

FACTSHEET

TITLE: **SPECIAL PERMIT NO. 15025**, requested by Curt Christiansen on behalf of Good Shepherd Lutheran Church, for authority to construct a 100-foot broadcast tower on property generally located at 3825 Wildbriar Lane.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 05/27/15
Administrative Action: 06/26/13

STAFF RECOMMENDATION: Conditional approval

RECOMMENDATION: Conditional Approval (7-0: Sunderman, Corr, Hove, Lust, Beecham and Cornelius voting 'yes'; Scheer and Weber absent).
Resolution No. PC-01454

OPPONENTS: 2

FINDINGS OF FACT:

1. This is a request for authority to construct a broadcast tower, as opposed to a personal wireless facility (i.e. cell tower). However, many of the same criteria apply when evaluating either type for compatibility and appropriateness. An application for a camouflage facility such as this one can be considered a Preferred Location Site, as the tower itself could be considered a normal, typical appurtenance to a church. The fact that it will be used to broadcast community radio programming does not significantly change its visual appearance. Subject to the recommended conditions of approval, this request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.
2. The staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.17-21, concluding that the proposed location of the tower on the north side of the church is appropriate and the design of the proposed tower is a cross, which is considered a typical appurtenance to a church and matches the cross on the existing steeple and entryways to enter the church. The staff presentation is found on p.24.
3. On May 12, the applicant submitted a request for a 2-week delay for public hearing that was scheduled for May 13, 2015, before the Planning Commission to allow them to meet with the neighbors to address their concerns. On May 13, 2015, the Planning Commission voted 6-0 to defer the public hearing on this application until May 27, 2015.
4. The applicant's testimony, including reference to a revised site plan, is found on p.25-26,
5. Testimony in opposition of the application is found on p.26-27. The applicant's response is found on p.28.
6. The Planning Commission discussion with staff is found on p.27-28.
7. On May 27, 2015, the Planning Commission considered the revised site plan submitted at the hearing by the applicant, which showed the tower relocated further east on the site and partially screened by existing trees. The Planning Commission then voted 7-0 to agree with the staff recommendation of conditional approval and adopted Resolution No. PC-01454 (p.4-6) approving Special Permit No. 15025, with conditions as set forth on p.21-22.
8. On June 8, 2015, a letter of appeal was filed by Kathy Siefken, 5631 Coyote Circle, (p.2), and on June 9, 2015, a letter of appeal was filed by Robert J. Van Valkenburg, 7921 Reno Road, (p.3). The appellants are requesting that the city not allow the construction of the broadcast tower as approved by the Planning Commission.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer
REVIEWED BY: David R. Cary, Acting Planning Director

DATE: June 9, 2015
DATE: June 9, 2015

APPEAL
of Planning Commission action
to City Council

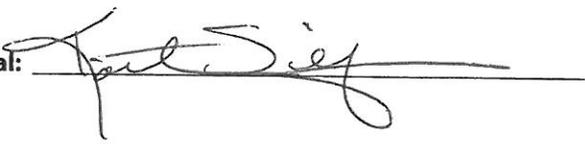
Today's Date 06/08/2015 (this form must be received by the City Clerk within 14 days of the action by the Planning Commission)

To: City Clerk
Teresa Meier
555 S. 10th St., Ste. 103
Lincoln NE 68508
402-441-7436
tmeier@lincoln.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01454, adopted by the Lincoln-Lancaster County Planning Commission on (Date) May 27, 2015, approving Special Permit No. 15025 on property generally located at 3825 Wildbriar Lane, Lincoln NE

Please advise me of the hearing date before the City Council.

Signature of person requesting appeal: 

Printed Name Kathy Siefken

Address 5631 Coyote Circle, Lincoln, NE 68516

Street

City

State

ZIP

Phone Number (402) 525-7506

Email ksiefken@nebgrocery.com

cc: Planning Department
Jean Preister
555 S. 10th St., Ste. 213
Lincoln NE 68508
402-441-6365
jpreister@lincoln.ne.gov

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CITY OF LINCOLN
NEBRASKA

APPEAL
of Planning Commission action
to City Council

Today's Date June 9, 2015

(this form must be received by the City Clerk within 14 days of the action by the Planning Commission)

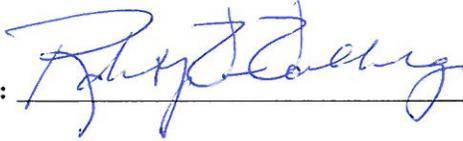
To: City Clerk
Teresa Meier
555 S. 10th St., Ste. 103
Lincoln NE 68508
402-441-7436
tmeier@lincoln.ne.gov

Dear Clerk:

I am submitting this letter of appeal to Resolution No. PC-01454, adopted by the Lincoln-Lancaster County Planning Commission on (Date) May 27, 2015, approving Special Permit No. 15025 on property generally located at Good Shepherd Lutheran Church property located at 3825 Wildbriar Lane, Lincoln, NE

Please advise me of the hearing date before the City Council.

Signature of person requesting appeal: _____



Printed Name Robert J. Van Valkenburg

Address 7921 Reno Road, Lincoln, NE 68505
Street City State ZIP

Phone Number (402) 486-0000

Email rjvv@inebraska.com

cc: Planning Department
Geri Rorabaugh
555 S. 10th St., Ste. 213
Lincoln NE 68508
402-441-6365
grorabaugh@lincoln.ne.gov

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CITY OF LINCOLN
NEBRASKA

RESOLUTION NO. PC-01454

SPECIAL PERMIT NO. 15025

1 WHEREAS, Good Shepherd Lutheran Church has submitted an applica-
2 tion designated as Special Permit No. 15025 for authority to construct a 100' tall
3 broadcast tower, on property generally located at South 40th Street and Wildbriar Lane,
4 and legally described as:

5 Lot 1, Block 1, Briarhurst West 5th Addition, except 400
6 square feet in the northeast corner and 95.72 square feet in
7 the southeast corner for the street, located in the Southeast
8 Quarter of Section 7, Township 9 North, Range 7 East of the
9 6th P.M., Lincoln, Lancaster County, Nebraska;

10 WHEREAS, the Lincoln City-Lancaster County Planning Commission has
11 held a public hearing on said application; and

12 WHEREAS, the community as a whole, the surrounding neighborhood,
13 and the real property adjacent to the area included within the site plan for this broadcast
14 tower will not be adversely affected by granting such a permit; and

15 WHEREAS, said site plan together with the terms and conditions
16 hereinafter set forth are consistent with the comprehensive plan of the City of Lincoln
17 and with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the
18 public health, safety, and general welfare.

1 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster
2 County Planning Commission of Lincoln, Nebraska:

3 That the application of Good Shepherd Lutheran Church, hereinafter
4 referred to as "Permittee", to construct a 100' tall broadcast tower be and the same is
5 hereby granted under the provisions of Section 27.63.150 of the Lincoln Municipal
6 Code upon condition that construction of said tower be in strict compliance with said
7 application, the site plan, and the following additional express terms, conditions, and
8 requirements:

9 1. This permit approves a 100' tall broadcast tower.

10 2. Before receiving building permits the Permittee shall cause to be
11 prepared and submitted to the Planning Department a revised and reproducible final
12 site plan including five copies with the required revision listed below:

13 a. Add a note to the site plan which states that, "this site plan
14 does not regulate the use of the land by the church except
15 with respect to this special permit for a broadcast tower."

16 3. Before use of the broadcast tower all development and
17 construction shall substantially comply with the approved plans.

18 4. The broadcast tower and antennas shall be permanently
19 maintained by the Permittee.

20 5. The site plan accompanying this permit shall be the basis for all
21 interpretations of setbacks, yards, locations of buildings, location of parking and
22 circulation elements, and similar matters.

23 6. The terms, conditions, and requirements of this resolution shall run
24 with the land and be binding upon the Permittee, its successors and assigns.

1 7. The Permittee shall sign and return the letter of acceptance to the
2 City Clerk. This step should be completed within 60 days following the approval of the
3 special permit. The City Clerk shall file a copy of the resolution approving the special
4 permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be
5 paid in advance by the applicant. Building permits will not be issued unless the letter of
6 acceptance has been filed.

7 The foregoing Resolution was approved by the Lincoln City-Lancaster
8 County Planning Commission on this 27th day of May, 2015.

ATTEST:



Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

LETTER OF ACCEPTANCE

City of Lincoln
Lincoln, Nebraska

RE: **Special Permit No. 15025**
(Construct a 100' broadcast tower at Good Shephard Lutheran Church -
3825 Wildbriar Lane)

TO THE CITY CLERK:

The undersigned, "Permittee" under **Special Permit No. 15025**, granted by **Resolution No. PC-01454**, adopted by the Lincoln City-Lancaster County Planning Commission on May 27, 2015, hereby files this Letter of Acceptance and certifies to the City of Lincoln that the Permittee is fully aware of and understands all the conditions of said Resolution and that Permittee consents to and agrees to comply with the same.

Permittee further certifies that the person whose signature appears below has the authority to bind Permittee to the terms and conditions of this Letter of Acceptance, including Permittee's financial obligations under said Special Permit.

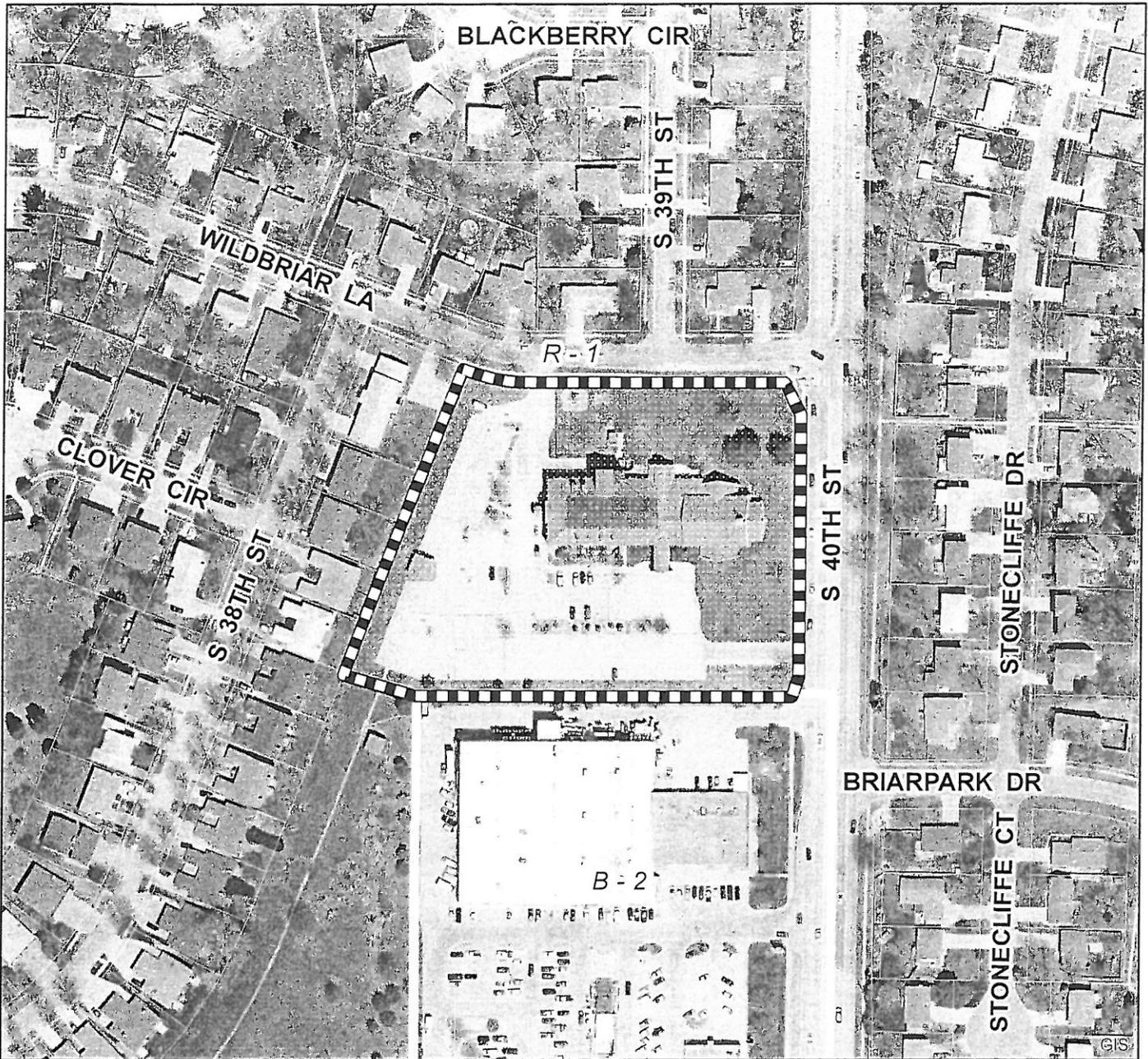
DATED the ____ day of _____, 2015.

Curt Christiansen, Permittee

STATE OF _____)
COUNTY OF _____) ss.

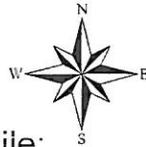
The foregoing Instrument was acknowledged before me this ____ day of _____, 20____, by Curt Christiansen, as permittee.

Notary Public



2013 aerial

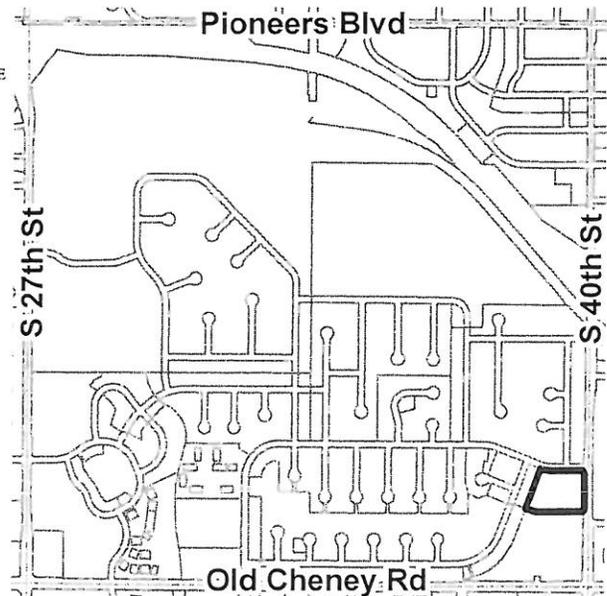
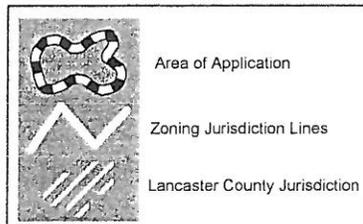
Special Permit #: SP15025
S 40th St & Old Cheney Rd

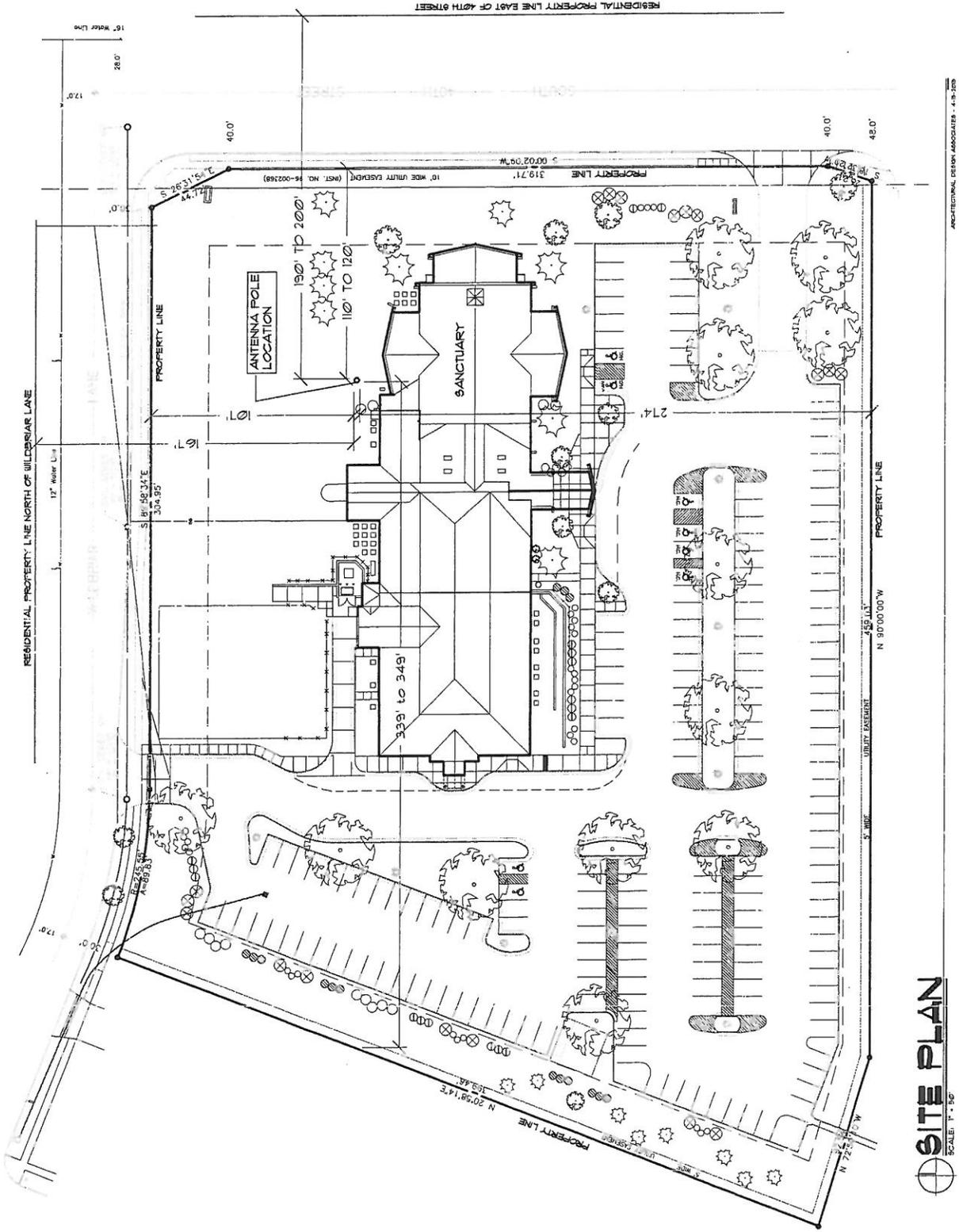


One Square Mile:
Sec.07 T09N R07E

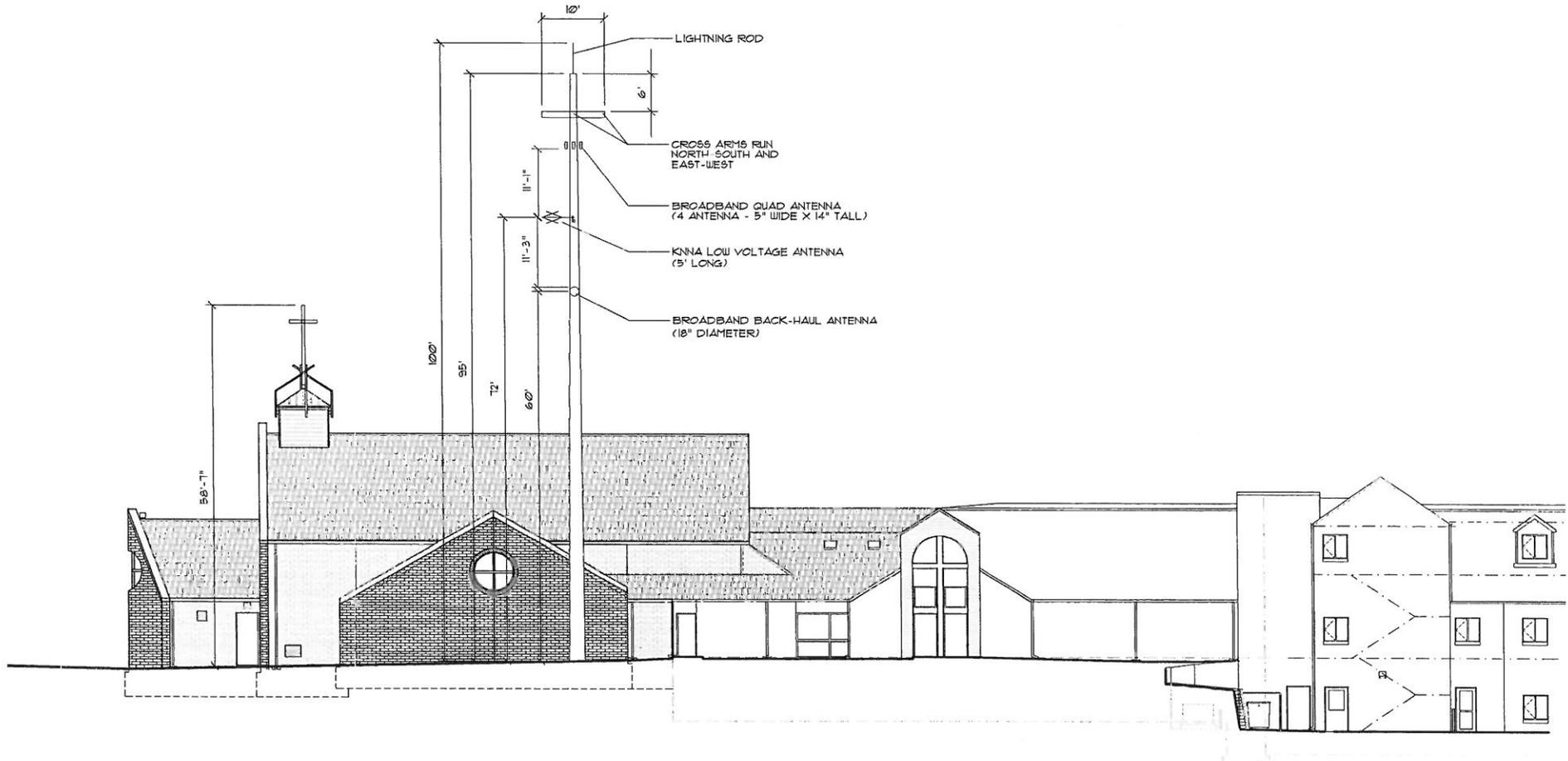
Zoning:

- R-1 to R-8 Residential District
- AG Agricultural District
- AGR Agricultural Residential District
- O-1 Office District
- O-2 Suburban Office District
- O-3 Office Park District
- R-T Residential Transition District
- B-1 Local Business District
- B-2 Planned Neighborhood Business District
- B-3 Commercial District
- B-4 Lincoln Center Business District
- B-5 Planned Regional Business District
- H-1 Interstate Commercial District
- H-2 Highway Business District
- H-3 Highway Commercial District
- H-4 General Commercial District
- I-1 Industrial District
- I-2 Industrial Park District
- I-3 Employment Center District
- P Public Use District

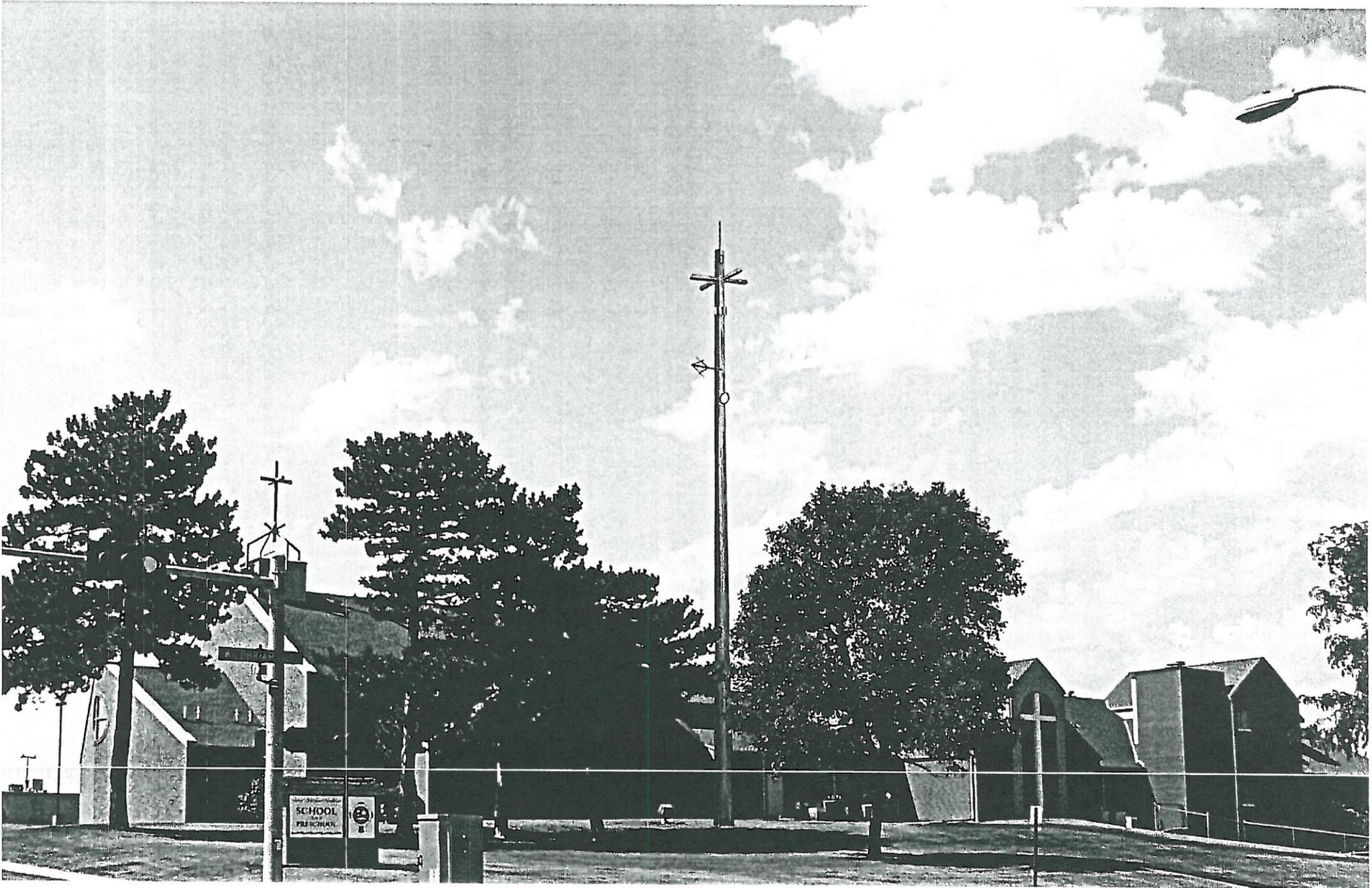




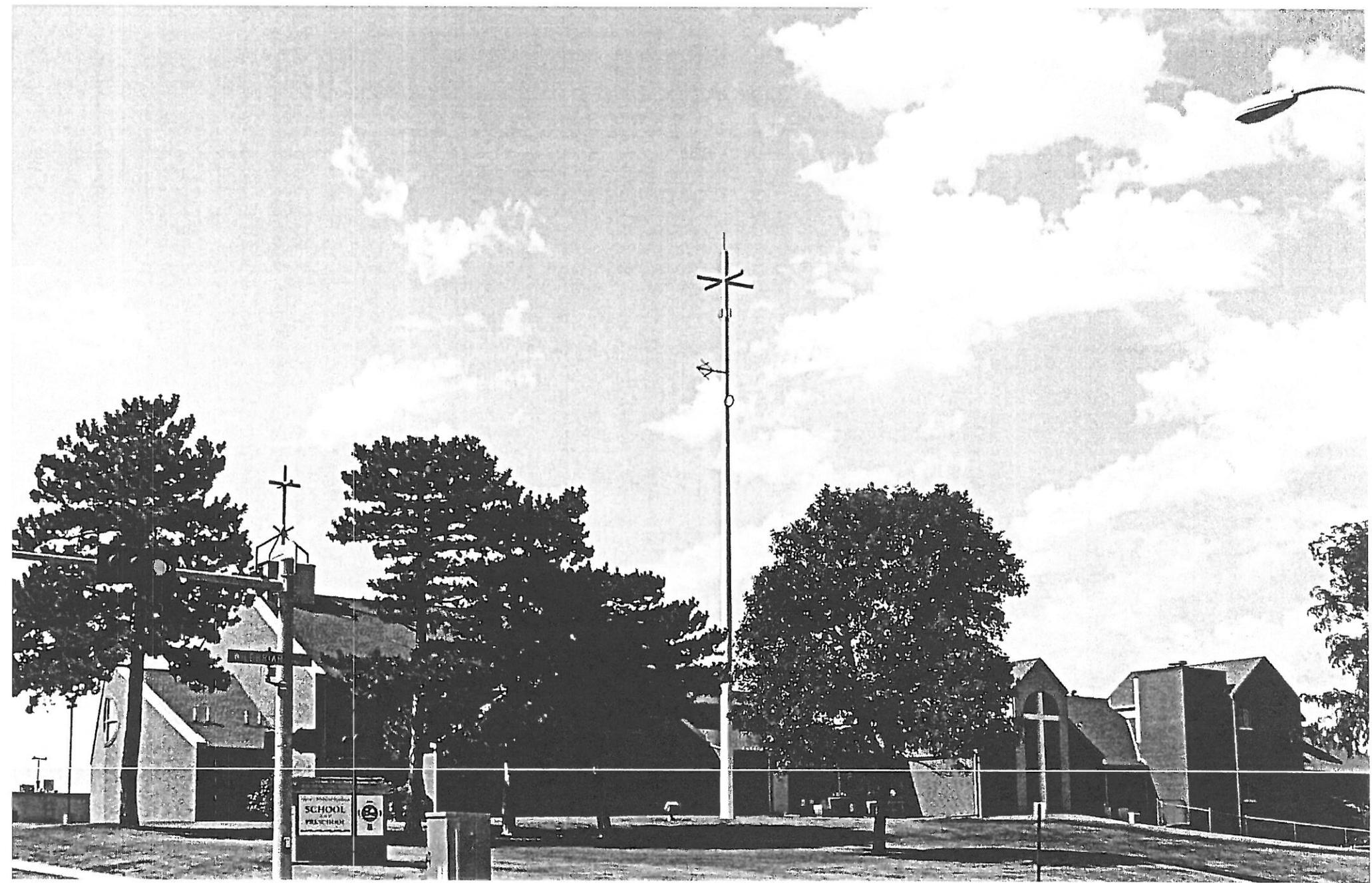
SITE PLAN
 SCALE: 1" = 30'
 ARCHITECTURAL DESIGN ASSOCIATES - 4-3-2020



□ GOOD SHEPHERD LUTHERAN - KNA - ANTENNA POLE
 1/16" = 1'-0" ARCHITECTURAL DESIGN ASSOCIATES - 4-15-2015



WOOD OPTION



STEEL OPTION

April 15, 2015

Brian Will
Lincoln Planning Department
555 South 10th Street, Rm 113
Lincoln, NE 68508

Re: Good Shepherd KNNA Radio Antenna Pole Project

Dear Brian:

On February 14, 2014 the Federal Communications Commission granted Good Shepherd Community Radio a license to construct and operate a radio station named KNNA--LP. KNNA was and is permitted to broadcast at 95.7 Mhz on the FM radio spectrum. This license was granted based on the fact that KNNA is a locally owned and controlled non---commercial station with content primarily created in and for the community of Lincoln. The FCC prohibits any entity which already holds an FCC license from holding a low---power community radio license. Clearly they want the local community to be the source and focus of the licensee's mission.

- General Overview:
 - On October 15, 2013 Good Shepherd Community Radio (GSCR), a Nebraska not-for-profit corporation, was formed for the purpose of applying for and operating an FCC licensed community radio station.
 - On October 16, 2013, GSCR applied for a license to broadcast at 95.7 Mhz on the FM radio spectrum.
 - On February 14, 2014, an FCC construction permit was granted to build KNNA-LP and bring it on air within 18 months.
 - Since then, we have been identifying and reaching out to those in the community of Lincoln who we might serve. We have asked them to support our mission in whatever way they chose. The response has been positive.
 - Such support has come from the Lutheran Church--Missouri Synod, as well as various other denominations in the city.
 - We have been in contact with the religious services administration of the maximum security facility of the Nebraska Department of Corrections here in Lincoln. The inmates have no access to the internet, but they may own and listen to FM radio.
 - We have reached out to the immigrant communities of Lincoln with a view to helping to (via internet) aid communication with their friends and families in their home lands.
 - Now as August 14, 2015 approaches, we seek the approval of this application by the Planning Commission to build a large cross next to Good Shepherd Lutheran Church in Lincoln, Nebraska.
 - This cross-shaped structure will be built for the purpose of enhancing the properties of all the churches in all of Lincoln and the neighborhood.
 - It will also support antennas to provide broadband internet service at an efficient and cost effective rate to an area that now doesn't receive this service.
 - This community service is important to Lincoln because no other Lincoln radio station offers Lutheran based Christian talk radio.

- We view our site as a 'Preferred-location Site' due to the fact that the pole is camouflaged as a cross on privately owned church property. The cross shape fits the vernacular of the church property and minimizes the impact on the surrounding residential areas.
- We studied the opportunity to co-locate on an adjacent preferred site location, and the only tower within 1/2 mile of our site was too short to comply with our FCC requirements.
- We have reached out the neighborhood:
 - We have attended Briarhurst West Neighborhood Association monthly meetings for the last 6 months to present the Cross pole concept and to answer their questions.
 - The Briarhurst Neighborhood Association will meet in 1 1/2 weeks on April 27 and the Briarhurst West Neighborhood Association will meet in 2 1/2 weeks on May 4. We will contact the president of each association and ask that our antenna pole project be added to their agenda and that they notify their residents of this agenda item.
 - We will meet with both neighborhood associations on the above dates, show them the photo-shop images of the poles, answer their questions and help them understand the scope of the project.
 - The Briarhurst West Neighborhood Association meets at our church property at no charge.
 - We want the neighborhood to appreciate the beauty of this new cross and know that our mission is to serve the community.
- The selected site is required to meet service demands for our facility and network for several reasons:
 - This is a not-for profit station operated by volunteers. The broadcast studio and radio station equipment is located at the church site. Sending a signal to a remote antenna site would require an antenna on the church property - of similar height and size as already proposed in this application.
 - Recent changes in FCC regulations have opened up this opportunity for low-power radio. Establishing this radio station is a limited time opportunity and the FCC may not provide this opportunity again in the future.
 - Our low power signal capability is very limited. The height and central location of the Good Shepherd site is critical to the station's success.
 - This location is also necessary for the success of our co-located broad-band wireless internet to serve homes that do not currently have wireless internet service.
 - Our FCC license is specific to the Good Shepherd Church site.
- Specific considerations:
 - Neighbors adjacent to our church have requested internet service from the 'Wide Range Broadband' company of Lincoln, but without our tower Wide Range has been unable to provide service to our neighborhood. We are working with Wide Range to co-locate their wireless internet broad-band antenna on our pole. With this co-location, they will be able to reach an area of the city not currently served by wireless internet broad-band service. This broad-band service would provide additional band-width and speed that is currently not provided by the hardwired services.
 - The pole will be 100 feet tall including lightning protection and will support the broadcast antenna of KNNA 95.7.
 - The distance to nearest residential property line is approx. 167' – closest property line is north of Wildbriar Lane. See attached site plan.

- We do not have any equipment at the foot of the pole so no barrier fence is needed.
 - The antenna and equipment will be located on the church property which is occupied daily. As an integral part of the church facility, pole and antenna observation and maintenance will be consistent and on-going.
 - The pole material will be either a laminated wood pole or a white painted galvanized steel pole. In either case, the broadband antennae will be painted to blend with the pole. See attached photo-shop images.
 - We have located the pole approximately 107' from the north property line to help prevent falling ice or debris from affecting public property. The pole will also be located between 110' and 120' from the east property line, 274' from the south property line and 339' to 349' from the west property line.
 - The pole and pole footing will be designed by a licensed engineer and a sealed engineer's drawing will be provided with the building permit package.
 - Our radio antenna is a 5' long omni-directional – the broadband antenna includes 4 – 5" wide x 14" tall quad antennas and 1 – 18" diameter back-haul antenna.
 - No waivers are requested.
- We have worked to minimize potential adverse visual effects on adjacent properties by:
 - The pole is designed in the shape of a cross. This is a normal appurtenance to our church building. The shape is a compatible use for our site. The cross design also reflects the current cross shaped steeple and cross shapes at our building entrances.
 - The pole is set over 100' from the closest property line and approximately 168' from the nearest adjacent residential property line (North of Wildbriar Lane). The pole is set as close to the church as practical. The pole height is broken up and camouflaged by the height of the church roof structure and adjacent steeple. The current cross shaped church steeple is over 58' high and compliments the new cross shaped pole design.
 - We are able to house associated equipment inside the building to keep the base of the pole more neighborhood friendly, avoid unnecessary fencing and leave the brick church building more visible.
 - The pole height is kept as low as practical to accommodate our antenna needs.
 - The antennae are small, thin and set close to the pole.
 - The broad-band antenna will be painted to blend with the pole.

Sincerely,



Nik Sandman
 President
 Good Shepherd Community Radio Board

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 13, 2015 PLANNING COMMISSION MEETING

PROJECT #: Special Permit #15025 - Good Shepherd Lutheran Church

PROPOSAL: A request per Section 27.63.150 to allow a 100'-tall broadcast tower

LOCATION: South 40th Street and Wildbriar Lane

LAND AREA: 4.2 acres, more or less

CONCLUSION: This is a request for a broadcast tower, as opposed to a personal wireless facility (i.e. cell tower). However, many of the same criteria apply when evaluating either type for compatibility and appropriateness. An application for a camouflage facility such as this one can be considered a Preferred Location Site, as the tower itself could be considered a normal, typical appurtenance to a church. The fact that it will be used to broadcast community radio programming does not significantly change its visual appearance. Subject to the recommended conditions of approval, this request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.

<u>RECOMMENDATION:</u> Approval	Conditional
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GENERAL INFORMATION:

LEGAL DESCRIPTION: Lot 1, Block 1, Briarhurst West 5th Addition, except 400 square feet in the NE corner and 95.72 square feet in the SE corner for the street, located in the SE 1/4 of Section 7-9-7 of the 6th PM, Lincoln, Lancaster County, Nebraska.

EXISTING ZONING: R-1 Residential

EXISTING LAND USE: Church

SURROUNDING LAND USE AND ZONING:

North:	Residential	R-1
South:	Commercial	B-2
East:	Residential	R-1
West:	Residential	R-1

COMPREHENSIVE PLAN SPECIFICATIONS:

Page 1.8 - The future Land Use Map of the Comprehensive Plans designates residential land uses for this property.

Page 4.4 - Current Practices - The community values efficient and effective telecommunications while also desiring to minimize adverse impacts of this rapidly evolving infrastructure on our rural and urban environments. Capitol view corridors, historic landmarks and districts, environmentally sensitive areas, and predominantly residential neighborhoods are not preferred locations. Unobtrusive locations on public property; co- locations on existing towers, buildings, and structures; and commercial and industrial areas with minimal impact on residences are preferred. The City has adopted zoning provisions to state the community's preferences. Combined with guidance from the design review boards, community residents and the telecommunications industry can be well-served.

Page 11.20 - Strategies for Information Technology - Management of wireless facilities should provide flexibility and responsiveness that recognize the rapidly changing and highly competitive nature of the industry. Similarly, the placement and construction of such facilities needs to occur in a way that is compatible with the natural and built environment.

ANALYSIS:

OVERVIEW

The site is one block northwest of the intersection of South 40th Street and Old Cheney Road. The 4.2 acre site is developed with a church and the associated parking lot.

The application shows the proposed 100'-tall broadcast tower sited on the north side of the church, relatively close to the building. There is no ground equipment or ground shelter associated with the tower.

Broadcast towers are allowed in any zoning district (except for the O-1) by special permit per Lincoln Municipal Code (LMC) Section 27.63.150. However, the provisions of the special permit require review per the provisions of Chapter 27.68 for Personal Wireless Facilities. The review using those provisions is as follows:

STANDARDS FOR EVALUATION:

Conformity with Comprehensive Plan.

1. The Comprehensive Plan states that "...the placement and construction of such facilities needs to occur in a way that is compatible with the natural and built environment." Churches are a conditional use in the R-3 zoning district, reflecting the fact it is customary for them to be located in or at the edge of neighborhoods, and that they are generally considered to be compatible with residential uses.

The proposed broadcast tower is designed to look like a cross, which is considered a typical appurtenance to a church. The design matches the cross

on the existing steeple, as well as the design of the entryways to enter the church.

It is noted that LMC 27.72.110(d) allows churches to erect steeples to exceed the height of the zoning district, provided they are set back 1' from the required yard for each foot the steeple exceeds the maximum height allowed as a use by right, and no additional approval is required. If that standard were applied in this case, this tower would comply.

Preference of site location in accordance with Chapter 27.68.080.

2. There are three location preferences as follows:

A. Preferred Location Sites:

(1) Publicly owned sites on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened roof-top mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(2) Privately owned sites with existing structures on which personal wireless facilities can be unobtrusively located with due regard to visibility, aesthetic issues, traffic flow, public safety, health and welfare. Such sites may include locating on existing buildings, co-locating on existing towers, screened rooftop mounts, water towers, billboards, electric substations, or other camouflaged sites, but shall not include new towers.

(3) Publicly owned sites in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

(4) Sites in commercially or industrially zoned districts in which the facility is minimally obtrusive, has a minimal impact on the surrounding area, is an appropriate distance from residential land uses, has minimal impact on residential uses, with due regard being given to the scale of the facility and the surrounding area and the impact on the location.

B. Limited Preference Sites:

(1) Sites on other public property.

(2) Sites on other commercially or industrially zoned property.

C. Sensitive Location Sites. Sites located in areas with residential uses, environmentally sensitive areas, Capitol View Corridors, the Capitol Environs District, entryway corridors, downtown, landmarks or landmark districts, properties listed or

eligible to be listed on the National Register of Historic Places, the Airport Environs, and other sensitive areas. The applications for personal wireless facilities which are located at sensitive sites will be required to demonstrate a technical need to locate a personal wireless facility at a sensitive site and that other reasonable alternatives do not exist for the facility at a location which is not a sensitive site.

This tower is a camouflaged site, and it can be considered a Preferred Location Site under Section A(2) for the purpose of locating antennas on it.

Compatibility with abutting property and land uses.

3. The proposed facility will be located on the north side of the church, relatively close to the building. The separation between the tower and the property lines of surrounding dwellings is: 1 - Approximately 167' to the north; 2 - approximately 200' to the east; and, 3 - Approximately 350' to the west.

Churches are a use customarily located in and around residential neighborhoods, They are typically taller, often approaching the maximum height of residential zoning districts, with appurtenances which exceed the maximum height of zoning district as is allowed under the Zoning Ordinance. It is not unusual for churches to be located on relatively large parcels of land (when compared to other allowed uses in residential areas), which helps provide a sense of scale to mitigate the visual impact of any height differential.

The facility is designed to look like an appurtenance commonly associated with churches, and matches the design of the existing steeple at the east end of the church and the doorways. The existing steeple is approximately 60' in height, where the proposed tower would extend 40' beyond that.

Adverse impacts such as visual, environmental or noise impacts.

4. The most significant impact is visual, as much of the facility will be visible in all directions. Due to the potential for increased visual impact and proximity to a residential neighborhood, a camouflaged application is ideal to minimize impact upon the area. There are no environmental affects such as noise or light to note, and the frequency of the broadcast signals should not interfere with any electromagnetic devices in the area.

Availability of suitable existing structures for antenna mounting.

5. The applicant is asked to examine other preferred or limited preference sites within one-half mile of the proposed site, and demonstrate why they are not feasible for collocation. In this case, the Southern Heights Presbyterian Church

southeast of South 40th & Old Cheney Road recently had a special permit approved for a bell tower for personal wireless facilities. However, that facility is only 67' in height and was not required to accommodate collocation due to its camouflaged design.

Scale of facility in relation to surrounding land uses.

6. The church is located on 4.2 acre site, the size of which provides appropriate separation from adjacent properties. Taller appurtenances in conjunction with churches are allowed by the Zoning Ordinance and considered normal and customary. At 100' in height, the proposed facility is under the potential maximum height a steeple could achieve under the Zoning Ordinance given the size of the site.

Impact on views/vistas and impact on landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery and view corridors from visually obtrusive antennas and back-up equipment.

7. The site is located on a high point in the area and will be visible in all directions. However, there are no significant views/vistas, landmark structures/districts, historically significant structures/districts, architecturally significant structures, landmark vistas or scenery/view corridors in the area.

Color and finish.

8. The proposed facility will be designed to be consistent with other design elements associated with the church, and blend with the look and character of the existing facility. There are two potential tower styles, one is made of wood, and the other galvanized steel. If a steel pole is used, it will be painted white to match the church.

Ability to collocate.

9. The tower serves a dual purpose. It will support both the antenna for the community radio broadcasts, and can also accommodate collocation for broadband wireless antennas to serve the surrounding area. There is no requirement to accommodate other antennas, such as other personal wireless facilities, as the inability to collocate is an appropriate trade-off for a well-designed camouflaged or stealth facility.

Screening potential of existing vegetation, structures and topographic features, and screening potential of proposed facilities, ground level equipment, buildings and tower base.

10. The facility is designed to look like a normal appurtenance associated with a

church. Sited close to the building help screen significant portions of it when viewed from the south. There is no ground equipment or ground shelter at the base of the tower so screening is neither required nor appropriate.

Evidence of good faith efforts, and demonstration that a preferred or limited preference site was not technically, legally, or economically feasible.

11. The applicant states that there were no other preferred collocation opportunities within one-half mile of the proposed site, consistent with the conclusion reached by staff in this regard.
12. As an application for a camouflage facility, it does not look like a typical broadcast tower. Rather, it appears more like the type of an appurtenance often associated with a church. The fact that it will be used to broadcast community radio programming and will have small antennas attached to it does not significantly change its visual appearance. Subject to the recommended conditions of approval, this request complies with the requirements of the Zoning Ordinance and the Comprehensive Plan.

CONDITIONS:

This approval permits a 100'-tall broadcast tower.

Site Specific:

1. Before receiving building permits:
 - 1.1 The permittee shall complete the following instructions and submit the documents and plans to the Planning Department for review and approval.
 - 1.1.1 Submit 5 copies of the final site plan to the Planning Department revised as follows:
 - 1.1.1.2 Add a note to the site plan which states that 'THIS SITE PLAN DOES NOT REGULATE THE USE OF THE LAND BY THE CHURCH EXCEPT WITH RESPECT TO THIS SPECIAL PERMIT FOR A BROADCAST TOWER.'

Standard:

2. The following conditions are applicable to all requests:
 - 2.1 Before use of the facility all development and construction shall substantially comply with the approved plans.

- 2.2 All privately-owned improvements shall be permanently maintained by the owner.
- 2.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 2.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
- 2.5 The applicant shall sign and return the letter of acceptance to the City Clerk. This step should be completed within 60 days following the approval of the special permit. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by the applicant. Building permits will not be issued unless the letter of acceptance has been filed.

Prepared by:

Brian Will, 441-6362, bwill@lincoln.ne.gov
Planner
April 29, 2015

OWNER: Good Shepherd Lutheran Church
3825 Wildbriar Lane
Lincoln, NE 68516
402-423-7677

APPLICANT: Curt Christiansen
3825 Wildbriar Lane
Lincoln, NE 68516
402-440-5757

CONTACT: David Stirtz
ADA of Lincoln
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MEMORANDUM

TO: Lancaster County/Lincoln Planning Commission

FROM: Brian Will, Planning Department

SUBJECT: SP#15025 - Good Shepherd Lutheran Church Broadcast Tower

DATE: May 27, 2015

As you recall, the public hearing for Special Permit #15025 was delayed for two weeks at the request of the applicant at the May 13, 2015 meeting.

The applicant requested additional time to address concerns raised by neighbors living in the area of the proposed tower. These discussions have resulted in a revised site plan which moves the tower east (closer to S. 40th Street), and reduces the number of antennas attached to it.

The revised site plan is attached, and includes both north and east elevations. These plans are intended to replace those in the Planning Commission agenda from the May 13, 2015 hearing.

SPECIAL PERMIT NO. 15025
Construct Broadcast Tower -
Good Shepherd Lutheran Church

SPECIAL PERMIT NO. 15025, TO CONSTRUCT A BROADCAST TOWER ON PROPERTY GENERALLY LOCATED AT 3825 WILDBRIAR LANE.

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 13, 2015

Members present: Lust, Scheer, Cornelius, Weber, Harris, Sunderman; Hove, Beecham and Corr absent.

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Per the applicant's request, Cornelius moved to defer public hearing and action on this application until May 27, 2015; seconded by Weber and carried 6-0; Lust, Scheer, Harris, Sunderman, Weber and Cornelius; Corr, Hove and Beecham absent.

There was no one present to provide testimony on this item.

SPECIAL PERMIT NO. 15025, TO CONSTRUCT A BROADCAST TOWER ON PROPERTY LOCATED AT 3825 WILDBRIAR LANE.

PUBLIC HEARING BEFORE THE PLANNING COMMISSION:

May 27, 2015

Members present: Lust, Hove, Beecham, Scheer, Cornelius, Corr, Harris, Sunderman; Weber absent.

Staff Recommendation: Conditional Approval.

There were no ex parte communications disclosed on this item.

Staff presentation: **Brian Will of the Planning staff** identified the boundary of the property – South 40th Street, Old Cheney, and Wildbriar Lane and the location of Good Shepherd Lutheran Church, which is applying for a broadcast tower, which would allow the church to operate a small radio station. This application was delayed two weeks ago to allow the applicant some additional time to meet with the neighbors to address some concerns that had been raised. They have met and a revised site plan with revised elevations were submitted and provided to the Planning Commission. The Planning Department is recommending conditional approval of this application as it was originally submitted with the revisions that have been submitted. There are no staff conditions that need to be changed as a result of the revisions that were submitted.

Proponents

Nik Sandman, 4501 Hallcliffe Road, which is located in the Briarhurst neighborhood, representing the applicant. He noted that Good Shepherd Church is located in the Briarhurst West neighborhood. Sandman serves as the chairman of the Board of Good Shepherd community radio. The church is making application for a special permit to build the radio tower. Good Shepherd Lutheran Church believes that as God's people that we love God by serving our neighbors. They have operated a preschool over 20 year and a day school for over 10 years. They are also in the planning stages to add before and after school childcare this fall. Over the last few months, they have sponsored fundraisers in support of pediatric cancer awareness network and they have welcomed organizations such as the Boy Scouts, Alcoholic Anonymous, homeowner associations, and other organizations to use their facilities without charge. The Good Shepherd community radio has been granted a license by the Federal Communications Commission (FCC) to build and operate a community radio station at 100 watts in the FM spectrum of 95.7 – Channel 239 with the name KNNA LP. The LP stands for limited or low power. They view this an another opportunity for them to serve the community. The low power LP FM radio service was created by the FCC in January 2000. LP FM stations are authorized for non-commercial education broadcasting only and operate with an effective radiated power of 100 watts or less with maximum facilities of 100 watts at 30 meters or antennae height above average terrain. The approximate service range of 100-watt LP FM station is 5.6 kilometers or 3 ½ miles radius. LP FM radios are not protected from interference that may be received from other classes of FM stations; they are required to protect other stations in their signals. Sandman indicated that a construction permit is required before a LP FM station can be constructed. The LP FM license granted to Good Shepherd is KNNA 905.7 FM. The FCC defines the service radius as 60 decibels or more, which includes a service range of 3 ½ mile radius. A full-power FM station has 46,000 watts of power in a service range of 50 miles. It was noted that there are 279,294 people within the sound and voice of KNNA but the 60 decibel population is 137,782, which is a smaller range. Referring to a site map, the church is centered in Lincoln. They want to be able to reach people. Linked with the power of the internet, we have an extremely efficient way of communicating with the Lincoln community. The FCC license limits them to a location close to their facility, therefore, they selected the church property for the location of the tower. They have been considerate of the neighborhood and met several times with the homeowner's association, beginning in September 2014. They were notified of the station, listened to their concerns and answered questions. They considered a 3-legged lattice style tower but there were concerns by the neighborhood about having an ugly radio station in the neighborhood. They looked at several other styles of towers, including large flagpoles and a laminated wood cross. They selected the monopole cross to address the concerns of the neighborhood association. This design was almost twice the cost of the lattice-style tower. They believe they have a plan that meets city codes as well as the requirements of the Zoning Commission and Planning Department. The proposed location of the tower is a safe location and it is screened by large trees to address the neighbors' concerns. They have tried to make this project as attractive as possible. They respectfully request that the Planning Commission approve this plan without stipulations.

Questions of the Applicant

Lust asked to view the picture of the proposed cross-style tower on the projector and asked if it is a depiction of what the tower will look like when completed. Sandman that this is the project that was submitted to the Planning Commission.

Lust asked if the cross-like structure on the church is existing or would it be added? Sandman stated that the cross on top of the church is existing and has been there since the church was constructed. The cross-style tower is designed to fit in with the cross on top of the church.

Corr asked for clarification on the reference in the staff report that indicates the ability to offer the internet to some people. Sandman indicated that the internet component has been removed from the application. An internet company had expressed some interest and there were some concerns expressed about the appearance, they have elected to remove it because time is limited for them,

Opponents

1. Kathy Siefken, 5631 Coyote Circle, Lincoln, NE 68516, representing the Briarhurst Neighborhood Association. She has served on the Board of Directors for approximately 14 years and has also served as president of the board. The current president of the association is also present today. The neighborhood association met with representatives of Good Shepherd Church, including Nik Sandman. At the May meeting, they were given the dimensions and location of the tower. They did not like their Option A of the options listed on the handout. The church decided not to locate it there and submitted revisions referred to as Option B. Siefken referred to a photograph showing the view that the neighborhood is concerned about. She indicated that there will be very little camouflage from the existing trees. The neighborhood is supportive of Option B with the condition that they add some landscaping to help camouflage it and put in up to four 10- to 15-foot Blue Spruce trees and a treeline of smaller trees next to the road so it would be camouflaged. They met with Nik and he indicated that he would go to Earl May and have them put together a landscaping plan with costs. This has not been provided and the church does not plan to provide additional landscaping to the project. The neighborhood prefers that the church goes to Option C, which is locating the tower on the south side of the church and away from the neighborhood. Siefken stated that the top of the cross is 59 feet and the top of the proposed tower is at 100 feet – almost double the height. The neighborhood asked that the Planning Commission not approve the plan that is before them today. They are not opposed to a Christian radio station in the neighborhood. The church has several different options and this option is not the one the neighborhood would prefer. Siefken used a site map showing the location of the tower in Option C.

Hove asked if the neighborhood would be supportive of Option B if they were willing to provide some landscaping. Siefken indicated that they would be supportive of Option B if landscaping was provided. She noted that they are not landscapers but it was suggested that they offer a free landscaping plan as discussed on a meeting on May 18.

She stated that they want to hide the base. There are existing conifers and they wanted some additional trees to help camouflage the base of the cross.

Lust asked if the neighborhood is requesting additional landscaping for Option C. Siefken indicated that they are not asking for additional landscaping with that option. Option C was put forth by the church but now they want to use this area for future parking.

Cornelius indicated that there is some existing screening and asked where the additional landscaping would be placed. Siefken indicated that the additional landscaping would go to the west.

~~Corr~~ **Harris** asked if the bushes that the neighborhood would like along the playground fence relate to the tower. Siefken stated that these bushes do not relate to the tower but the neighborhood asked the church to put them in. If the church wants to be a good neighbor, they would camouflage the ugly chain link fence. They have covenants in their neighborhood that do not allow advertising or trailers to be parked. Because of the covenants, they have a very nice neighborhood. The church parks a trailer on the corner and have banner hanging from the chain link fence – this is an eyesore. The neighbors would like for them camouflage this. This is not part of the tower but it was part of the conversation.

Corr asked Siefken to identify the homeowner association boundaries. Siefken explained that their boundaries include 31st Street, 40th Street, Old Cheney, and Hwy. 2. There is another neighborhood on the east side of 40th Street - that is where Mr. Sandman lives.

2. Jocelyn Baade, 3742 Wildbriar Lane, Lincoln, NE 68516, President of the Wildbriar Homeowners Association, came forward and stated that she is in opposition of the plan presented today.

Staff Questions

Lust indicated that the Planning Commission received an email forwarded by staff from Architectural Design Associates. Lust indicated that the last sentence states “We understand there will be no landscape plan included in the presentation.” Lust asked if the staff are recommending a landscape plan. Will stated that this is a statement of the applicant. He explained that there is no additional landscaping added a condition of approval by the Planning Department.

Lust noted that there are three mature coniferous trees. Will stated that what is being shown on the plan are the existing trees that are there today. Lust asked why we are not requiring additional landscaping. Will stated that the design of this broadcast does not look like a typical broadcast tower – it is intended to look like something else. Since the applicant is making an attempt to keep within the normal appurtenance to a church, there is no a need for it - a cross belongs next to a church. A typical cell tower would include a box, equipment shelters, and some visual foundation work at ground level

and, therefore, there are screening requirements, which do not typically screen the upper two-thirds of the tower. The intent is to screen the fence and equipment at ground level, which does not apply with this tower.

Sunderman referred to the site plan and noted that when drawing straight lines out from the location of the proposed tower, it appears that the existing trees are providing some screening with the exception of the angle to the northwest a little bit. Will indicated that the west edge is fairly well planted, as the large concentration of trees is in this area, which does provide some screening to the neighbors' view from the north and the east.

Beecham referred to the site plan distributed by the homeowner's association and asked if the placement of the tower was correct. Will stated that he believes it is correct, as the site plan does not show complete screening around the base. There are several existing trees that help to screen it.

Applicant's Rebuttal

Lust asked Mr. Sandman if they are anticipating additional screening around the antennae tower. Mr. Sandman indicated that they want this to be an attractive facility and they are open to landscaping but he believes that this is a moving target and stated that time is of the essence. They have until August 1 to begin testing per FCC requirements and need to be on air by August 14. If they don't meet these time lines, their license will lapse. The church has tried very hard to reach an agreement with the homeowners association. Sandman indicated that Plan A was actually approved by the Planning Department; however, the homeowners association had some concerns so they voluntarily withdrew their application in order to meet with the association and reach an agreement. They have not been able to come to a mutual agreement. They have only had two weeks to talk about this and he noted that there have been some misunderstandings. The church is seeking clean approval with the understanding that the church wants to be good neighbors and want to have an attractive facility, and he is mystified as to why we are this point.

Beecham asked Mr. Sandman if he would be okay with adding a condition to add three Blue Spruce trees. Sandman explained that cost is an issue. He went to Earl May and they are very busy right now. The horticulturist was not available but the cost of the trees being requested could be around \$4,000. This would be in addition to the cost of the transmitter, antennae and other electronic equipment, etc. and would be a burden on the church. A single, 4-foot tall Spruce tree is \$300, and \$600 planted. The request of adding 10- to 15-foot trees would require a tree spade, which would make it much more costly – up to \$1,200 per tree. This would be a budget buster for the church and why they are reluctant to make these promises. He would need to visit with the church in terms of what they might be able to do.

Beecham noted that if you wait until the fall, they may plant the trees for no charge.

Lust asked if the homeowners association donated a tree to the church, if they would plant it. Sandman indicated that they would gratefully receive that.

Staff Questions

Harris referenced Condition No. 3 relating to the playground fence and asked if it can be required as a part of the tower application. Will indicated that we could not require that, as it is not related to this application. The church could voluntarily do it.

Beecham asked when the conditions would need to be completed and the planting of trees and if everything has to be met before they can broadcast. Will explained that plantings, required landscaping and screening, etc., they have two planting seasons to get it completed – this fall and next spring – so they could wait until next spring to get this completed.

ACTION BY PLANNING COMMISSION:

May 27, 2015

Corr moved for conditional approval based upon the revised plan submitted by the applicant; seconded by Cornelius.

Corr indicated that the city has a Street Tree Voucher Program where vouchers are given to cover the costs of planting trees in the public right-of-way. If this was coupled with the nursery providing free planting, the church or homeowners could definitely put in some street trees to help screen the cross. It was noted that the NRD has a similar program.

Beecham stated for discussion purposes she would be willing to add a condition that a couple of 4- to 5-foot Spruce trees but she does not think it is appropriate to add anything along the fence.

Sunderman indicated that he is comfortable with the existing plan. He likes the staff explanation and that by adding more trees, it may bring more attention to the pole rather than letting it stand amongst the existing mature trees and it is in line with the cross on top of the church.

Lust agreed with Sunderman's statement. She indicated that normally she would be very sympathetic to screening but the church has invested a lot in the design of the tower and it already fits in the existing architecture of the tower and that most people will think it is just another cross at the church. While it is a tall cross, landscaping that is up to 10 feet tall, likely won't make much difference with the view. The applicant has invested a lot more expense in the type of tower that they are getting, and she intends to support the application as it is at this point.

Beecham made a motion to amend the conditions of the staff report to add two Spruce trees up to 5-feet tall. The motion to amend was seconded by Corr, and failed by a vote of 6-1.

The vote on the main motion carried 7-0; Hove, Beecham, Cornelius, Corr, and Sunderman; Lust, Harris; Scheer and Weber absent.