

(Appeal of Planning Commission Action)

RESOLUTION NO. A-\_\_\_\_\_

SPECIAL PERMIT NO. 1873

1           WHEREAS, Sprint PCS has submitted an application designated as Special  
 2 Permit No. 1873 for authority to construct a 90' tall wireless communications facility and  
 3 a waiver of the fall zone requirement on property located at 4700 Antelope Creek Road,  
 4 and legally described to wit:

5                   Lot 386 I.T. located in the Southwest Quarter of Section 32,  
 6                   Township 10 North, Range 7 East, Lincoln, Lancaster County,  
 7                   Nebraska; and

8           WHEREAS, the Lincoln City-Lancaster County Planning Commission has  
 9 held a public hearing on said application and by Resolution No. PC-00687 has denied  
 10 Special Permit No. 1873; and

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

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

18           NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of  
 19 Lincoln, Nebraska:

1           That the application of Sprint PCS, hereinafter referred to as "Permittee", to  
2 construct a 90' tall wireless communications facility be and the same is hereby granted  
3 under the provisions of Section 27.63.720 of the Lincoln Municipal Code upon condition  
4 that construction of said wireless communications facility be constructed to a height of 90  
5 feet in strict compliance with said application, the site plan, and the following additional  
6 express terms, conditions, and requirements:

7           1.     This permit approves a 90' tall wireless communications facility  
8 designed as a flagpole for a period of 15 years with a waiver of the fall zone required by  
9 27.68.110(g) of the Design Standards for Zoning.

10          2.     Before receiving building permits:

11           a.     The Permittee must complete the following instructions and  
12 submit the documents and plans to the Planning Department  
13 office for review and approval:

14           i.     Revise the site plan to show the dimensions of the  
15 parking stalls, driving aisles and dental office. Provide  
16 parking calculations to show that the proposed facility  
17 does not remove required parking stalls.

18           ii.    Show that the proposed access easement will not  
19 interfere with required parking stalls.

20           iii.   Provide materials indicating the color and finish of the  
21 facility.

22           iv.    Provide structural calculations, signed and sealed by a  
23 Nebraska P.E., showing that the pole and all

1 attachments meet TIA/EIA 222-F Standards,  
2 satisfactory to the Building and Safety Department.

3 b. The Permittee must post a surety, approved by the City  
4 Attorney, in the minimum amount necessary to guarantee the  
5 removal of the facilities. The surety may not be revoked or  
6 terminated during the term of the permit.

7 3. Before operating this personal wireless facility, all development and  
8 construction must conform to the approved plans.

9 4. The personal wireless service provider shall comply at all times with  
10 the current applicable FCC and FAA standards and regulations, and any of those of other  
11 agencies of the federal government with authority to regulate towers and antennas.

12 5. The tower shall be inspected and maintained in accordance with the  
13 applicable standards for towers that are published by the Electronic Industries Association,  
14 as amended from time to time. At the time of this Special Permit, those standards were  
15 contained in the TIA/EIA-222-F. The facility operator shall conduct safety inspections in  
16 accordance with the EIA and FCC Standards and within 60 days of the inspection, file a  
17 report with the Department of Building and Safety.

18 6. All privately-owned improvements, including landscaping, must be  
19 permanently maintained by the Permittee.

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

23 8. The terms, conditions, and requirements of this resolution shall be  
24 binding and obligatory upon the Permittee and the Permittee's successors and assigns.

1 The building official shall report violations to the City Council which may revoke the special  
2 permit or take such other action as may be necessary to gain compliance.

3 9. The Permittee shall, within 10 days of written demand, reimburse the  
4 City for all direct and indirect costs and expenses as provided in Section 27.68.090 in  
5 connection with the issuance and review of this permit.

6 10. As part of this approval, the Permittee agrees that the Permittee, its  
7 successors and assigns shall, at its sole const and expense, indemnify and hold harmless  
8 the City, its officers, officials, boards, commissions, agents, representatives, and  
9 employees against any and all claims, suits, losses, expenses, causes of actions,  
10 proceedings, and judgments for damage arising out of, resulting from, or alleged to arise  
11 out of or result from the construction, operation, repair, maintenance or removal of the  
12 provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-  
13 pocket expenses, such as costs or suit and defense and reasonable attorney fees, and  
14 shall also include the reasonable value of any services rendered by the City Attorney's  
15 office and any employees of the City and any consultants retained by the City.

16 11 The Permittee shall sign and return the City's letter of acceptance to  
17 the City Clerk within 30 days following approval of the special permit, provided, however,  
18 said 30-day period may be extended up to six months by administrative amendment. The  
19 City Clerk shall file a copy of the resolution approving the special permit and the letter of  
20 acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the  
21 Permittee.

Introduced by:

Approved as to Form & Legality:

\_\_\_\_\_  
City Attorney

Staff Review Completed:

\_\_\_\_\_  
Administrative Assistant

Approved this \_\_\_\_ day of \_\_\_\_\_, 2001:

\_\_\_\_\_  
Mayor