. Mr. Wright explained that they would like the new mobile home located on the same site because of the walnut trees located on the property. La Rue stated that because the trailer had been gone for over a year, the non-conforming permitted use section of the ordinance requires that the use be brought into compliance with the ordinance which is why a Special Use Permit is required. He then stated that in this district, dwellings are to have a 50 foot minimum front yard setback and Mr. Wright is requesting to be 21 feet from the road right-of-way. Therefore, the variance request is for 29 feet. This third dwelling will be less than 250 feet from the existing farm buildings. County Engineer, Don Torney, stated no objection to the variance. Mr. Wright stated that the mobile home is for his son. Chairperson Beyer reminded him that this Special Use Permit, if granted, is only for his son, and if the son moves, he could not keep the mobile home on the property to rent out. Mr. Wright said that he was aware of this and if his son moves out, the trailer will be removed. He was informed the S.U.P. will be subject to use by



the son and annual review. La Rue then read the ordinance sections pertaining to this petition. He stated that it is under Section E.7 that the variance request will be dealt with. The Board felt that since the concrete pad has been on the same site for a long period of time and the fact that they don't want to destroy mature trees could give the Board grounds to grant the variance. The existing driveway will also be utilized.

After further discussion, a motion was made by Johnson to grant a Special Use Permit for the third dwelling for use of the son only and subject to annual review. Lenker seconded the motion. Ayes all. Penningroth then made a motion to grant a variance of 29 feet on the front yard setback requirement. Hoy seconded the motion. Ayes all.

2. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Robert and Sherry Pearson (Leaser and Owners), 575 290th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 315 foot tall wireless communication tower on property located on Lots 13, 14 and 15 in the S 1/2 of the SE 1/4 of the SE 1/4, Section 1, T-79N, R-4W, in Springdale Township. Said property is zoned A-1 Agricultural.

La Rue informed the Board members that there were a number of objections to this petition. He then read another letter of objection received from a concerned resident of Springdale.

Matt Hickey, Attorney at Law, and Brad Quassas, Radio Frequency Engineer, were present to represent UNIsite's petition. Hickey stated that UNIsite is a company that was founded in 1994 as a result of the federal government wanting towers to begin to co-locate. He stated the government wanted to provide coverage for the entire country and have to fill out their own network. UNIsite seeks to reduce the number of towers by providing co-location. He stated that UNIsite, Inc. provide co-locatable structures that provide for present and future coverage holes as far as radio frequency goes. He stated that the most recent study of the industry shows that the government wants 100,000 sites by 2005. He also stated that by co-location, that number can be reduced. Once the decision was made where the best area was to go, and in accordance with Cedar County Ordinance #30, UNIsite, Inc., they were seeking to locate this particular site in an A-1 area, which he stated is a permitted use with a Special Use Permit. They determine where they can best provide coverage for the most amount of people and provide the most amount of locators on the towers. He feels that the Pearson site is a great location. UNIsite would rent a 100' x 100' parcel on the southeast portion of the property. Access would be an easement off 290th Street. He then stated that

co-location is what they are in the business of doing. He was asked if his company has attempted to co-locate. He stated that his company is in business of placing these towers for co-location. He also said that they do not go forward with construction until they have an interest in the site or a verbal commitment. He stated that they will not get any letter of intent from carriers until they get past a certain level of zoning. He stated that his company would not put out the money to construct the tower unless they felt it was an idealistic and necessary site. He stated that because of topography, some locations can only provide for 1 locator. His company will put four carriers on the tower. All health, nuisances, etc. are covered under insurance. He stated that the towers are designed to collapse upon themselves. FAA lighting requirements will be followed (white during day and red at night). He also stated that they can meet the setbacks for this tower. Penningroth questioned if the company would be bonded if it went bankrupt and the tower must be removed. La Rue stated that the ordinance does address the towers, transfer of or abandonment under Section 8. Johnson then questioned the height of 315 feet.

Mr. Hickey responded that they wanted the highest possible height because they want to eliminate the number of towers and to cover as much area as possible.

Brad Quassas then made a presentation on the blackboard. He stated that the frequency rate will determine where companies will locate on the tower. He said that UNIsite looks at frequencies around the area to determine the site of the tower. Their intention is to fill in the gaps. He stated that this property was selected for this reason.

Bob Bergmann then spoke on behalf of the concerned residents of Springdale. He expressed concerns about property values, chance of fire, its proximity to power lines, no trees to block the light, the fact that no companies have expressed interest in locating on the tower and whose responsibility it would be to take down the tower in case of bankruptcy. He also stated that the Scattergood tower only has one locator on it. He stated that he had obtained an elevation map which shows that this location has the lowest elevation within about three-fourths of a mile. Dick Saborin then expressed his concern regarding the tower. He stated that the tower will take away the heritage of their community. He doesn't want this tower to be a reference point. Another adjacent land owner expressed concern about land values and whether the guy wires are part of the structure. Hickey explained that the tower and guy wires are within the leased area and meet the setback requirements.

Mr. Hickey then rebutted the other concerns of the residents.



He stated that he had a real estate appraisal done and submitted as part of the record. As far as fire protection, Mr. Quassas stated that there will be very little voltage. Regarding the carriers on the tower, he stated that they do have interest in it. He then addressed the elevation map. He stated that the highest area does not mean better coverage. He said that they are looking for the maximum amount of coverage in relation to the towers that exist. He also stated that they can not locate elsewhere and provide maximum coverage. The objectors stated that they only had knowledge of this tower for two weeks. Mr. Hickey stated that they submitted their application according to the time lines and have abided by the ordinance guidelines. The objectors then inquired why this company wants to erect another tower when other towers in the area are not filled with co-locators. Mr. Hickey stated that the federal government is to blame when they issued the frequency licenses and said that everyone had to provide their own network. His proposed tower site will eliminate more towers from being erected in the future. Mr. Hickey stated that the towers already in the area were poorly designed and not co-locatable. He said that UNIsite is trying to come to town with a solution regarding tower proliferation. He also stated they get the most coverage by getting the most possible carriers on the tower by going as high as possible and, therefore, needing less towers.

Sterling Benz, Assistant County Attorney, advised the concerned residents that our ordinance is designed to encourage co-location. He stated that his concern is that UNIsite does not have any tenants yet for the proposed tower. A concerned resident stated that she would like proof that the existing tower in the area can not be added to. Mr. Hickey stated that they are trying to spread the area of coverage and that particular tower can only provide coverage for the existing circle around it. La Rue stated that Iowa Wireless had a hole there and a need in their grid which is why they requested their S.U.P. That tower was built to their specifications to the height so that they did not have to have an F.A.A. approval and have to have it lit. The Meixner tower site was then questioned as to why they were able to move the site when residents were concerned. La Rue stated that the company had four possible site locations on that particular property to fill the void they had and still be in the same cell. Therefore, they were able to move the location. A lifetime resident stated that she can not see that this particular location is the only site that can be used. Mr. Hickey stated that it is his testimony that this is the only site and that they have proof with radio frequency propagation maps. He stated that it is the only site that will provide seamless coverage by utilizing the middle tower. He stated again that the federal government says that there has to be

seamless coverage from New York to California and back. Robin Anderson who lives near Springdale stated that approving this S.U.P. would be in disrespect to the Springdale community. The concerned citizens stated that they have a right to request an independent study. Attorney Benz advised that the Board could adjourn the meeting to allow the residents to bring in additional information but a definite date must be set and good cause must be shown. Mr. Hickey stated that he did not believe that any independent study is required in the ordinance. Attorney Benz stated again his concern that UNIsite does not have tenants (signed contracts) yet. Therefore, he felt that the Board could consider that this fact distinguishes this from other applications the Board has had. Mr. Hickey responded that he wanted to state for the record that they do have interested parties. He stated that they would be willing to provide proof of a signed contract two weeks after receiving approval prior to getting a building permit. Chairperson Beyer questioned whether it would be unreasonable to allow the parties a month to bring in additional information. Attorney Benz stated that this is a quasi judicial proceeding and it is the Board's job to gather information to make a decision within the parameters of the ordinance. Board member Johnson stated that, speaking as an individual, he felt that the Board owed the residents the opportunity to present an alternative location which might be more acceptable to them. Mr. Hickey then stated that if that is the ruling, he would ask that a determination be made on this petition during this meeting. Chairperson Beyer stated that from what she is hearing at this meeting, the residents did not have enough time to put together an argument. Attorney Benz stated that it would be reasonable if the Board adjourned and grant a reasonable amount of time to continue this petition. Beyer then suggested continuance for 30 days to allow review of the materials. Mr. Hickey then stated that he wanted to go on record as objecting to this.

After further discussion, Penningroth made a motion to allow 30 days for the opposition to file and prepare a review of documents and 2 days for UNIsite's review and consider this petition again at the next meeting to be held on June 28, 2001. Lenker seconded the motion. Ayes all. Mr. Hickey again stated that he wished to go on record as objecting. He stated that he felt UNIsite had submitted creditable evidence. Attorney Benz questioned his reason for objecting to which Mr. Hickey stated that he felt prejudice was involved and an unreasonable delay.

3. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Ronald and Nancy Allmandinger (Leaser and Owners), 2196 Taylor Avenue, Wilton, Iowa - Requesting a Special Use Permit



authorizing the location of a 315 foot tall wireless communication tower on property located in the S 1/2 of the SW 1/4 of the SW 1/4, Section 20, T-79N, R-1W, in Farmington Township. Said property is zoned A-1 Agricultural.

La Rue informed the Board members that there were no written or verbal objections on file for this petition. He also advised the Board to consider this petition in accordance with Chapter 17.18(2) of the Zoning Ordinance. He stated that the Planning and Zoning Commission recommended approval of this petition to the Board of Adjustment.

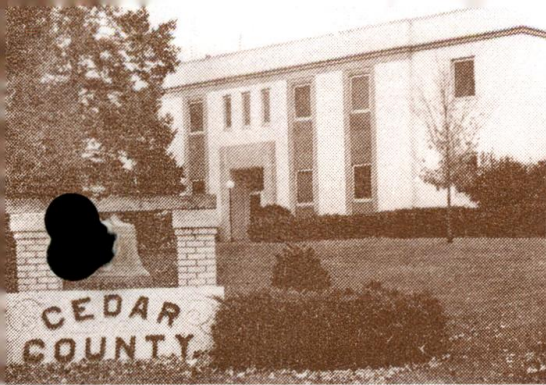
Matt Hickey, Attorney representing UNIsite, Inc., informed the members that this tower will provide radio frequency to cover to the east of an existing tower. He stated that each property has less than prime C.S.R. The tower will be self supported.

After a brief discussion, Hoy made a motion to approve the Special Use Permit request for construction of the tower subject to annual review. Penningroth seconded the motion. Ayes all.

With no further business to be discussed at this time, Penningroth made a motion for adjournment. Lenker seconded the motion. Meeting was adjourned.

Claudia Bay  
Chairperson

Sharon Laucamp  
Secretary



**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

May 7, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, May 24, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petitions:

1. Robert and Judy Wright, RFD, West Branch (Owners) - Requesting a Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance, and a variance of the front yard setback requirements in the A-1 Agricultural district. This dwelling will be located at the site of a mobile home which was removed in 1999, in the W 1/2 of the NW 1/4 of the SW 1/4, Section 15, T-80N, R-4W, in Gower Township.
2. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Robert and Sherry Pearson (Leaser and Owners), 575 290th Street, West Branch, Iowa - Requesting a Special Use Permit authorizing the location of a 315 foot tall wireless communication tower on property located on Lots 13, 14 and 15 in the S 1/2 of the SE 1/4 of the SE 1/4, Section 1, T-79N, R-4W, in Springdale Township. Said property is zoned A-1 Agricultural.
3. UNIsite, Inc., Burr Ridge, Illinois (Leasee) and Ronald and Nancy Allmandinger (Leaser and Owners), 2196 Taylor Avenue, Wilton, Iowa - Requesting a Special Use Permit authorizing the location of a 315 foot tall wireless communication tower on property located in the S 1/2 of the SW 1/4 of the SW 1/4, Section 20, T-79N, R-1W, in Farmington Township. Said property is zoned A-1 Agricultural.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petitions. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator



Copies sent out on 5/9/01 to the following:

1. Robert & Judy Wright - 1434 Plato Road, West Branch, Iowa 52358 - Certified
  2. Randy Wright - 1446 Plato Road, West Branch, Iowa 52358
  3. Brent Donohoe - 1453 Plato Road, West Branch, Iowa 52358
- 

1. Matthew J. Hickey - Richard Connor Riley & Associates, LLD., 7600 S. County Line Road, Burr Ridge, Illinois 60521 - Certified
  2. Bob Pearson - 575 290th Street, West Branch, Iowa 52358 - Certified
  3. Herschal & Harriet Gray - 1861 Garfield, West Branch, Iowa 52358
  4. Kenneth & Janice Mather - 799 290th Street, West Liberty, Iowa 52776
  5. Herman Paulsen - 569 290th Street, West Branch, Iowa 52358
  6. Darin & Sherry Wolf - 1910 Garfield Avenue, West Liberty, Iowa 52776
  7. Leone & Joseph Maher - 126 Foster Drive, West Branch, Iowa 52358
  8. Anders Mather Trust - 683 290th Street, West Liberty, Iowa 52776
  9. Roscoe & Helen Millet - 1772 Grant Avenue, West Branch, Iowa 52358
  10. Bob & Louis Massey - 570 290th Street, West Branch, Iowa 52358
  11. Cynthia Green - 576 290th Street, West Branch, Iowa 52358
  12. Russ Leighty - 540 290th Street, West Branch, Iowa 52358 (Requested a copy sent to him)
- 

1. Ronald & Nancy Almandinger - 2196 Taylor Avenue, Wilton, Iowa 52778 - Certified
  2. Harry L. Moeller Revocable Trust - 1005 East Street, Wilton, Iowa 52778
  3. Ronald & Beakay Bohnsack - 1947 325th Street, Wilton, Iowa 52778
  4. Donald & Janet Guttenfelder Trust - 108 7th Street, Durant, Iowa 52747
  5. Thomas & Dawn Luethye - 2225 Taylor Avenue, Wilton, Iowa 52778
  6. Helen Reynolds - 8057 Rainbow Road, City Lake Shore, MN 56458
  7. William & Linda Loving - 2171 Union Avenue, Wilton, Iowa 52778
  8. Ricky Hunt - 2171 Taylor Avenue, Wilton, Iowa 52778
- 

- 1 Copy to Tipton Conservative on 5/7/01
- 1 Copy Faxed to West Branch Times on 5/7/01
- 1 Copy Faxed to Advocate News on 5/7/01
- 5 Board of Adjustment Members
- 2 File Copies
- 2 Copies for Bulletin Boards



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

May 24, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following requests:
  - A. Robert and Judy Wright - Special Use Permit
  - B. UNIsite, Inc. - Communication Tower
  - C. UNIsite, Inc. - Communication Tower
- III. Discussion
- IV. Other
- V. Conclusion



# ***SPECIAL REPORT!***

## **Communication Towers:**

### **THE SUBSTANTIAL EVIDENCE STANDARD OF THE TELECOMMUNICATIONS ACT OF 1996**

*by Alexander D. Ruskell, Esq.*

Congress enacted the Telecommunications Act of 1996 to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.

The Act preserves the authority of state and local governments to regulate the placement and construction of wireless service towers. However, it also limits the manner in which state and local governments may exercise that authority, providing state and local governments may not deny construction of a wireless facility unless the denial is in writing and supported by substantial evidence contained in the written record. Also, the denial cannot have the effect of prohibiting the provision of personal wireless services. Finally, the Act prohibits discrimination among wireless service providers, requires local governments to act on permit applications within a reasonable time period, and disallows local governments from considering the environmental effects of radio frequency emissions.

Much of the time, after a permit application is denied, the permit applicant will attack the local government's decision by claiming it is unsupported by substantial evidence. Substantial evidence does not mean a large or considerable amount of evidence, but rather such evidence as a reasonable mind might accept as adequate to support a conclusion. Substantial evidence is more than a scintilla, but less than a preponderance. The reviewing court also grants a degree of deference to the decisions of local decision-making authorities. However, the substantial evidence standard must be applied using common sense standards of reason.

In *Telespectrum Inc. v. Public Service Commission of Kentucky*, the court ordered the local authority to approve a tower permit because it found the original denial was not based on substantial evidence. The decision to deny the application rested on the testimony and a letter from the Chambers, whose home was approximately 412 feet from the proposed site of the tower. The only recorded opposition to the site was the Chambers' concerns they would be exposed to harmful microwave emissions and that their property value would diminish.

The court believed, while the Chambers may have been credible, sympathetic witnesses, their testimony was no more than unsupported opinion that there were alternative sites available. Importantly, under the Act, concerns of health risks due to emissions could not constitute substantial evidence in support of a denial.

The Fourth Circuit found sufficient evidence existed to deny a permit application from 360 Degrees Communications Company of

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Charlottesville. The proposed tower would have risen from the ridgeline of a mountain and extended 40 to 50 feet above the tree canopy. Except for the property owner who intended to lease the property to build the tower, the county's citizens were unanimous in their opposition to the tower siting. Forty citizens signed a petition in opposition, while 23 spoke in opposition during hearings on the proposal. Most importantly, the proposed tower would be inconsistent with the county's comprehensive plan, open space plan, and zoning ordinance, which discouraged activities that would alter the continuity of the ridgeline.

In a Pennsylvania case, the tower applicant applied for a variance necessary for construction of the tower. Under the local ordinance, variances could only be granted if the applicant established unique physical characteristics of the property inflicted undue hardship, the property could not be developed in strict conformity with the ordinance, the applicant did not create the hardship, the essential character of the neighborhood would not be changed, and the variance requested was the minimum necessary to afford relief.

At the hearing, the tower applicant provided almost no evidence about the physical characteristics of the property in question. Instead of focusing on the characteristics of the property, the applicant fixed on the quality of service it could provide customers. In particular, it argued it needed the variance to "provide seamless coverage as required under its FCC license." The applicant never provided a description of how the particular land in question was unique and how its alleged hardship was directly related to the unique characteristics of the land.

The applicant's tower design called for a tower height nearly five times the height restriction in the district. It presented no evidence explaining why a shorter tower would prevent it from closing its gap in service. It showed no evidence of efforts to acquire other properties, locate on other sites, or explore alternative tower designs. Ultimately, for the above reasons, the local authority correctly denied the applicant's permit application.

The U.S. District Court for the Southern District of California ruled a decision must be based on more than just residents' concern about neighborhood aesthetics. However, the court ruled the City of El Cajon properly denied a permit application because the proposed tower would create safety and security problems, which was a question of police power, not simply another "Not in My Backyard" complaint. Both the city and the applicant agreed the proposal was more compatible with commercially zoned properties than the suggested residentially zoned district. The court was also presented with a petition signed by 212 residents opposing the project. Finally, the residents' experiences with another wireless provider made their observations on visual blight, noise, etc., more credible since they were based on personal experience.

The ultimate lesson is that if you choose to deny a permit application for a wireless communications tower, make sure you have ample reasonable, credible, and clear evidence supporting your decision.

#### Citations:

*Telespectrum Inc. v. Public Service Commission of Kentucky*, 6th U.S. Circuit Court of Appeals, Nos. 99-5822, 99-5871, & 99-5919 (2000).

*The 6th Circuit has jurisdiction over Kentucky, Michigan, Ohio, and Tennessee.*

*360 Degrees Communications Company of Charlottesville v. The Board of Supervisors of Albemarle County*, 4th U.S. Circuit Court of Appeals, Nos. 99-1816 & 99-1897 (2000).

*The 4th Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.*

*APT Pittsburgh Limited Partnership v. Lower Yoder Township*, U.S. District Court for the Western Dist. of Pennsylvania, No. 98-187J (2000).

*Airtouch Cellular v. The City of El Cajon*, U.S. District Court for the Southern Dist. of California, No. 99-1801-B (LAB) (2000).



# PUBLIC NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, April 26, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petition:

1. Arnold "Bud" Paulsen, Cedar Rapids (Owner) - Requesting a Special Use Permit authorizing the location of a storage facility on property located in the NE 1/4 of the SE 1/4, Section 25, T-80N, R-4W, in Gower Township, consisting of 1.00 acres more or less. Said property is presently zoned A-1 Agricultural.

2. Tom Cannon, RFD, West Branch (Owner) - Requesting a variance of the separation requirements between a Public Hunting Area and the proposed construction of a residential dwelling on property located in the NW 1/4 of the SW 1/4 of the SW 1/4 Section 18, T-80N, R-3W, in Gower Township, consisting of 6.63 acres more or less. Said property is presently zoned R-1 Suburban Residential.

At this time, the Board shall also consider the annual review of the following Home Occupation/Industry and Special Use Permits which have been granted to the following:

1. Dennis and Dianna Hodgden, RR, Tipton (Owners) - A Special Use Permit granted authorizing the commercial extraction of limestone on property located in the NE 1/4, NE 1/4, Section 22, T-80N, R-3W, in Center West Township, consisting of 5.00 acres more or less.

2. Joe and Carolyn Kilburg, RR, Lisbon (Owners) - A Home Occupation Permit granted for the purpose of operating a photography studio in their home on property located in Lot 6, in the NE 1/4, NW 1/4, Section 18, T-82N, R-4W, in Pioneer Township. Lot 6 is currently zoned R-1 Suburban Residential and consists of 1.615 acres more or less.

3. Ward Skinner Estate, RR, Wheatland (Owner) and Wendling Quarries, Inc., DeWitt - A Special Use Permit granted authorizing the commercial extraction of sand and gravel on property located in the S 1/2, SW 1/4, Section 11, T-82N, R-1W, in Massillon Township, consisting of 103 acres more or less.

4. Patty Laing, RFD, West Branch (Owner) - A permit granted authorizing a Home Occupation Permit for the purpose of operating a beauty salon in her home located in the SE 1/4, SW 1/4, Section 14, T-80N, R-4W, in Gower Township.

5. Gary Anderson, RR, Tipton - A permit granted authorizing the operation of a yard waste composting business on property located in the SW 1/4, SE 1/4, Section 28, T-80N, R-2W, in Center East Township.

6. Great Lakes Chemical Corporation, Omaha, Nebraska - A permit granted authorizing the stockpiling of corn cobs on property located in the NW 1/4, NW 1/4, Section 33, T-82N, R-1W, in Massillon Township.

7. Neuzeil, J.W. Ranch, RR, Mechanicsville - A permit granted authorizing the location of seasonal rodeo activities on his property located in the NW 1/4, SE 1/4, Section 14, T-81N, R-4W, in Linn Township, consisting of 47.77 acres more or less.

8. Trilby Klavemann, RR, Bennett (Owner) - A permit granted authorizing the location of a commercial dog breeder kennel on her property located in Tract B, NW 1/4, NE 1/4, Section 6, T-80N, R-1W, in Inland Township, composed of 1.00 acres more or less.

9. Galen Conrad, RR, Lowden - A permit granted authorizing the restoration of salvaged automobiles on his property located in the NE 1/4, SE 1/4, Section 1, T-81N, R-1W, in Springfield Township, composed of 0.523 acres more or less.

10. Tom Spear, RR, Tipton (Owner) - A permit granted authorizing a garage and service center for equipment used by his business, Total Lawn Care, in Lot A, NW 1/4, NE 1/4, Section 8, T-80N, R-2W, in Center East Township, consisting of 3.00 acres more or less.

11. Loretta Martin, RR, Lowden (Owner) - A permit granted authorizing the operation of a commercial dog breeder kennel on her property located in Lot A, SW 1/4, SE 1/4, Section 19, T-82N, R-1W, in Massillon Township, composed of approximately 3.13 acres.

12. Donald and Scheryl Grant, RR, Bennett (Owners) - A permit granted authorizing the operation of a commercial dog breeder kennel on their property located in Lot E, SW 1/4, SE 1/4, Section 33, T-81N, R-1W, in Springfield Township, consisting of 10.00 acres more or less.

13. Elaine Berry, RR, Clarence (Owner) - A Special Use Permit granted authorizing the location of a commercial dog breeding kennel on property located in the SW 1/4, NE 1/4, Section 4, T-81N, R-2W, in Fairfield Township, consisting of 2.179 acres more or less.

14. Cedar County Cooperative, Tipton (Contract Buyer) - A Special Use Permit granted authorizing the expansion of the Agricultural Business. The property is located in the SW 1/4, NW 1/4, Section 20, T-80N, R-4W, in Gower Township, consisting of 20.00 acres more or less.

15. Sandra Langenberg, RR, West Branch (Owner) - A Home Occupation Permit granted for the purpose of operating a Day Care Home on property located in Lot 2, in the NW 1/4, SW 1/4, Section 32, T-80N, R-4W, in Gower Township, consisting of 1.84 acres more or less. Lot 2 is currently zoned R-1, Suburban Residential.

16. Duffee Grain, Inc., Wilton (Owner) - A permit granted authorizing the storage and drying of grain on their property located in the SW 1/4, NW 1/4, Section 27, T-79N, R-4W, in Springdale Township, consisting of 8.43 acres more or less.

17. Mike and Debra Bedford, RFD, Stanwood (Owners) - A Special Use Permit granted for the purpose of operating a dog boarding and breeding kennel on property located in Parcel A in the NE 1/4, SW 1/4, Section 21, T-82N, R-2W, in Dayton Township, consisting of 2.13 acres more or less.

18. United States Cellular Communications, Davenport, Iowa - A Special Use Permit granted

authorizing the location of a cellular communication tower on property located in the SE 1/4, SW 1/4, Section 12, T-79N, R-2W, in Sugar Creek Township, consisting of 5.65 acres more or less.

19. Sherry Smahaj, RFD, Lowden (Owner) - A Home Industry Permit granted for the purpose of operating a floral design business on her property located in the NW 1/4, NE 1/4, Section 10, T-81N, R-1W, in Springfield Township, consisting of 10.00 acres more or less.

20. Robert Menke, RFD, Wilton (Owner) - A Special Use Permit authorizing the location of an agricultural trailer sales and display area on property located in the NE 1/4, SE 1/4, Section 33, T-79N, R-1W, in Farmington Township. This parcel consists of 38.00 acres more or less.

21. Brown Farms, Inc., RR, Mechanicsville (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm on property located in the NW 1/4, NW 1/4, Section 22, T-82N, R-4W, in Pioneer Township.

22. River Valley Cooperative, RR, Wilton, (Owner) - A Special Use Permit authorizing the location of a bulk anhydrous ammonia storage site and chemical mixing site on property located in the S 1/2, SW 1/4, Section 2, T-79N, R-1W, in Farmington Township, in the unincorporated town of Sunbury.

23. Mike and Gail Yates, RR, Olin (Owners) - A Home Occupation Permit authorizing the operation of a used book store and a Home Industry Permit authorizing a welding and fabrication shop on their property located in Parcel A in the E 1/2, SW 1/4, Section 11, T-82N, R-3W, in Fremont Township, consisting of 6.00 acres more or less.

24. Randy and Julie Kruse, RR, Stanwood (Owners) - A Home Occupation/Industry Permit authorized for the operation of a retail food store on their property located in the SW 1/4, NW 1/4, Section 12, T-81N, R-3W, in Red Oak Township. This property is currently zoned A-1 Agricultural.

25. Iowa Wireless, Des Moines, Iowa - A Special Use Permit authorizing the locations of a 195 foot personal communication services (P.C.S.) tower on property located in the NE 1/4, NE 1/4, Section 23, T-79N, R-2W, in Sugar Creek Township, consisting of 29.78 acres more or less.

26. Iowa Wireless, Des Moines, Iowa - A Special Use Permit authorizing the location of a 199 foot personal communication service (P.C.S.) tower on property located in the N 1/2, SE 1/4, SE 1/4, Section 2, T-79N, R-4W, in Springfield Township, consisting of 74.5 acres more or less.

27. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the NW 1/4, SE 1/4, Section 17, T-79N, R-2W, in Rochester Township, consisting of 2.774 acres more or less.

28. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the SE 1/4, SE 1/4, Section 9, T-79N, R-4W, in Springdale Township, consisting of 2.774 acres more or less.

29. Northern Border Pipeline Company,

Omaha, Nebraska - A Special Use Permit authorizing the location of a communication tower on property located in the NE 1/4, NE 1/4, SW 1/4, Section 30, T-79N, R-1W, in Farmington Township, consisting of 6.16 acres more or less.

30. Debra Nash, RFD, West Branch - A Home Occupation Permit for the purpose of operating a massage therapy business in her home on property located in Lot A, in the SE 1/4, SW 1/4, Section 31, T-80N, R-3W, in Iowa Township, on property consisting of 6.37 acres more or less.

31. Larry and Evelyn Beaver, RFD, West Liberty - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, NE 1/4, Section 19, T-79N, R-3W, in Iowa Township.

32. Cecil and Joanne Williams, RR, Tipton (Owners) - A Home Occupation Permit authorizing the operation of a bait shop in their attached garage and variance on the sign requirements on property located in the southeasterly 14 feet of Lot 3, Lots 1 and 2, part of Lot 8, Block 33, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, in the unincorporated town of Rochester. Said property is currently zoned R-2 Urban Residential.

33. John Moffitt, RR, Mechanicsville (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, SE 1/4, Section 14, T-82N, R-4W, in Pioneer Township.

34. Kun Chae Bae Trust and KM Communications, Skokie, IL (Contract Buyer) - A Special Use Permit authorizing the location of a 1,459 foot communication tower and broadcast station on property located in the S 1/2, NE 1/4, Section 19, T-80N, R-4W, in Gower Township, on a parcel consisting of 68.83 acres more or less.

35. Cedar County P.C.S., Clarence, Iowa - A Special Use Permit authorizing the location of a 190 foot personal communication services (P.C.S.) tower on property located in the NE 1/4, SW 1/4, NE 1/4, Section 19, T-82N, R-3W, in Fremont Township, consisting of 60.00 acres more or less.

36. James and Adrienne Mills, RFD, Tipton - A Special Use Permit authorizing the location of a dog kennel on property located in Lot 1 in the N 1/2, SW 1/4, Section 26, T-81N, R-2W, in Fairfield Township, consisting of 4.12 acres more or less. Said Lot 1 is presently zoned A-1 Agricultural.

37. Lois Hanser, RFD, Tipton (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This manufactured home is located in the SW 1/4, NW 1/4, Section 2, T-79N, R-3W, in Rochester Township, on a 90.00 acre more or less farm.

38. Donald and Sharon Stiff, RFD, Tipton (Owners) - A Special Use Permit authorizing the location of a wood crafts shop in their home on property located in Lots 6, 7 and 8, Block 19, in the

SW 1/4, SE 1/4, Section 2, T-79N, R-3W, Rochester Township, in the unincorporated town of Rochester, consisting of 0.54 acres more or less. Said property is currently zoned R-2 Urban Residential.

39. Eugene Eiselstein, RFD, Tipton (Owner) - A Home Industry Permit for the purpose of conducting a light automotive repair service on property located in Lot 14, Springvalley Estates, Part II, in the NW 1/4, Section 12, T-79N, R-3W, in Rochester Township, consisting of 3.89 acres more or less. Said property is currently zoned R-1 Suburban Residential.

40. Eastern Iowa Drainage Services, RFD, Lowden (Owner) - A Special Use Permit for the purpose of conducting a farm service and tiling business in accordance with Chapter 5, A-1 Agricultural District, Section D1 of the Cedar County Zoning Ordinance, on property located in Parcel A, NW 1/4, NW 1/4, Section 11, T-81N, R-1W, in Springfield Township. Said parcel of land consists of 6.989 acres more or less.

41. Mike Moore, Tipton (Contract Buyer) - A Special Use Permit granted authorizing the location of a storage rental facility on property located in the NW 1/4, NW 1/4, Section 12, T-80N, R-3W, in Center West Township, consisting of 1.00 acres more or less. Said property is currently zoned A-1 Agricultural.

42. Richard Kordick, Kordick Surveying and Engineering, RFD, Tipton (Owner) - A Home Occupation Permit granted for the purpose of operating a surveying and civil engineering business in his home on property located in the SE 1/4, NE 1/4 and the NE 1/4, SE 1/4, Section 18, T-81N, R-3W, in Red Oak Township, consisting of 11.87 acres more or less. Said property is currently zoned A-1 Agricultural.

43. Frankie and Patricia Lovell, RFD, Tipton (Owners) - A Home Occupation Permit granted for the purpose of operating a vinyl graphics business in their home on property located in the northwest 46 feet of Lot 3 and Lot 4, Block 33, in the unincorporated town of Rochester, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, consisting of 0.39 acres more or less. Said property is presently zoned R-2 Urban Residential.

44. Frankie and Patricia Lovell, RFD, Tipton (Owners) - A Home Industry Permit granted for the purpose of operating a snowmobile parts and repair service in an accessory structure located on Lot 5, Block 33, in the unincorporated town of Rochester, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, consisting of 0.19 acres more or less. Said property is currently zoned R-2 Urban Residential.

At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petitions. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil LaRue  
Zoning Administrator

West Branch  
Tipton  
4/12/01



CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

April 26, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on April 26, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Lenker, Johnson, Penningroth and Hoy. Member absent was Beyer.

Penningroth presided as chairperson in the absence of Beyer and called the meeting to order at 3:05 p.m. Minutes from the last meeting held on January 25, 2001, were previously sent to the members. They were approved as written.

The members then heard the following petitions:

1. Arnold "Bud" Paulsen, Cedar Rapids (Owner) - Requesting a Special Use Permit authorizing the location of a storage facility on property located in the NE 1/4 of the SE 1/4, Section 25, T-80N, R-4W, in Gower Township, consisting of 1.00 acres more or less. Said property is present zoned A-1 Agricultural.

The members were informed that this property is located on the Cedar Valley blacktop and was previously the site of the old radar station. A letter received from Steve and Theresa Lyons, adjoining property owners, was read. In their letter they stated that they did not have an objection to the Special Use Permit request but did want a restriction on storage (to be inside the building) and the property to be kept weed free and well maintained. The letter from the County Engineer stated that the existing entrance is adequate and he had no objections to Mr. Paulsen's request.

Mr. Paulsen was present and informed the Board members that he acquired the property from his stepfather's estate about a year ago. He has acquired a number of old cars and has a lawn care service in Cedar Rapids. He would like to build a 30' x 50' building directly behind the present block building for the purpose of a storage facility for his cars and lawn care equipment. He will not do any auto repair or create a junk yard. Mr. Paulsen's property is enclosed with a chain link fence.

La Rue advised the members to consider this request in accordance with Chapter 17.18(2) of the Zoning Ordinance. After a brief discussion, Lenker made a motion to grant the Special Use Permit and that Mr. Paulsen keep in compliance with Chapter 17.18(2) of the Zoning Ordinance and that there is to be no outside storage on the property. Hoy seconded the motion. Ayes all. This Special Use Permit will be subject to annual review.



2. Tom Cannon, RFD, West Branch (Owner) - Requesting a variance of the separation requirements between a Public Hunting Area and the proposed construction of a residential dwelling on property located in the NW 1/4 of the SW 1/4 of the SW 1/4, Section 18, T-80N, R-3W, in Gower Township, consisting of 6.63 acres more or less. Said property is presently zoned R-1 Suburban Residential.

There were no written or verbal objections on file for this petition. La Rue advised the members to make their decision in accordance with Chapter 17.18(3) of the Zoning Ordinance. A letter received from the County Engineer was read and stated no objections as the existing entrance is adequate. La Rue then read a letter received from the Cedar County Conservation Board. The Conservation Board stated that they did not object to Mr. Cannon moving the location of his house up to 200 feet straight west of its current location as long as the variance is not transferable if the house is not built before title to the land changes hands.

Mr. Cannon was present and explained why he wanted to move the location of the residence. He stated that he wishes to replace the existing trailer with a house built approximately 200 feet due west of where the trailer is located now. He stated that he wanted to move the location which would create an open area to allow friends and relatives to camp, create a noise barrier between the house and the adjacent county road and a septic system that would not require a lift station. La Rue informed the members that he reviewed this request with the County Attorney's Office. Mr. Cannon's property was rezoned to R-1 in 1971. The current location of the trailer could not be stopped but a variance is required if Mr. Cannon wants to move the location of the residence. The 200 yard separation distance requirement was put into the Code of Iowa about 15 years ago. It was noted that there would not be too much of a greater increased risk and a slight potential of liability. This would place more responsibility on the Conservation Board. County Attorney Lee Beine was present and suggested that intermittent signs be placed in the hunting area. Rick Rouse, Executive Director of the Conservation Board said that this could be done. Attorney Beine then stated that signs should be placed at all public hunting areas which have a residence within 200 yards.

After further discussion, Johnson made a motion to approve Mr. Cannon's variance request. Hoy seconded the motion. Ayes all.

The Board next conducted their annual review of the Home Occupation/ Industry and Special Use Permits which had been previously granted to the following:

1. Dennis and Dianna Hodgden, RR, Tipton (Owners) - A Special Use Permit granted authorizing the commercial extraction of limestone on property located in the NE 1/4, NE 1/4, Section 22, T-80N, R-3W, in Center West Township, consisting of 5.00 acres more or less.
2. Joe and Carolyn Kilburg, RR, Lisbon (Owners) - A Home Occupation Permit granted for the purpose of operating a photography studio in their home on property located in Lot 6, in the NE 1/4, NW 1/4, Section 18, T-82N, R-4W, in Pioneer Township. Lot 6 is currently zoned R-1 Suburban Residential and consists of 1.615 acres more or less.
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more or less.

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24. Randy and Julie Kruse, RR, Stanwood (Owners) - A Home Occupation/Industry Permit authorized for the operation of a retail food store on their property located in the SW 1/4, NW 1/4, Section 12, T-81N, R-3W, in Red Oak Township. This property is currently zoned A-1 Agricultural.
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N 1/2, SE 1/4, SE 1/4, Section 2, T-79N, R-4W, in Springdale Township, consisting of 74.5 acres more or less.

27. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the NW 1/4, SE 1/4, Section 17, T-79N, R-2W, in Rochester Township, consisting of 2.774 acres more or less.
28. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the SE 1/4, SE 1/4, Section 9, T-79N, R-4W, in Springdale Township, consisting of 2.774 acres more or less.
29. Northern Border Pipeline Company, Omaha, Nebraska - A Special Use Permit authorizing the location of a communication tower on property located in the NE 1/4, NE 1/4, SW 1/4, Section 30, T-79N, R-1W, in Farmington Township, consisting of 6.16 acres more or less.
30. Debra Nash, RFD, West Branch - A Home Occupation Permit for the purpose of operating a massage therapy business in her home on property located in Lot A, in the SE 1/4, SW 1/4, Section 31, T-80N, R-3W, in Iowa Township, on property consisting of 6.37 acres more or less.
31. Larry and Evelyn Beaver, RFD, West Liberty - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, NE 1/4, Section 19, T-79N, R-3W, in Iowa Township.
32. Cecil and Joanne Williams, RR, Tipton (Owners) - A Home Occupation Permit authorizing the operation of a bait shop in their attached garage and variance on the sign requirements on property located in the southeasterly 14 feet of Lot 3, Lots 1 and 2, part of Lot 8, Block 33, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, in the unincorporated town of Rochester. Said property is currently zoned R-2 Urban Residential.
33. John Moffit, RR, Mechanicsville (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, SE 1/4, Section 14, T-82N, R-4W, in Pioneer Township.
34. Kun Chae Bae Trust and KM Communications, Skokie, IL (Contract Buyer) - A Special Use Permit authorizing the location of a 1,459 foot communication tower and broadcast station on property located in the S 1/2, NE 1/4,



Section 19, T-80N, R-4W, in Gower Township, on a parcel consisting of 68.83 acres more or less.

35. Cedar County P.C.S. - Clarence, Iowa - A Special Use Permit authorizing the location of a 190 foot personal communication services (P.C.S.) tower on property located in the NE 1/4, SW 1/4, NE 1/4, Section 19, T-82N, R-3W, in Fremont Township, consisting of 60.00 acres more or less.
36. James and Adrienne Mills, RFD, Tipton - A Special Use Permit authorizing the location of a dog kennel on property located in Lot 1 in the N 1/2, SW 1/4, Section 26, T-81N, R-2W, in Fairfield Township, consisting of 4.12 acres more or less. Said Lot 1 is presently zoned A-1 Agricultural.
37. Lois Hanser, RFD, Tipton (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This manufactured home is located in the SW 1/4, NW 1/4, Section 2, T-79N, R-3W, in Rochester Township, on a 90.00 acre more or less farm.
38. Donald and Sharon Stiff, RFD, Tipton (Owners) - A Home Occupation Permit authorizing the operation of a wood crafts shop in their home on property located in Lots 6, 7 and 8, Block 19, in the SW 1/4, SE 1/4, Section 2, T-79N, R-3W, Rochester Township, in the unincorporated town of Rochester, consisting of 0.54 acres more or less. Said property is currently zoned R-2 Urban Residential.
39. Eugene Eiselstein, RFD, Tipton (Owner) - A Home Industry Permit for the purpose of conducting a light automotive repair service on property located in Lot 14, Springvalley Estates, Part II, in the NW 1/4, NE 1/4, Section 12, T-79N, R-3W, in Rochester Township, consisting of 3.89 acres more or less. Said property is currently zoned R-1 Suburban Residential.
40. Eastern Iowa Drainage Services, RFD, Lowden (Owner) - A Special Use Permit granted for the purpose of conducting a farm service and tiling business in accordance with Chapter 5, A-1 Agricultural District, Section D1 of the Cedar County Zoning Ordinance, on property located in Parcel A, NW 1/4, NW 1/4, Section 11, T-81N, R-1W, in Springfield Township. Said parcel of land consists of 6.989 acres more or less.
41. Mike Moore, Tipton (Contract Buyer) - A Special Use Permit granted authorizing the location of a storage rental facility on property located in the NW 1/4, NW 1/4, Section 12, T-80N, R-3W, in Center West Township,

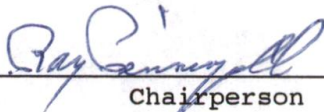


consisting of 1.00 acres more or less. Said property is currently zoned A-1 Agricultural.

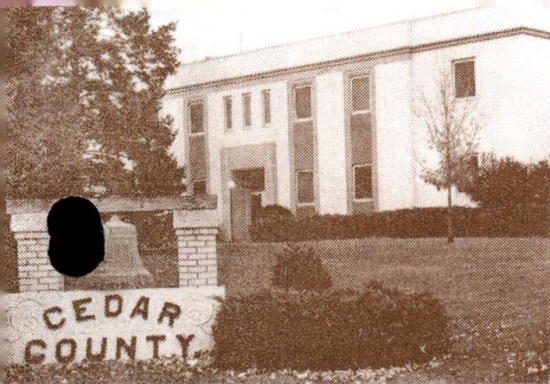
42. Richard Kordick, Kordick Surveying and Engineering, RFD, Tipton (Owner) - A Home Occupation Permit granted for the purpose of operating a surveying and civil engineering business in his home on property located in the SE 1/4, NE 1/4 and the NE 1/4, SE 1/4, Section 18, T-81N, R-3W, in Red Oak Township, consisting of 11.87 acres more or less. Said property is currently zoned A-1 Agricultural.
43. Frankie and Patricia Lovell, RFD, Tipton (Owners) - A Home Occupation Permit granted for the purpose of operating a vinyl graphics business in their home on property located in the northwesterly 46 feet of Lot 3 and Lot 4, Block 33, in the unincorporated town of Rochester, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, consisting of 0.39 acres more or less. Said property is presently zoned R-2 Urban Residential.
44. Frankie and Patricia Lovell, RFD, Tipton (Owners) - A Home Industry Permit granted for the purpose of operating a snowmobile parts and repair service in an accessory structure located on Lot 5, Block 33, in the unincorporated town of Rochester, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, consisting of 0.19 acres more or less. Said property is currently zoned R-2 Urban Residential.

La Rue informed the members that no complaints had been received regarding any of the above Home Occupation/Industry and Special Use Permits and stated that all of them are abiding by terms of agreement. He recommended to approve renewal of them. The Board members decided to consider them in a blanket motion. Lenker then made a motion to approve renewal of Home Occupation/Industry and Special Use Permits for #1 through #44. Hoy seconded the motion. Ayes all.

With no further business to be discussed at this time, the meeting was adjourned. Meeting adjourned at 3:45 p.m.

  
Chairperson

  
Secretary



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

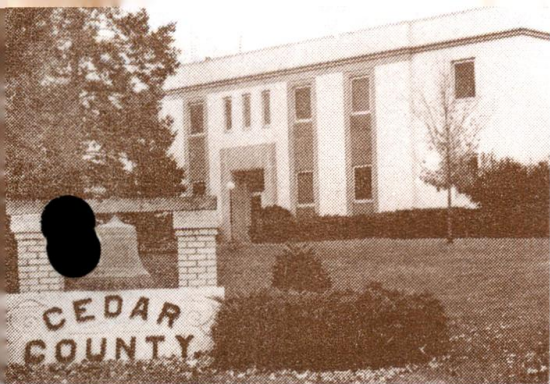
Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

April 26, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of the following requests:
  - A. Arnold Paulsen
  - B. Tom Cannon
- III. Discussion
- IV. Conclusion





**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

April 9, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, April 26, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time, the Board will consider the following petition:

1. Arnold "Bud" Paulsen, Cedar Rapids (Owner) - Requesting a Special Use Permit authorizing the location of a storage facility on property located in the NE 1/4 of the SE 1/4, Section 25, T-80N, R-4W, in Gower Township, consisting of 1.00 acres more or less. Said property is presently zoned A-1 Agricultural.
2. Tom Cannon, RFD, West Branch (Owner) - Requesting a variance of the separation requirements between a Public Hunting Area and the proposed construction of a residential dwelling on property located in the NW 1/4 of the SW 1/4 of the SW 1/4, Section 18, T-80N, R-3W, in Gower Township, consisting of 6.63 acres more or less. Said property is presently zoned R-1 Suburban Residential.

At this time, the Board shall also consider the annual review of the following Home Occupation/Industry and Special Use Permits which have been granted to the following:

1. Dennis and Dianna Hodgden, RR, Tipton (Owners) - A Special Use Permit granted authorizing the commercial extraction of limestone on property located in the NE 1/4, NE 1/4, Section 22, T-80N, R-3W, in Center West Township, consisting of 5.00 acres more or less.
2. Joe and Carolyn Kilburg, RR, Lisbon (Owners) - A Home Occupation Permit granted for the purpose of operating a photography studio in their home on property located in Lot 6, in the NE 1/4, NW 1/4, Section 18, T-82N, R-4W, in Pioneer Township. Lot 6 is currently zoned R-1 Suburban Residential and consists of 1.615 acres more or less.

3. Ward Skinner Estate, RR, Wheatland (Owner) and Wendling Quarries, Inc., De Witt - A Special Use Permit granted authorizing the commercial extraction of sand and gravel on property located in the S 1/2, SW 1/4, Section 11, T-82N, R-1W, in Massillon Township, consisting of 103 acres more or less.
4. Patty Laing, RFD, West Branch (Owner) - A permit granted authorizing a Home Occupation Permit for the purpose of operating a beauty salon in her home located in the SE 1/4, SW 1/4, Section 14, T-80N, R-4W, in Gower Township.
5. Gary Anderson, RR, Tipton - A permit granted authorizing the operation of a yard waste composting business on property located in the SW 1/4, SE 1/4, Section 28, T-80N, R-2W, in Center East Township.
6. Great Lakes Chemical Corporation, Omaha, Nebraska - A permit granted authorizing the stockpiling of corn cobs on property located in the NW 1/4, NW 1/4, Section 33, T-82N, R-1W, in Massillon Township.
7. Jim Neuzil, J.W. Ranch, RR, Mechanicsville - A permit granted authorizing the location of seasonal rodeo activities on his property located in the NW 1/4, SE 1/4, Section 14, T-81N, R-4W, in Linn Township, consisting of 47.77 acres more or less.
8. Trilby Klavemann, RR, Bennett (Owner) - A permit granted authorizing the location of a commercial dog breeder kennel on her property located in Tract B, NW 1/4, NE 1/4, Section 6, T-80N, R-1W, in Inland Township, composed of 1.00 acres more or less.
9. Galen Conrad, RR, Lowden - A permit granted authorizing the restoration of salvaged automobiles on his property located in the NE 1/4, SE 1/4, Section 1, T-81N, R-1W, in Springfield Township, composed of 0.523 acres more or less.
10. Tom Spear, RR, Tipton (Owner) - A permit granted authorizing a garage and service center for equipment used by his business, Total Lawn Care, in Lot A, NW 1/4, NE 1/4, Section 8, T-80N, R-2W, in Center East Township, consisting of 3.00 acres more or less.
11. Loretta Martin, RR, Lowden (Owner) - A permit granted authorizing the operation of a commercial dog breeder kennel on her property located in Lot A, SW 1/4, SE 1/4, Section 19, T-82N, R-1W, in Massillon Township, composed of approximately 3.13 acres.



12. Donald and Scheryl Grant, RR, Bennett (Owners) - A permit granted authorizing the operation of a commercial dog breeder kennel on their property located in Lot E, SW 1/4, SE 1/4, Section 33, T-81N, R-1W, in Springfield Township, consisting of 10.00 acres more or less.
13. Elaine Berry, RR, Clarence (Owner) - A Special Use Permit granted authorizing the location of a commercial dog breeding kennel on property located in the SW 1/4, NE 1/4, Section 4, T-81N, R-2W, in Fairfield Township, consisting of 2.179 acres more or less.
14. Cedar County Cooperative, Tipton (Contract Buyer) - A Special Use Permit granted authorizing the expansion of the Agricultural Business. The property is located in the SW 1/4, NW 1/4, Section 20, T-80N, R-4W, in Gower Township, consisting of 20.00 acres more or less.
15. Sandra Langenberg, RR, West Branch (Owner) - A Home Occupation Permit granted for the purpose of operating a Day Care Home on property located in Lot 2, in the NW 1/4, SW 1/4, Section 32, T-80N, R-4W, in Gower Township, consisting of 1.84 acres more or less. Lot 2 is currently zoned R-1, Suburban Residential.
16. Duffee Grain, Inc., Wilton (Owner) - A permit granted authorizing the storage and drying of grain on their property located in the SW 1/4, NW 1/4, Section 27, T-79N, R-4W, in Springdale Township, consisting of 8.43 acres more or less.
17. Mike and Debra Bedford, RFD, Stanwood (Owners) - A Special Use Permit granted for the purpose of operating a dog boarding and breeding kennel on property located in Parcel A in the NE 1/4, SW 1/4, Section 21, T-82N, R-2W, in Dayton Township, consisting of 2.13 acres more or less.
18. United States Cellular Communications, Davenport, Iowa - A Special Use Permit granted authorizing the location of a cellular communication tower on property located in the SE 1/4, SW 1/4, Section 12, T-79N, R-2W, in Sugar Creek Township, consisting of 5.65 acres more or less.
19. Sherry Smahaj, RFD, Lowden (Owner) - A Home Industry Permit granted for the purpose of operating a floral design business on her property located in the NW 1/4, NE 1/4, Section 10, T-81N, R-1W, in Springfield Township, consisting of 10.00 acres more or less.

20. Robert Menke, RFD, Wilton (Owner) - A Special Use Permit authorizing the location of an agricultural trailer sales and display area on property located in the NE 1/4, SE 1/4, Section 33, T-79N, R-1W, in Farmington Township. Thsi parcel consists of 38.00 acres more or less.
21. Brown Farms, Inc., RR, Mechanicsville (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm on property located in the NW 1/4, NW 1/4, Section 22, T-82N, R-4W, in Pioneer Township.
22. River Valley Cooperative, RR, Wilton (Owner) - A Special Use Permit authorizing the location of a bulk anhydrous ammonia storage site and chemical mixing site on property located in the S 1/2, SW 1/4, Section 2, T-79N, R-1W, in Farmington Township, in the unincorporated town of Sunbury.
23. Mike and Gail Yates, RR, Olin (Owners) - A Home Occupation Permit authorizing the operation of a used book store and a Home Industry Permit authorizing a welding and fabrication shop on their property located in Parcel A in the E 1/2, SW 1/4, Section 11, T-82N, R-3W, in Fremont Township, consisting of 6.00 acres more or less.
24. Randy and Julie Kruse, RR, Stanwood (Owners) - A Home Occupation/Industry Permit authorized for the operation of a retail food store on their property located in the SW 1/4, NW 1/4, Section 12, T-81N, R-3W, in Red Oak Township. This property is currently zoned A-1 Agricultural.
25. Iowa Wireless, Des Moines, Iowa - A Special Use Permit authorizing the location of a 195 foot personal communication services (P.C.S.) tower on property located in the NE 1/4, NE 1/4, Section 23, T-79N, R-2W, in Sugar Creek Township, consisting of 29.78 acres more or less.
26. Iowa Wireless, Des Moines, Iowa - A Special Use Permit authorizing the location of a 199 foot personal communication services (P.C.S.) tower on property located in the N 1/2, SE 1/4, SE 1/4, Section 2, T-79N, R-4W, in Springdale Township, consisting of 74.5 acres more or less.
27. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the NW 1/4, SE 1/4, Section 17, T-79N, R-2W, in Rochester Township, consisting of 2.774 acres more or less.
28. Nextel West Corporation, Bloomingdale, MN - A Special Use Permit authorizing the location of a cellular communication tower on property located in the SE 1/4, SE 1/4, Section 9, T-79N, R-4W, in Springdale Township, consisting of 2.774 acres more or less.



29. Northern Border Pipeline Company, Omaha, Nebraska - A Special Use Permit authorizing the location of a communication tower on property located in the NE 1/4, NE 1/4, SW 1/4, Section 30, T-79N, R-1W, in Farmington Township, consisting of 6.16 acres more or less.
30. Debra Nash, RFD, West Branch - A Home Occupation Permit for the purpose of operating a massage therapy business in her home on property located in Lot A, in the SE 1/4, SW 1/4, Section 31, T-80N, R-3W, in Iowa Township, on property consisting of 6.37 acres more or less.
31. Larry and Evelyn Beaver, RFD, West Liberty - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, NE 1/4, Section 19, T-79N, R-3W, in Iowa Township.
32. Cecil and Joanne Williams, RR, Tipton (Owners) - A Home Occupation Permit authorizing the operation of a bait shop in their attached garage and variance on the sign requirements on property located in the southeasterly 14 feet of Lot 3, Lots 1 and 2, part of Lot 8, Block 33, in the SE 1/4, SE 1/4, Section 2, T-79N, R-3W, in Rochester Township, in the unincorporated town of Rochester. Said property is currently zoned R-2 Urban Residential.
33. John Moffit, RR, Mechanicsville (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This dwelling is located in the NW 1/4, SE 1/4, Section 14, T-82N, R-4W, in Pioneer Township.
34. Kun Chae Bae Trust and KM Communications, Skokie, IL (Contract Buyer) - A Special Use Permit authorizing the location of a 1,459 foot communication tower and broadcast station on property located in the S 1/2, NE 1/4, Section 19, T-80N, R-4W, in Gower Township, on a parcel consisting of 68.83 acres more or less.
35. Cedar County P.C.S. - Clarence, Iowa - A Special Use Permit authorizing the location of a 190 foot personal communication services (P.C.S.) tower on property located in the NE 1/4, SW 1/4, NE 1/4, Section 19, T-82N, R-3W, in Fremont Township, consisting of 60.00 acres more or less.
36. James and Adrienne Mills, RFD, Tipton - A Special Use Permit authorizing the location of a dog kennel on property located in Lot 1 in the N 1/2, SW 1/4, Section 26, T-81N, R-2W, in Fairfield Township, consisting of 4.12 acres more or less. Said Lot 1 is presently zoned A-1 Agricultural.

37. Lois Hanser, RFD, Tipton (Owner) - A Special Use Permit authorizing the location of a third dwelling on a farm in accordance with Chapter 5, A-1 Agricultural District, Section C(2) of the Cedar County Zoning Ordinance. This manufactured home is located in the SW 1/4, NW 1/4, Section 2, T-79N, R-3W, in Rochester Township, on a 90.00 acre more or less farm.
38. Donald and Sharon Stiff, RFD, Tipton (Owners) - A Home Occupation Permit authorizing the operation of a wood crafts shop in their home on property located in Lots 6, 7 and 8, Block 19, in the SW 1/4, SE 1/4, Section 2, T-79N, R-3W, Rochester Township, in the unincorporated town of Rochester, consisting of 0.54 acres more or less. Said property is currently zoned R-2 Urban Residential.
39. Eugene Eiselstein, RFD, Tipton (Owner) - A Home Industry Permit for the purpose of conducting a light automotive repair service on property located in Lot 14, Springvalley Estates, Part II, in the NW 1/4, NE 1/4, Section 12, T-79N, R-3W, in Rochester Township, consisting of 3.89 acres more or less. Said property is currently zoned R-1 Suburban Residential.
40. Eastern Iowa Drainage Services, RFD, Lowden (Owner) - A Special Use Permit granted for the purpose of conducting a farm service and tiling business in accordance with Chapter 5, A-1 Agricultural District, Section D1 of the Cedar County Zoning Ordinance, on property located in Parcel A, NW 1/4, NW 1/4, Section 11, T-81N, R-1W, in Springfield Township. Said parcel of land consists of 6.989 acres more or less.
41. Mike Moore, Tipton (Contract Buyer) - A Special Use Permit granted authorizing the location of a storage rental facility on property located in the NW 1/4, NW 1/4, Section 12, T-80N, R-3W, in Center West Township, consisting of 1.00 acres more or less. Said property is currently zoned A-1 Agricultural.
42. Richard Kordick, Kordick Surveying and Engineering, RFD, Tipton (Owner) - A Home Occupation Permit granted for the purpose of operating a surveying and civil engineering business in his home on property located in the SE 1/4, NE 1/4 and the NE 1/4, SE 1/4, Section 18, T-81N, R-3W, in Red Oak Township, consisting of 11.87 acres more or less. Said property is currently zoned A-1 Agricultural.



43. Frankie and Patricia Lovell, RFD, Tipton (Owners) -  
A Home Occupation Permit granted for the purpose of  
operating a vinyl graphics business in their home on  
property located in the northwesterly 46 feet of  
Lot 3 and Lot 4, Block 33, in the unincorporated town  
of Rochester, in the SE 1/4, SE 1/4, Section 2, T-79N,  
R-3W, in Rochester Township, consisting of 0.39 acres  
more or less. Said property is presently zoned R-2  
Urban Residential.
44. Frankie and Patricia Lovell, RFD, Tipton (Owners) -  
A Home Industry Permit granted for the purpose of  
operating a snowmobile parts and repair service in an  
accessory structure located on Lot 5, Block 33, in  
the unincorporated town of Rochester, in the SE 1/4,  
SE 1/4, Section 2, T-79N, R-3W, in Rochester Township,  
consisting of 0.19 acres more or less. Said property  
is currently zoned R-2 Urban Residential.

At said Public Hearing, any person present, and so wishing, will  
be given the opportunity to be heard, for or against, said petitions.  
Any person so wishing may file a document with the Cedar County Zoning  
Administrator prior to the time of the hearing should the person wish  
the document to be read for them at the time of the hearing.



Phil La Rue  
Zoning Administrator

PL:sl

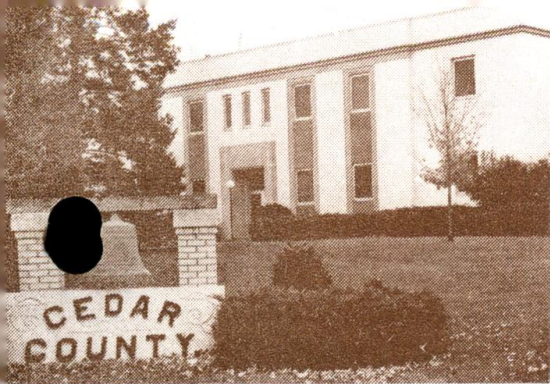
Copies sent out on 4/11/01 to the following:

1. Arnold Paulsen - 2737 Teresa Drive S.W., Cedar Rapids, Iowa 52404 - Certified
  2. Steve & Theresa Lyons - 1673 Garfield Avenue, West Branch, Iowa 52358
  3. Terrance & Glenda O'Neil - 1681 Garfield Avenue, West Branch, Iowa 52358
  4. David & Shelley Warden - 1667 Garfield Avenue, West Branch, Iowa 52358
  5. Donna Thede - 1205 Trail Avenue, Wilton, Iowa 52778
- 

1. Tom Cannon - 597 Cedar Valley Road, West Branch, Iowa 52358 - Certified
  2. Cedar County Conservation Board
  3. James & Kathleen Webster - 1921 State Street, Ely, Iowa 52227
  4. Sharon Kay Jensen Smith & Gail Patrice Ardery - 604 Cedar Valley Rd., West Branch, IA 52358
  5. Donald & Christine Shotwell - 589 250th Street, West Branch, Iowa 52358
  6. Kevin G. Gleaves - 647 Cedar Valley Road, Tipton, Iowa 52772
- 

Copy to Tipton Conservative on 4/9/01  
Copy Faxed to West Branch Times on 4/9/01  
2 Copies for Bulletin Boards  
2 File Copies  
5 Board of Adjustment members





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

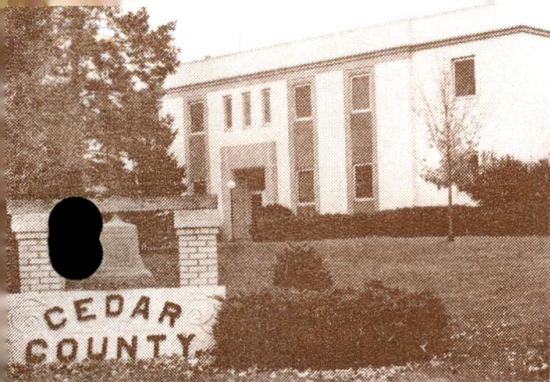
March 12, 2001

TO: CEDAR COUNTY BOARD OF ADJUSTMENT MEMBERS

The meeting scheduled on March 22, 2001, has been cancelled. Mr. Walker informed this office today that he wishes to withdraw his petition for a variance.

Phil La Rue  
Zoning Administrator

PL:s1



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

March 19, 2001

Dear Property Owner:

This note is to inform you that Kenneth Walker has withdrawn his petition requesting a variance.

Therefore, the Cedar County Board of Adjustment will not hold a meeting on March 22, 2001.

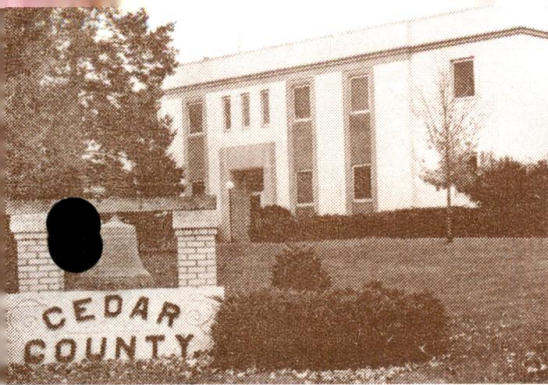
If you have any questions regarding this matter, feel free to contact this office at your convenience.

Sincerely,

Phil La Rue  
Zoning Administrator

PL:sl





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

March 5, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, March 22, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

At this time the Board will consider the following petition:

1. Kenneth Walker, RFD, Atalissa (Owner) - Requesting a variance on the front yard setback requirements for a proposed 16 foot by 40 foot garage in the A-1 Agricultural District, on property located in lots 2 and 3 of Government Lot 3, in the NE 1/4 of the NE 1/4 of the SE 1/4, Section 11, T-79N, R-3W, in Iowa Township, consisting of 0.70 acres more or less.

At said Public Hearing, any person present and so wishing, will be given the opportunity to be heard, for or against, said petition. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

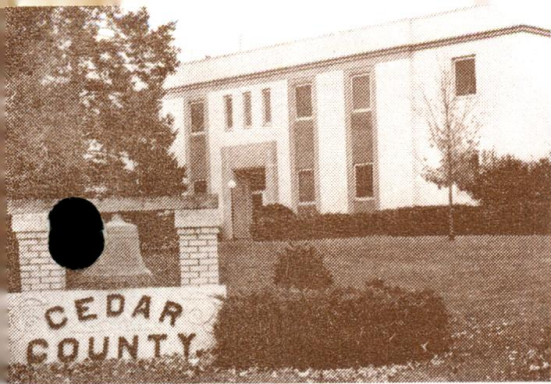
Phil La Rue  
Zoning Administrator

PL:cw

Copies sent out on 3/8/01 to the following:

1. Ken Walker - 1954 Atalissa Road, Atalissa, Iowa 52720 - Certified
2. Double-D Game Farm - 1817 Snaggy Ridge Road, Tipton, Iowa 52772
3. Stephen & Judy Curley - 1955 Atalissa Road, Atalissa, Iowa 52720
4. David & Suzanne Lovell - 1956 Atalissa Road, Atalissa, Iowa 52720
5. Cedar County Conservation Board - Cedar County Courthouse, Tipton, Iowa 52772
6. 5 Board of Adjustment members
7. 1 Copy to Tipton Conservative on 3/5/01
8. 2 file copies





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

March 22, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of a variance request by Kenneth Walker on the front yard setback requirements in the A-1 District.
- III. Discussion
- IV. Conclusion

CEDAR COUNTY BOARD OF ADJUSTMENT MINUTES

January 25, 2001

The Cedar County Board of Adjustment conducted a Public Hearing on January 25, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa. Members present were Lenker, Beyer, Hoy and Johnson. Member absent was Penningroth.

Chairperson Beyer called the meeting to order at 3:00 p.m. Minutes from the last meeting held on December 21, 2000, were previously sent to the members. They were approved as presented.

The members then heard the following petition:

1. Donovan and LeAnn Trana, RFD, Wilton (Owners) - Requesting approval of a Special Use Permit authorizing the location of a Bed and Breakfast Home on property located in the SW 1/4 of the SW 1/4, Section 21, T-79N, R-1W, in Farmington Township, consisting of 3.20 acres more or less. Said property is presently zoned A-1 Agricultural.

There were no written or verbal objections on file for this petition. La Rue advised the members to make their decision in accordance with Chapter 17.18(2) of the Zoning Ordinance.

Mr. Trana was present and explained that he and his wife would like to use two bedrooms in their home for a Bed and Breakfast business. He felt that there is a need for this type of lodging in Cedar County. He stated that they will be providing a continental breakfast for their guests but will not be serving any evening meals. The continental breakfast will be taken to the guests rooms. Mr. Trana stated that the main purpose of this business is not for the money since they both have full time jobs. He also informed the members that they may add on a sun room in the future. Their home currently has 13 rooms on 3 floors. The Trana's are aware that a Bed and Breakfast Home can not have more than 4 guest rooms. La Rue stated that there is a requirement for smoke detectors and extinguishers on each floor. There is currently a mobile home on the property which is occupied by his mother. A variance for this second home was granted by the Board in 1999.

Sign requirements were then discussed. Mr. Trana explained that they would like to place a 2' x 4' sign behind the fence line. They would like to sign to be lighted on one side for their guests. County Engineer, Don Torney, was present and stated that he did not have any problem with the sign request but questioned the county road right-of-way.



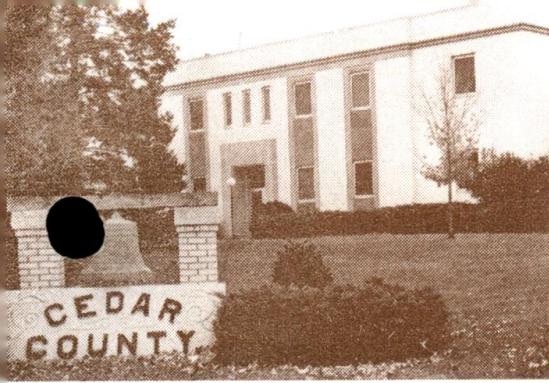
He stated that the sign can not be placed in the right-of-way and there must be no visibility problems with people leaving the home. Mr. Trana stated that they would like to place the sign 10 to 12 feet in from the fence line. Engineer Torney stated that he did not have a problem with the sign being placed 10 feet behind the road right-of-way or fence line. The setback of the sign location will need a variance. La Rue informed the members that the road to the south of the establishment floods. Engineer Torney stated that the Secondary Road Department is looking at replacing the bridge in the next couple of years.

After further discussion, Lenker made a motion to approve the Special Use Permit request authorizing the location of the Bed and Breakfast Home and granting a variance of a 10 foot setback from the county road right-of-way for the sign placement. Johnson seconded the motion. Ayes all.

With no further business to be discussed at this time, Hoy made a motion for adjournment. Johnson seconded the motion. Meeting adjourned at 3:30 p.m.

Claudia Bay  
Chairperson

Sharon Laucamp  
Secretary



Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

AGENDA

Cedar County Board of Adjustment

Basement, Cedar County Courthouse, Tipton, Iowa

January 25, 2001 - 3:00 p.m.

- I. Introduction
- II. Review of a Special Use Permit requested by  
Donovan & LeAnn Trana authorizing the location  
of a Bed and Breakfast Home.
- III. Discussion
- IV. Conclusion





Tel. 319-886-2248

**OFFICE OF THE PLANNING AND ZONING ADMINISTRATOR**

Cedar County Courthouse

Tipton, Iowa 52772

January 8, 2001

LEGAL NOTICE

The Cedar County Board of Adjustment has been petitioned to conduct a Public Hearing on Thursday, January 25, 2001, at 3:00 p.m., in the Large Meeting Room in the basement of the Courthouse, Tipton, Iowa.

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At said Public Hearing, any person present, and so wishing, will be given the opportunity to be heard, for or against, said petition. Any person so wishing may file a document with the Cedar County Zoning Administrator prior to the time of the hearing should the person wish the document to be read for them at the time of the hearing.

Phil La Rue  
Zoning Administrator

PL:sl

Copies sent out on 1/8/01 to the following:

1. Donovan & LeAnn Trana - 2196 Union Avenue, Wilton, Iowa 52778 - Certified
2. Dorothy Stueben - 3711 Wilkes Avenue, Davenport, Iowa 52806
3. Donald & Janet Guttenfelder Trust - 108 7th Street, Durant, Iowa 52747
4. Jerry & Darlene Mays - 2043 325th Street, Durant, Iowa 52747
5. Wayne & Kayla Holst - 2187 Union Avenue, Wilton, Iowa 52778
6. 5 Board of Adjustment members
7. 1 Copy to Tipton Conservative on 1/8/01
8. 1 Copy faxed to Wilton-Durant Advocate News on 1/8/01
9. 2 file copies
10. 2 copies for bulletin boards



# PROOF OF PUBLICATION

STATE OF IOWA,

Muscatine County } ss.

I Dawn Luethye being first  
duly sworn on oath depose and say; that I am the Publisher of The  
Advocate News, a newspaper published weekly in the City of  
Wilton, Muscatine County, State of Iowa, and that \_\_\_\_\_

Notice of public hearing on 1-25-01  
by Cedar County Board of Adjustment

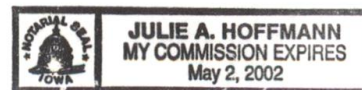
hereto attached and made a part hereof, was published once each  
week for 1 weeks in succession, in said newspaper, and  
that the dates of publication were \_\_\_\_\_  
January 11, 2001

and that the copy of said printed notice, hereto attached, was cut  
from one of said publications.

*Dawn Luethye*

Subscribed and sworn to before me this 11th  
day of January 2001

*Julie A. Hoffmann*  
Notary Public



## LEGAL NOTICE

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Phil La Rue  
Zoning Administrator

STATE OF IOWA, CEDAR COUNTY, ss:

I, Stuart S. Clark, publisher of The Tipton Conservative and Advertiser, a weekly newspaper of general circulation, published in said county, being duly sworn do declare and say that a notice, of which one hereto attached is a copy, was published in the said

### Legal Notice

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s/Phil La Rue  
Phil La Rue  
Zoning Administrator  
2

The Tipton Conservative and Advertiser 1 time

to wit on Jan 10, 2001

Subscribed and sworn to before me this 1

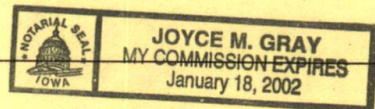
day of Feb A.D. 20 01

Joyce M Gray  
Notary Public in and for Cedar County, Iowa

Received of \_\_\_\_\_

\_\_\_\_\_ Dollars

Printer's fee \$ 10.96





STATE OF IOWA, CEDAR COUNTY ss.

I, Stuart S. Clark, publisher of The Union Conservative and Advertiser, a weekly newspaper of general circulation, published in said county being duly sworn, do declare and say that a notice of said complaint attached is a copy was published in the said

The Union Conservative and Advertiser

to the effect

Being read with approval to me this

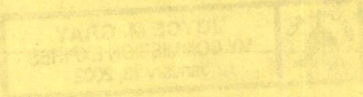
A.D. 1907

Notary Public in and for Cedar County, Iowa

Witnessed

Dollars

Printed for



E+Z



Cedar County  
**BOARD OF SUPERVISORS**  
400 CEDAR ST., TIPTON, IOWA 52772-1752  
TELEPHONE (319) 886-3168

**COPY**

January 4, 2001

Raymond Penningroth  
1423 - 200th  
Tipton, IA 52772

Dear Mr. Penningroth:

Please be advised that by motion of this Board, January 4, 2001, you were appointed for a five year term on the Cedar County Zoning Board of Adjustment. Your willingness to serve on this Board is greatly appreciated.

Please contact the Board of Supervisors or the Environmental & Zoning office, if you have any questions.

Sincerely,

Dennis L. Weih, Chairperson  
Cedar County Board of Supervisors

DLW:bjp