

**RECORD OF PROCEEDINGS
PUEBLO COUNTY PLANNING COMMISSION
WEDNESDAY, AUGUST 21, 2019
COMMISSIONERS' CHAMBERS AT PUEBLO COUNTY COURTHOUSE
215 WEST 10TH STREET, PUEBLO, COLORADO**

ROLL CALL AND DECLARATION OF QUORUM

Commissioners Present: Betty Alt, Donald Bruestle, Epimenio Griego, Kiera Hatton, Judy Leonard, Roger Lowe, Philip Mancha, and Michael Schuster.

Commissioners Absent: Zachary Swearingen.

Staff Present: Gail Wallingford-Ingo, Planner II; Carli Hiben, Planner II; Monica Grosso, Office Support IV; and Sandra Smith, Office Support IV.

Others Present: Marci Day, Assistant Pueblo County Attorney; and Dominga Jimenez-Garcia, General Services Engineer, Pueblo County Department of Engineering and Public Works.

Chair Lowe called the Pueblo County Planning Commission meeting to order at 5:30 p.m.

APPROVAL OF AUGUST 21, 2019 AGENDA

Mr. Mancha motioned to approve the agenda of the August 21, 2019 meeting as mailed. Mr. Griego seconded the motion. Motion carried unanimously.

APPROVAL OF JULY 17, 2019 MINUTES

Ms. Leonard motioned to approve the minutes of the July 17, 2019 meeting as mailed. Mr. Schuster seconded the motion. Motion carried unanimously.

CHAIRPERSON'S REPORT

Chair Lowe stated that Mr. Mancha wanted to make a report.

Mr. Mancha informed the Commission that he toured the PuebloPlex development. He encouraged the Commission members to tour the area before PuebloPlex presents its proposed text amendment to the Commission.

DIRECTOR'S REPORT

The Director's Report was presented by Gail Wallingford-Ingo, Planner II. She requested the staff memorandums be made a part of the record of proceedings.

(a) Acceptance of Map Amendments and Planned Unit Developments--None.

(b) Correspondence (all relative to [Special Use Permit No. 2019-002](#)):

- Submitted by Linda McMillan of BuxmanKwitek, P.C., dated August 15, 2019, includes 10 pieces of correspondence in opposition to Special Use Permit No. 2019-002 from the following: Bob and Mary Ask, Michael and Deborah Snell, Dan and Kerry Dahlke, Sam and Mary Lou Dazzo, Charles Englebrecht, Dee and Carole Kaderli, David and Kelly Ramos, Don Pittman, Aaron and Sherri Velasquez, and Jeff and Christy Middleton.
- Submitted by James and Barbara Ottino, dated August 15, 2019, includes a list of 54 names, an area map showing those in support, and 6 form letters in support of Special Use Permit No. 2019-002 from the following: Edward DeSiata, Barry Lewis, Gary Schindler, Michael French, Dustin Nelson, and Jamie Duran.
- Submitted by Donald Pittman, dated August 17, 2019, retracting his opposition letter dated August 9, 2019 and taking a neutral position to Special Use Permit No. 2019-002.
- Submitted by Sandy Perkins, dated August 17, 2019, signed by Thomas Fulton, Sandra Perkins, and Mr. and Mrs. Alexander Cannour, expressing opposition to Special Use Permit No. 2019-002.
- Submitted by Joe Mummau, dated August 19, 2019, expressing support for Special Use Permit No. 2019-002.

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- Submitted by James and Barbara Ottino, dated August 20, 2019, includes 4 pieces of correspondence in support of Special Use Permit No. 2019-002 from the following: Paul Borah, Lucy Snyder, Gary Cline, and Michael Morgan.
- Submitted by Pat Noland, dated August 20, 2019, includes updated list of those in opposition, a petition with 9 signatures in opposition, and 2 letters in opposition to Special Use Permit No. 2019-002 from the following: Jim and Susan Province and Robert and Karen Snell.

(c) Continuances:

- **JS Hunter Subdivision Preliminary Plan No. 2018-003**, Justin and Sarah Hunter (Owners/Applicants), Altman, Keilbach, Lytle, Parlapiano, & Ware, P.C., c/o David Lytle, Attorney-at-Law (Representative), 7094 State Highway 165. The intent of the subdivision is to subdivide a 25.51± acre parcel into two (2) lots as follows: Lot 1 will contain 1.325± acres and Lot 2 is proposed at 24.138± acres in size. The property is currently within an A-3, Agricultural (minimum 1 acre) Zone District and is located at the southeast corner of the intersection of Colorado State Highway No. 165 and Cibola Drive in the Colorado City area.

This item was continued from the February 20, 2019, April 17, 2019, and June 19, 2019 PCPC meetings.

The applicant is requesting a continuance to the October 16, 2019 PCPC meeting.

- **Map Amendment No. 2018-009**, Justin and Sarah Hunter (Owners/Applicants), Altman, Keilbach, Lytle, Parlapiano, & Ware, P.C., c/o David Lytle, Attorney-at-Law (Representative), 7094 State Highway 165. The intent of the map amendment is to rezone a 1.325± acre parcel of land (proposed Lot 1, JS Hunter Subdivision) from an A-3, Agricultural (minimum 1 acre) Zone District to a B-4, Community Business Zone District. The property is located at the southeast corner of the intersection of Colorado State Highway No. 165 and Cibola Drive in the Colorado City area.

This item was continued from the February 20, 2019, April 17, 2019, and June 19, 2019 PCPC meetings.

The applicant is requesting a continuance to the October 16, 2019 PCPC meeting.

- **Sun Haven at Pueblo West Preliminary Plan No. 2019-001**, Jacques Machol, Sun Haven Construction, LLC (ORIGINAL Applicant), Sun Haven Construction, LLC (ORIGINAL Owner), Best Apartments, LLC, c/o Osuan Cortes Andres and Todd Messenger, Esq. (NEW Applicant/Owner), Henry Design Group, c/o Karen Henry (Representative), 201 South McCulloch Boulevard, Pueblo West. The applicant requests approval of Sun Haven at Pueblo West Preliminary Plan No. 2019-001 to subdivide Parcel A of Subdivision Exemption No. 86-3 containing 15.61± acres into five (5) Blocks and one (1) Tract as follows: Block 1 - 5.05± acres, Block 2 - 3.48± acres, Block 3 - 0.96± acre, Block 4 - 2.67± acres, Block 5 - 2.86± acres, and Tract A Existing Access – 0.59 acre. The applicant intends to develop the blocks in two (2) phases: Phase 1 - Blocks 1 and 2; Phase 2 - Blocks 3, 4, and 5. The property is developed with a restaurant on Block 1, and a hotel that has been renovated into apartment homes on Block 2. Blocks 3, 4, and 5 are vacant and are proposed to be sold or self-developed. The property is within the B-4, Community Business Zone District, is physically addressed as 201 South McCulloch Boulevard, and is located west of the intersection of McCulloch Boulevard and Abarr Drive in the Pueblo West Metropolitan District.

This case was continued from the February 20, 2019, April 17, 2019, and June 19, 2019 PCPC meetings.

The applicant is requesting continuance to the October 16, 2019 PCPC meeting.

- **Shree Hari Preliminary Plan No. 2019-005**, Shree Hari, LLC (Owner), Bhaveshkumaf M. Patel (Applicant), Wachob and Wachob, Inc., c/o Daniel Wachob (Representative), 6670 State Highway 165. The applicant requests preliminary plan

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approval to subdivide 6.26± acres into two (2) lots consisting of 3.06± acres (Lot 1) and 3.20± acres (Lot 2). The property is within an R-6, Multiple-Residential and Commercial District and carries a physical address of 6670 State Highway 165. The property is located southeast of State Highway 165 and west of Interstate 25 in Colorado City. The applicant's letter of request and preliminary plan indicates proposed Lot 1 is currently improved with a motel, restaurant, and swimming pool while proposed Lot 2 is currently vacant and there are currently no plans to develop proposed Lot 2.

The applicant is requesting a continuance to the October 16, 2019 PCPC meeting.

- **Text Amendment No. 2019-002**, Cannomics, LLC (Applicant), c/o Matt Wheatley, PhD and Kathy Jenson Pfeiff, MS. RDN (Representatives). The applicant requests a text amendment to Title 17, LAND USE, Division I. ZONING, Chapter 17.16, *Agricultural Three (A-3) and Four (A-4) Districts*, specifically Section 020 (*Uses by right*) and to Chapter 17.120, *Supplementary Regulations*, specifically Section 280 (*Hemp Establishments*), Paragraphs G. and J. all as cited within the Pueblo County Code.

The applicant has requested a continuance to the October 16, 2019 PCPC meeting.

(d) Withdrawals--None.

(e) Board of County Commissioners' Action--Summary of actions taken on August 15, 2019 was distributed in the Commissioners' packet for informational purposes only. No formal action is required.

(f) Administrative Reviews--None.

Ms. Wallingford-Ingo requested the Commission take action on the late correspondence and requests for continuances as presented.

Mr. Mancha moved to accept the late correspondence and requests for continuances and make the Commission's comments a part of the record of the proceedings. Ms. Alt seconded the motion. The motion carried unanimously.

STATEMENT OF HEARING PROCEDURES BY CHAIRPERSON

Chair Lowe reported that the applicant and/or representative are called upon to speak, followed by any parties in favor and then those in opposition, with the applicant having the final say.

PUBLIC HEARING

Ms. Wallingford-Ingo explained there were two items on the Consent Agenda and two items on the Regular Agenda for this evening's meeting. She requested the staff memorandums presented this evening be made a part of the record of proceedings.

CONSENT ITEMS:

Mr. Bruestle moved to approve the two Consent Items listed below with comments and/or conditions. Mr. Schuster seconded the motion. The motion carried unanimously.

- **Mimi's Subdivision Final Plat No. 2019-003** on behalf of Mimi Morgan. The owner/applicant requests final plat approval to subdivide 3.0± acres into two (2) lots consisting of 1.0± acre (Lot 1) and 1.96± acres (Lot 2) in an A-3, Agricultural (minimum 1 acre) Zone District. A ten (10) foot road right-of-way dedication (consisting of 0.04± acre) and a ten (10) foot roadway easement are also proposed along the north property line for and adjacent to Everett Road. The property is located on the south side of Everett Road between Lane 30 and Lane 30½ in the St. Charles Mesa.

Ms. Wallingford-Ingo stated the application for Mimi Subdivision Preliminary Plan No. 2019-003 was reviewed by the Pueblo County Planning Commission on May 15, 2019 with the Board of County Commissioners approving the application on June 13, 2019.

Staff recommends the Pueblo County Planning Commission forward a recommendation of approval of Mimi Subdivision Final Plat No. 2019-003 to the Board of County

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Commissioners with the three comments and two conditions as outlined in the August 13, 2019 staff report, noting that since the completion of the staff report, the owner/applicant's representative has addressed Condition No. 1.

- **Zupan Farm Subdivision Final Plat No. 2019-004** on behalf of David and Elizabeth Zupan. The owners/applicants request final plat approval to subdivide 19.92± acres into three (3) lots consisting of 5.10± acres (Lots 1 and 3) and 8.38± acres (Lot 2) in an A-2, Agricultural (minimum 5 acre) Zone District. A thirty (30) foot road right-of-way dedication is also proposed along the west and south property lines for Lane 33 and Jersey Road. The property is located at the NE corner of the intersection of Lane 33 and Jersey Road in the Vineland area.

Ms. Wallingford-Ingo stated the application for Zupan Farm Subdivision Preliminary Plan No. 2019-002 was reviewed by the Pueblo County Planning Commission on April 17, 2019 and subsequently approved by the Board of County Commissioners on May 9, 2019.

Staff recommends the Pueblo County Planning Commission forward a recommendation of approval of Zupan Farm Subdivision Final Plat No. 2019-004 to the Board of County Commissioners with five (5) comments and a single condition as outlined in the August 13, 2019 staff report.

REGULAR ITEMS:

Statement of Conduct and Demeanor

Chair Lowe stated in order for the business of the Commission to be conducted in the most effective and expeditious manner, it is necessary that all persons maintain a demeanor of civility toward each other. Uncivil conduct will not be tolerated. Such behavior shall constitute the forfeiture of a person's right to remain in attendance and may result in them being asked to leave the meeting by the chairperson or, upon their refusal, being escorted out of the meeting by the proper authority.

- **Text Amendment No. 2019-001** on behalf of Brad Lisac (Applicant) amending the Pueblo County Code Title 17 Land Use, Division I. Zoning. Applicant Brad Lisac requests a text amendment to the Pueblo County Code Section 17.120.190 Marijuana Establishments D. Distance measurement, Sections 17.120.220 and 17.120.230, D. Location. *This case was continued from the June 19, 2019 PCPC meeting.*

Please Note: The original submission to the Commission by Pueblo County Department of Planning and Development (Applicant) requesting a text amendment to the Pueblo County Code, Section 17.120.190 Marijuana Establishments F. Performance Standards 4. Fencing, was WITHDRAWN at the June 19, 2019 PCPC meeting.

Ms. Wallingford-Ingo, Planner II, Pueblo County Department of Planning and Development, 229 West 12th Street, Pueblo, Colorado 81003, asked that staff's memorandum dated August 12, 2019 be made part of the record of proceedings. She stated staff's recommendation was denial. She introduced Mr. Lisac to give his presentation.

IN FAVOR

Mr. Brad Lisac, 38495 Terra Via, Pueblo, Colorado 81006, represented the text amendment. He stated that originally in May 2019 he was before the Commission to oppose an outdoor marijuana grow that was proposed adjacent to his backyard. At that time, it was decided that he would change the regulations back to the way they were in 2011, which was measuring 500 feet from property line to property line. In 2013, the regulations for measurements were changed to 250 feet from structure to structure. The question raised at the time was how it would affect all parties involved within the allowable zone districts. He introduced Mr. Matt Bernal, who was helping him to come up with some language to change the Pueblo County Code that would be a benefit for all involved.

Mr. Matt Bernal, 878 Baxter Road, Pueblo, Colorado 81006, represented the text amendment. He stated that at the last Commission meeting, he showed up in opposition to Mr. Lisac's text amendment proposal. He stated that he also lived on the St. Charles Mesa and could sympathize with Mr. Lisac's concerns. He felt they could work together to come to some resolve. He toured Mr. Lisac's property and spent some time discussing the matter. He also spoke with the people in the marijuana industry, noting that he was in the marijuana

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industry and has several licenses. Through those discussions, he drew up a proposal, which was submitted to the Commission as Petitioner's Exhibit A. He asked those in the audience to raise their hands if they were in support of Mr. Lisac's proposal, noting there were quite a few people in attendance for this matter. He wanted to inform the Commission where the people stood as an industry and as residents within the community. He stated Petitioner's Exhibit A referenced the related sections, i.e., 17.120.190, 17.120.220, and 17.120.230. These were the sections that were originally in question. He noted that the new measurement being proposed was 1,000 feet from a residence to a marijuana cultivation. He felt this would protect the residents, especially those with children.

Ms. Day stated that the proposal before the Commission was the one that was continued from the previous Commission meeting. She noted that said proposal was also what was advertised to the public for review and comment. She stated the Commission could not consider the new revisions that were submitted because the changes were significant and would need to be advertised to the public for review and comment. Mr. Bernal questioned if it could be continued to next month. Ms. Day replied that it would have to be at least two months to meet the requirements for publication of notice of the meeting and requests for comments from other related parties. Staff would also need to prepare a new staff memorandum to the Commission. Mr. Lisac stated that he would rather ask for a continuance than have it denied this evening. He stated that the Commission asked him to continue from the last meeting. Ms. Day stated that the Commission and staff had not received the new proposal until this evening. Mr. Lisac stated that there was nothing stated from the previous meeting that he had to have any changes submitted prior to the continued meeting date. Ms. Day replied that if the changes being made to the original proposal had been minor, she felt the issue could have moved forward under the original publication of the notice of public meeting. Mr. Lisac replied that his new proposal was less restrictive than before because the Commission was concerned about the strip malls in the B-4 zoning areas. Ms. Day replied that the changes were significant compared to the original proposal. Anyone that saw the notice in the newspaper and read it, could come to the meeting to express support or opposition. The public does not have notice of the changes that were submitted to the Commission this evening. The people that were in the audience may be aware of it, but the general public is not, which is a requirement before the Pueblo County Code can be changed. Mr. Lisac stated he understood. Mr. Bernal questioned what the jurisdictional requirement for public notice was. Ms. Wallingford-Ingo replied it was a minimum of 30 days. She stated a two-month continuance is requested to allow staff time to re-advertise the changes. Mr. Bernal questioned how the public notice was posted. Ms. Wallingford-Ingo replied that it was published in a newspaper of general circulation, which in this case would be The Pueblo Chieftain. Advertising dates are prescheduled and could be provided upon request. Mr. Bernal stated the previous public notice did not specifically give a distance measurement; it only stated the sections of the Code that were going to be changed. Nothing has changed in that regard and he felt the original public notice should still be valid. People that had any concern about the proposed text amendment to those sections would still have the opportunity to be heard. Ms. Day replied that staff's recommendation was denial, noting they have not had the opportunity to review the changes and make a recommendation. She stated that even if the original text amendment application was withdrawn and a new one was submitted; it would still be too tight to get it on next month's meeting schedule. She stated the meeting could continue this evening, noting that the recommendation was denial, or it could be continued to the Commission's meeting in two months. Mr. Lisac questioned if the Commission had any comments on the new proposal. Chair Lowe stated that he could speak for the Commission. He stated a continuance would be best, noting that there were people in the audience that came to speak. Chair Lowe stated that it was up to the Commission to decide if it wanted to allow those in attendance to speak this evening and then continue the meeting. Mr. Schuster replied that he would like to hear what they have to say since they are in attendance. Ms. Leonard concurred. Ms. Day stated that staff has not reviewed the new proposal and cannot give any legal advice as to whether they would be legally acceptable to adopt. It's at the Commission's discretion to move forward. Mr. Bruestle stated that if he was going to be listening to testimony, he wanted to listen to testimony relevant to the issue that he would be voting on. Legal counsel is suggesting the case be continued to allow review of Petitioner's Exhibit A. Ms. Hatton questioned if the text amendment goes before the Board of County Commissioners and if changes could be made before it goes before the Board. Ms. Day replied yes. The Commission is forwarding a recommendation to the Board of County Commissioners and that recommendation could have conditions. Ms. Hatton stated she would like to consider that as an option. She felt there was an effort on the part of the applicant and the marijuana industry, via Mr. Bernal, to come to some resolve prior to the Board meeting. She would like them to have that discussion and forward a recommendation

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to the Board of County Commissioners with conditions based on testimony. Ms. Day stated it was at the discretion of the Commission and the applicant to move forward with this evening's meeting, noting that staff's recommendation will remain denial and with the knowledge that the new proposal has not been reviewed by staff or legal counsel. Mr. Mancha suggested a vote be taken on the matter. Mr. Lisac stated it was his text amendment, and if the Commission took the time to read his new proposal, that was a collaboration of efforts between the marijuana industry and himself, the Commission would have no problem accepting the proposal. He questioned if it was worth it to take the chance of having it denied or continue to delay the outcome. He was not sure what to do. He stated the Commission needed to guide him in what to do next. He has come before the Commission for a resolution, noting it appears it was not going to get done this evening. He was counting on the knowledge of the Commission to guide him as to what to do next.

MOTION

Chair Lowe felt a continuance was in order and asked for a motion to continue the text amendment.

Mr. Bruestle moved to continue Text Amendment No. 2019-001 to the Planning Commission's October 16, 2019 meeting. Mr. Mancha seconded the motion.

Ms. Hatton questioned if the issue was something the Commission wanted to discuss in full or if the Commission felt there was not enough information on the table or time to review it.

Mr. Mancha stated that nothing needed to be forced, noting he was already confused, and it was not a way to start the process.

Chair Lowe stated there was a motion on the floor and he would like a roll call vote.

Mr. Schuster--No.
Ms. Leonard--No.
Ms. Alt--Yes.
Mr. Griego--No.
Ms. Hatton--No.
Mr. Bruestle--Yes.
Mr. Mancha--Yes.
Chair Lowe--Yes.

Ms. Day stated the motion failed due to it being a tie vote. Chair Lowe stated the meeting will continue.

Mr. Bernal summarized Petitioner's Exhibit A. He stated it covered the following sections of the Pueblo County Code, 17.120.190--Paragraph D, Distance Measurement, redefining the measurement for cultivations only, i.e., medical, recreational, contiguous and non-contiguous cultivations, to measure a straight line from the edge of a proposed licensed premise to residence. He stated this gives the landlords and property owners rights because if you use parcel lines and you have an extremely large parcel, you can't use any of your parcel. The other benefit of using a licensed premise is that it is the edge of the cultivation itself. A grow may be on a parcel, and if they choose not to use the edge of it, it doesn't prohibit them from using the entire parcel, noting they just can't be too close to a residence. He stated they were specifically calling out "residence" as well because they were mainly speaking about the St. Charles Mesa, which is predominately agricultural zoned. You would think you could cultivate marijuana in an agricultural zone, but there are people living on these parcels.

Mr. Bernal stated 17.120.220--Paragraph D, Location, and 17.120.230--Paragraph D, Location addressed the contiguous and non-contiguous cultivations. The new recommendation was 1,000 feet or less of a residence unless unanimous letters of approval from adjacent neighbors. He stated that one of the letters submitted to the Commission as part of the evidence for the text amendment said that they like their neighbor because they have increased property values. He noted this was fine if the whole neighborhood felt that way, then cultivators and landlords would not be restricted. He felt this change would give the community a voice to allow a grow adjacent to personal property. He noted that people that live in an area that is more isolated, like his businesses on Stem Beach, should be a non-issue. Essentially, what they were trying to create was a half-way point, noting that it could default back to the 250 feet where relevant. They have decided to use the 1,000 feet

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measurement from schools and other facilities because it was the number used in the Cole Memo. The Cole Memo was a national guideline for the marijuana legislation. He stated Mr. Lisac's children play in his back yard, which is why a buffer zone needs to be created. He stated that he has been in the marijuana industry for years and has worked with a lot of people. He would like to think that what was being proposed this evening was a truly honest, middle-of-the-road solution for people. He stated the proposal was created in conjunction with the marijuana industry and the opposition to marijuana facilities within the community. He felt this was one of the fairest amendments being sought in his six years of working with marijuana zoning and licensing.

Mr. Bruestle questioned if staff's comments and recommendation was still pertinent at this time. Ms. Day replied they were pertinent to the text amendment changes as reported in staff's memorandum. Regarding the new text amendment changes being reviewed this evening (Petitioner's Exhibit A), if the Commission wants to vote to make changes to the recommendation and conditions, it may do so.

Chair Lowe questioned if what was going to be heard this evening was testimony on the original text amendment. Ms. Day replied the initial text amendment public notice was published and mailed to interested parties. However, if the Commission wants to make changes to that proposal based on what the applicant submitted this evening for review, the Commission has the right to do so. Specific language has not been drafted by staff, because they have not had the opportunity to make those changes to the Pueblo County Code. It would be up to the Commission to make those changes, which would have to be in writing for the recommendation to the Board of County Commissioners. Mr. Bruestle stated he felt it would be inappropriate to take any action without legal counsel's review of the new proposal. Actions by "knee jerk" should be avoided. Mr. Mancha concurred.

Chair Lowe informed Mr. Lisac that the Commission operates on the direction of legal counsel and Planning staff. Without their review of the new proposed text amendment changes, he felt the Commission could not decide this evening. However, if the case is continued, the new proposal may get a recommendation of approval. He stated that the standard application review process needs to be followed.

Chair Lowe questioned if there was a reconsideration of continuance of the text amendment.

Mr. Schuster moved to continue Text Amendment No. 2019-001 to the Planning Commission's October 16, 2019 meeting. Mr. Mancha seconded the motion. The motion carried unanimously.

Mr. Lisac thanked all those in the audience that came to speak on his behalf and was sorry he wasted their time. He hoped to see them back in October.

- **Special Use Permit No. 2019-002**, Vertical Bridge Development, LLC and T-Mobile West, LLC (c/o Matthew Grugan) (Applicant), Powder River Development Services, LLC, (c/o Brandon Peterson) (Applicant's Representative), James L. and Barbara A. Ottino (Owners), Vince L. Linden III, Attorney-at-Law, Linden Law Group, (Owners' Representative), 330 South Sobrante Drive. The applicant is requesting a special use permit to allow the establishment of a 60-foot stealth (agricultural silo) type telecommunications tower and related accessory buildings and support facilities on a 2,500 square foot leased parcel of land in an A-1, Agricultural (minimum 35 acre) Zone District. The leased parcel is encompassed within a 10± acre parcel of land located south of El Sobrante Drive between West Aledo Drive and West Saguache Drive as platted within Pueblo West Tracts 307 and 320.

Ms. Gail Wallingford-Ingo, Planner II, Pueblo County Department of Planning and Development, 229 West 12th Street, Pueblo, Colorado 81003 summarized the staff memorandum, dated August 14, 2019. She read the following into the record, "The meeting would begin with a short staff summary, followed by a presentation by the applicant not to exceed 45 minutes. Testimony by proponents is limited to five minutes per person with a total of the applicant's and proponents' testimony not to exceed one hour. Testimony by the opposing counsel, expert testimony, and presentation by a group of representatives is also limited to 45 minutes. Any other opposition testimony will also have a five minute per person limitation. The total opposition testimony is not to exceed one hour. The applicant will then have an opportunity to give rebuttal, which is limited to the issues raised by the opposition and will be limited to no more than 15 minutes. Finally, there will be a deliberation by the Planning Commission. The Board will choose to keep the hearing open

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and continue it to a date, time, and place certain to receive further testimony and evidence. The Board may choose to close the hearing and take it under deliberation and continue the hearing to a date, time, and place certain to render the decision. The Board may close the hearing, deliberate, and render a decision today. Please note the total time allocated for the hearing this evening is two hours and thirty minutes. When testifying, we expect you to please be respectful to all in attendance, address your testimony to the Board, do not address testimony to the applicant, to staff or to others in attendance. In the interest of time, do not repeat testimony that has already been offered by others. The purpose of this hearing, before the Pueblo County Planning Commission, is sitting in a quasi-judicial capacity. As such, they are prohibited from obtaining evidence from either side outside of the public hearing. The Board must also apply the standards in the existing Pueblo County Code to facts presented at this hearing to arrive at a decision. Please limit your testimony to the information relevant to the case before use. This is a special use permit and, pursuant to the Pueblo County Code, the Board may consider only the following standards when rendering a decision--(1) The request is a use listed as a special use in the zone district to which the parcel is located; (2) The granting of the special use permit will substantially modify the Land Use Plan or the intent, purpose, or spirit of the Pueblo County Land Use Code; (3) That the special use permit incorporates reasonable means to create an environment harmonious to that of the surrounding properties; and (4) That the special use permit will not adversely affect the public health, safety, and welfare. This is an application for a telecommunication tower. Federal law permits but limits local government control over the placement and installation of telecommunication towers as follows: The regulation may not prohibit or have an effect of prohibiting personal wireless services within the community. The regulation may not address or be based on the environmental effects of radio frequency emissions. Applications must be acted in a reasonable amount of time. Denial of an application must be in writing and supported by substantial evidence from the written record. Local communities may not unreasonably discriminate amongst providers of functionally equivalent services. Local communities may regulate their public rights-of-way in change for fair compensation for facilities they are on. For those in the audience, please do not be disruptive during testimony. Please do not speak loudly, fail to silence your cell phones, or please do not applaud during the hearing, you may be asked to leave.”

Ms. Wallingford-Ingo stated there were podiums. She asked that people sign in and provide their name and address as well as state their name and address for the record prior to giving testimony. She opened the hearing for Special Use Permit No. 2019-002. She staff was recommending approval with seven conditions and a Directive to Staff.

Ms. Leonard recused herself from voting on this matter. She has previous knowledge from a Pueblo West Committee of Architecture meeting where she received legal advice and Mr. James Ottino has contacted her.

IN FAVOR

Mr. Vince Linden, Esq., 111 South Tejon Street, Suite 202, Colorado Springs, Colorado 80903, represented Mr. and Mrs. Ottino, who are in landowners and the applicants for the special use permit. He stated present this evening were the landowners Mr. and Mrs. Ottino, the applicant's representative, Mr. Grugan, and an additional representative from T-Mobile if needed. He asked Mr. Ottino to begin with his presentation.

Mr. James and Mrs. Barbara Ottino, 330 South El Sobrante, Pueblo West, Colorado 81007 represented the special use permit. Mr. Ottino distributed some site photos to the Commission, entered collectively as Petitioner's Exhibit A. Ms. Wallingford-Ingo asked a copy of the photo packet be made available to opposition's counsel. Mr. Ottino stated that his attorney, Mr. Linden was his nephew. He stated he was a native of Pueblo and has been self-employed his entire career. He has been doing custom home building for the last 30 years. His wife has worked for School District No. 70 for the last 17 years and recently retired. They purchased the land in 1996. It is divided into two adjacent parcels with each containing 10 acres. The parcels are referred to as the North 10 and the South 10. After purchase, he built their home, the detached garage, and the barn on the southeastern side of the north 10 acres. The north 10 is the subject property of tonight's application. The south 10 acres are adjacent to and directly south of the north 10 acres. The south 10 acres have never been developed. For purposes of this hearing, it was important to note that both 10-acre parcels have always carried an A-1 zoning designation under the Pueblo County Code. When they purchased their land, there were no other homes nearby. All the surrounding parcels were and still are zoned A-3. Most all the surrounding A-3 parcels are one acre in size. The north 10 parcel was included within the jurisdiction of the Pueblo West

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Metropolitan District. The inclusion process requires the purchase and transfer of a one acre share of water. At that time, he purchased five shares of water and transferred them to the Pueblo West Metropolitan District, leaving four additional shares banked with the Pueblo West Metropolitan District for future development. The South 10 is not incorporated within the Pueblo West Metropolitan District and is known as an outparcel. The most important factor when making the decision to purchase the parcels was the fact that both parcels carried the A-1 zoning designations. The A-1 zoning designation was a critical and important factor in his mind when they decided to purchase the 20 acres. The plan at the time of purchase was to build their home on the North 10 and someday develop the south 10 acres or hold the South 10 as an investment property and sell to a developer. In 1996, it was extremely rare to find 20 acres of A-1 zoned land in the Pueblo West area. When it was purchased 23 years ago, he was a younger man in the prime of his home building career. He thought that someday he would develop or sell the land especially as they got older. As good fortune would have it, they were able to raise their three daughters in the home on the North 10. They landscaped the home and have maintained it very nicely. The landscaping is mature and beautiful, noting they take pride in their home. They love the neighborhood and surrounding friends. They would love to stay in their home as long as possible. They love to have their grandchildren over for visits and stays. They are devoted to maintaining the integrity of their home, their land, their neighbors, the community, and their good hard-earned reputations. As time progressed, they never got around to developing the south 10 acres. There have been many opportunities to sell the south 10 acres especially when the marijuana laws went into effect, which would be a use-by-right on that parcel. When T-Mobile's representatives first contacted them about establishing a cellular tower on their land, they initially gave strong consideration to leasing a portion of the south 10 acres to T-Mobile. The south 10 acres, being a vacant A-1 zoned parcel, seemed like a suitable location for a cellular tower. The outparcel has no building height restrictions. T-Mobile was originally proposing a 100-foot cellular tower on a 100-foot by 100-foot leased portion of the south 10 acres. However, after careful thought, they realized that a brand new, stand-alone construction of a cellular tower site on such a large vacant lot would be more conspicuous for the neighborhood than if placed on the north 10 acres where the cellular tower could be placed near the already constructed improvements and trees. If the cellular tower was placed on the vacant south 10-acre lot, not only would it be conspicuous standing all by itself, you would need to build an access road and provide electricity to the tower, which disturbs more of the undeveloped ground. After further discussion with T-Mobile representatives, it was realized that the north 10 acres parcel would be more suitable particularly because the cellular tower could be placed near their home, barn, detached garage, and the mature 48-foot cottonwood trees. He and his wife both felt this plan was a prudent way to develop but, yet, preserve the property. Because the north 10 acres is located within the Pueblo West Metropolitan District, a height variance was initially applied for a 75-foot windmill type cellular tower structure. The location of the initial application was along the southernmost east property line of the North 10 directly southwest of the nearest neighbor's house to the east. That property is now owned by Mr. and Mrs. Noland. At the time of the application, the Nolands had not purchased their property. At a Pueblo West Metropolitan District Committee of Architecture (COA) meeting on June 8, 2017, their application for the 75-foot cellular tower was denied. At the conclusion of the hearing, the COA recommended and informed them that it would consider another cellular tower application if the cellular tower company representatives could lower the requested height from 75 feet to 60 feet. After the June 18, 2017 meeting, they discussed the recommendation with T-Mobile representative and went back to the drawing board. As was suggested, they re-applied for a 60-foot windmill like cellular tower. A few months later, at a publicly held hearing before the COA, on September 14, 2017 the COA granted the construction approval of 60-foot windmill style cellular tower. Many of the neighbors, including the Nolands, attended the COA public hearing. Mr. Noland testified at that hearing that he recently purchased his house and was aware of the originally denied cellular tower. In fact, the Nolands closed the purchase of their home on August 7, 2017, two months after the first hearing and approximately a month before the COA issued its final approval at the September 14, 2017 hearing. He stated that T-Mobile did not pursue the approval because the Pueblo West Metropolitan District had pending applications for its own cellular towers at Fire Station No. 2 and Fire Station No. 3. Both fire station applications were presented to Pueblo County and brought before the Commission. Because of and due to Pueblo County's collocation requirements, T-Mobile could not continue to process its cellular tower application on the North 10 until the decisions were made on the pending applications before the Commission. He noted that Fire Station 2 was less than one mile from his property. The cellular tower was approved for Fire Station No. 3, which was on a 2.2-acre site surrounded by adjacent residential lots most of which are less than one-half acre in size. The proposed tower is 205 feet away from the closest resident, which is the equivalent of

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one-and-a-half-acre lot. The application for Fire Station No. 2 on a 1.2-acre site was denied. Because they were waiting for the determination as to whether T-Mobile could proceed with its application on the north 10 acres or whether it would have to abandon its application for his property and instead collocate its antennas on Fire Station No. 2, he requested the COA to extend its originally approval issued in September 2017. On August 23, 2018, the COA denied the extension request. Unfortunately, he did not think his attendance was required at the extension hearing and instead attended a neighborhood meeting at the Pueblo West Library that same evening to discuss the exact site location for the cellular tower on his property. T-Mobile's representatives invited 48 residents to attend the meeting at the library. A copy of this invitation letter was included in staff's memorandum to the Commission. Because the COA's original September 14, 2017 approval was not extended beyond its 12-month construction time limit, they had to re-apply once again. However, by this time, they had an additional opportunity to speak with many adjacent and nearby neighbors personally. They had also heard their public testimony at previous public hearings before the COA in June and September 2017. Based on the totality of the neighbors' input, research during the neighborhood meeting, and personal one-on-one visits and as presented by them to the COA during public hearing, including the Nolands public testimony at the September 2017 approval hearing, T-Mobile agreed to build a grain silo stealth structure, which will completely enclose and hide the view of any and all cellular equipment and hardware inside of it. After several more public hearings held before the COA, the first one being held on November 8, 2018 and concluding with a decision announcement by public hearing dated December 13, 2018, the COA, again, rendered an approval decision by unanimous acclamation for construction of a 60-foot grain elevator structure on the north 10 acres. The delay in the COA approvals between the September 2017 and December 2018 was, in reality, a great benefit to all involved because the proposed structure is now a grain silo bin, which is a permitted use-by-right in the A-1 Zone District. Importantly, no one will be able to see any cellular tower equipment, hardware, or antenna. The neighbors will not see a cellular tower, or a tower disguised as a windmill. They will only see a grain silo, which is a use-by-right in the A-1 Zone District as set forth in writing in the Pueblo County Code. After hearing the neighbors' input regarding the first site proposed on the north 10 acres, the final proposed site was moved 100 feet to the north and 50 feet to the west so the neighbors' views across the south 10 acres toward the mountains and the view could not be obstructed. A corral style fence will encompass the grain silo and trees will be planted to surround the corral fencing. The closest neighbor's home is 205 feet straight east of the tower site. The lots in the area are 150 feet wide. The 205-foot distance away is the approximate equivalent to almost one and half lots away. The current location is at the backdrop of his home, yard, barn, and 48-foot tall cottonwood trees. They have done their best to accommodate the neighbors, southwestern view concerns, and aesthetics regarding design. He stated that a grain silo can be built as a permitted use-by-right on his parcel with no height restrictions if it were to be built on the south 10 acres. Additionally, as a personal concession to and benefit for all the neighbors, they have agreed in writing to not commercially develop the south 10 acres for so long as the grain silo design cellular tower is on the property. Many people have told them they were crazy for having offered this concession. However, they have always planned to develop the south 10 acres in some capacity or to sell it to a developer, many neighbors testified to the COA that they love to hike, bike, horseback ride, walk their dogs, or simply enjoy the open space and view afforded by the south 10 acres. When testifying to the COA, most of the neighbors had no idea that the south 10 acres was privately owned by him and there were no zoning or other restrictions to leave it as open space and that the entire south 10 acres was zoned A-1. Preserving the south 10 acres is of great benefit to all the neighbors. They understand, that the Nolands, being the neighbors directly to the east, are the closest in proximity to the proposed structure and will not benefit as much as the rest of the community with regard to the structure's coordinated placement on the north 10 acres as contained behind the home, barn, and trees in its grain silo design. However, the proposed site has been moved north and west in consideration of the Noland's southwestern view and a design change from a windmill to a grain silo in large part to Mr. Noland's opinion that everyone would be able to tell that it wasn't a real windmill. Mr. Noland testified to the COA that one of the main reasons he purchased his home was for its unobstructed "million-dollar" view of the southwestern mountains. He brought a 24" x 36" blown-up picture of his million-dollar view from his house looking southwest across the lower half of the north 10 and across the entirety of the south 10 acres to the September 2017 COA hearing. While Mr. Noland's million-dollar view is across our residential land and yet undeveloped south 10 acres, he understood how important it was for them, based on Mr. Noland's own sworn public testimony and the large blown up diagrams he had at the hearing, which he described as depicting his million dollar view. While the current proposed site location remains closest to the Nolands at 205 feet, we have agreed to not develop the south 10 acres for the duration

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of time the grain silo structure is on our property and, in doing so, will preserve the unobstructed mountain views across our property as well as continue to permit our neighbor's personal use of our property for their favorite neighborhood outdoor activities. He and his wife have had many healthy and respectful conversations with numerous neighbors. We have invited many neighbors to our property to study and walk the area including the Nolands and showed the plan to them personally. We all may differ on some ideas but appreciate their time and value their concerns and personal positions on this matter with respect to the facts that have been presented. They have submitted over 45 signatures of support from neighbors to you regarding this application, many of which are from neighbors that are adjacent to their property. A map is included with the packet distributed showing the support. It is reflected in green. From inside their homes, they have a view of the entire grain silo tower setting. They anticipate that the ratio of neighborhood approval versus opposition within the immediate area of our property will show itself to be substantial. They also have a view of the tower from every window in the back of our home. They appreciate and respect that fact that every person is entitled to provide their own opinions so long as those opinions are based in fact. They believe the proposed site is in the best site for the neighborhood as a whole and that it includes the least obtrusive of aesthetics and cell tower designs. The Pueblo West Metropolitan District has previously published two letters to the Planning Commission stating that the PWMD and COA support the construction of cell towers at Pueblo West Fire Stations No. 2 and 3, and the PWMD would like to increase service throughout the community and that the designs of the proposed structures were approved by the COA following a public hearing of the neighboring property owners who were contacted through the U. S. Postal Service. Finally, they believe that not only does the project incorporate the least obtrusive of aesthetics and cell tower designs but that a cell tower is very necessary and warranted in the subject area based on the uncontradicted evidence that will be presented. They believe that the subject property is the best-suited location for the addition of a cell tower and that the specific site location on their land and the grain silo type design is characteristic of the existing neighborhood attributes. It seemed to him that it would almost be impossible to argue, in good faith, to you that a grain silo design is incongruent with the neighborhood since a grain silo can be built as a use-by-right anywhere on their land and with no height restriction on the South 10. The importance of all these design considerations is greatly magnified and complimented by our concession to preserve the south 10 acres for the benefit of the community, many of whom simply love the fact that the south 10 will not be developed and they will continue to utilize our property for personal enjoyment. They have given extensive thought to the project and have appeared at no less than four public hearings before the COA with their neighbors. The COA has unanimously approved this project twice. All the hearings have helped shape a general community consensus in favor of the grain silo design at the proposed site location. They have left their land idle for 23 years, and we will continue to do so while they have supplemental income from the cell tower lease. The grain silo bin construction will have the most minimal effect of any type of development on this property and is situated on the best spot possible for it to fit in with the area and neighborhood, leaving all the areas of the 20 acres untouched. They have looked at other stealth-type towers being built all over the country, in cities and rural neighborhoods such as ours. His wife and he were informed of a similar project in Evans, Colorado, which is just outside of Greeley and drove up there to look at it. It is a 16-foot diameter, 65-foot stealth grain silo tower; a picture is in the packet. It was one of the first of its kind in Colorado. When they first spotted it, they could not believe it was a cell tower and not just a silo. After seeing the structure as built, they have no doubt that this particular design will not adversely impact their neighborhood. They feel fortunate that our property was selected for a similar project for Pueblo West. As all we local Puebloans know, and have experienced time and time again, we are usually the last community along the Front Range that benefits from new ideas. This project is great for Pueblo West and they are hopeful they can lead the way in stealth cell tower technology for our rural and urban neighborhood by increasing everyone's wireless data coverage today and in the future. He wanted to personally thank the Commission for its time, consideration, and patience in letting him read this long statement to them. Finally, he would like to personally thank Ms. Wallingford-Ingo for her report and her staff's recommendation of approval. The report was a very thorough and considerate analysis of the legal sufficiency of our application.

Ms. Barbara Ottino stated they would explain some of the pictures. Mr. Ottino stated the first packet of pictures tagged the approximate tower location with a green dot and was an overhead view. He stated that El Sobrante Drive dead ends into his property. You can see the home, shop, barn, and multiple mature trees and the location of the cell tower at the back of the home (three pictures). Ms. Wallingford-Ingo indicated there were 20 more minutes of the applicant's testimony. Mr. Ottino stated the pictures were self-explanatory

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and could be looked at as further testimony was given. Ms. Day clarified it was designated 45 minutes to give a presentation and five minutes for additional testimony per person. She stated there would be additional time during the rebuttal.

Mr. Linden stated that all the Commission members have the packet of pictures. He asked that they continue to view them and if there were any questions for Mr. Ottino, he would be happy to answer any questions. He stated testimony could continue with Mr. Grugan on behalf of Vertical Bridge. Mr. Shuster questioned if what he was looking at was the parcel that was not going to be developed. Mr. Ottino replied that El Sobrante Drive ended at the front of his home. He showed the North 10 and the western half of the North 10. He stated the area shown would not be developed. He also stated that there was another parcel that was not on the map that was being left undeveloped. Ms. Alt stated she was looking at the same picture. She questioned if it was land that could be developed for homes. Mr. Ottino referred to the North 10 and South 10, noting it was zoned A-1, which has multiple uses and many uses-by-right.

Mr. Matt Grugan, 2047 Harmony Drive, Canton, Georgia 30115 represented the special use permit. He stated he was the Senior Product Manager for Vertical Bridge, based in Boca Raton, Florida. They are a cell tower builder for multiple wireless carriers, in this case, T-Mobile specifically. They were hired by T-Mobile to build a tower in the proposed area in order to provide service. He thanked Mr. Ottino for providing the background on the project. He stated they are proposing a 60-foot stealth silo, noting there were multiple revisions along the way. Traditionally, Vertical Bridge wants to build a monopole, a self-support structure, or a guide tower. There are a few of them across Pueblo West and the entire County. They are not in the practice of building stealth silos. In this particular case, given the nature of the location and the need for T-Mobile, they wanted to accommodate T-Mobile's request to build the stealth silo. He stated that Vertical Bridge is prepared to deliver a 60-foot unmanned stealth silo that will be capable of holding a minimum of three broadband carriers or smaller wireless Internet E-911 utility co-locators. Broadband carriers, i.e., T-Mobile, Sprint, AT&T, and Verizon, are the familiar ones. T-Mobile will be the first tenant on the tower. The typical construction schedule for a tower of this nature would take 45-60 days and the collocation of the tenant's antennas and lines and ground equipment would take an additional two weeks. He showed a propagation map; DNO-1470-B is the location of the Ottino property. The brown color surrounding the location is the uncovered area; the green color represents locations that have in-building coverage. He stated it showed a desperate need in the residential area for T-Mobile to provide continuous service along the Highway 50 Corridor as well as the residential neighborhood that surrounds the Ottino property. Specifically, in the proposed location, the view from West Aledo Drive, which is just to the east of the Ottino property. He stated the Noland's property was on the west side. He showed a rendering of the proposed silo, which was included in the Commission's packet. The next photo showed the silo with the fencing that would conceal the ground equipment and some trees around the outside, which would look like the end-product. Ms. Day asked Mr. Grugan if he wanted his PowerPoint presentation entered into the record as an exhibit. Mr. Grugan replied yes. The PowerPoint presentation was submitted at Petitioner's Exhibit B. He showed a Google Earth photo. The Noland's had a photo simulation that was taken off their back patio looking due West. He stated they based their simulation on the Noland's photo and, as previously stated, the tower will be moved an additional 24 feet in distance, noting he wanted to make sure the correct representation of the exact location was submitted. He stated that they exhausted the collocation requirement on existing towers in the area. He stated there is a tower on Highway 50 northwest of the Ottinos' property. That tower currently has T-Mobile on the tower. There is another one labeled Pueblo West Metropolitan District where T-Mobile is also located on. To the far south, there is an existing water tank and putting antennas on that water tank would be difficult and would not be able to cover the area that is needed. He stated part of his job was to look for candidates that will work from a zoning standpoint. Properties are targeted where the leasing money would benefit, i.e., schools, churches, fire stations, etc. He stated they identified two schools within close proximity as well as the Emmanuel Church and the Pueblo West Metropolitan District on another property. He stated those parties rejected the offer. When those instances go away, they must look for private landlords. Mr. Ottino's proposition was his north and south 10 acres, noting it was one of the largest parcels in the area. Mr. Ottino's property provides the zoning and setbacks for a cell tower, noting it sets in the middle of the area that T-Mobile is trying to cover. The tower has zero impact on any City or County utilities. Power is only brought to the tower when it is existing. Water, wastewater, and traffic has zero impact. The tower is unmanned. After it is constructed, one person in a pickup truck goes to the site once every two months for maintenance. With the proposed tower, there will be positive improvements for communications for the citizens

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of Pueblo West, noting there was no good existing cell coverage. He sat at the Ottinos' kitchen table and his cell phone said no service. It didn't pick back up until he got closer to Highway 50. This proposed tower will also help with the emergency services and E-911 capabilities in the area that are currently underserved. He showed a property survey, which showed how close the tower was getting to the Ottinos as opposed to the original application that was submitted to the Pueblo West Committee of Architecture several years prior. The tower was moved 100 feet to the north. The tower will sit roughly 25 feet from Mr. Ottino's gravel driveway toward the barn. It is 205 feet from the adjacent parcel to the east. Mr. Mancha questioned what the consequences would be if the proposal did not pass. Mr. Grugan replied the community in the area would continue to be underserved. It is a location that T-Mobile must pursue, and they will. He stated that given the residential nature of the area, there is nowhere else to go.

Mr. Linden stated he had a witness that asked if she could speak now because she had another meeting to go to. He called for Ms. Ammie Thomas. Ms. Day questioned if that concluded the applicant's portion of the hearing and if he was moving into the individual testimony. Mr. Linden replied that he had a little bit more to add for testimony.

Ms. Ammie Thomas, 837 El Nido Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. She stated she is a real estate agent. She stated that Mr. David Anderson was also a real estate agent who wanted to speak, noting that he already left for his meeting. She stated her clients always ask about cell service in the area they are going to buy. She drives all over Pueblo West and drops approximately three or four calls. She felt the addition of the cell tower would be a great benefit to the community. People take out their cell phone to see how many bars of service they have. It can affect a sale. She stated she walked the Ottinos' property. She has been asked how a cell tower would affect property values. She stated she didn't see any reason why a cell tower would decrease property values especially if the tower isn't going to be noticed. She stated that as a horse person, she would prefer Mr. Ottino build an indoor arena on the acreage in the back, but a cell tower would be better for her business. She stated that Mr. Anderson indicated that he could be contacted if needed, but he had to leave. Mr. Linden questioned Ms. Thomas. He asked if she was familiar with the Ottino property. Ms. Thomas replied that she lived within a mile, as the crow flies, from the Ottinos' property. She stated that she would benefit as well. Mr. Linden questioned if she was a real estate agent. Ms. Thomas replied yes. She owns Integrity West Realty with her husband. Mr. Linden questioned if she had the occasion to sell homes in this location or represent buyers in the neighborhood. Ms. Thomas replied yes, noting there are houses all around it. Mr. Linden asked if she had an opinion if people feel it is important for purchases in the neighborhood to have good data coverage. Ms. Thomas replied yes, noting that there are a lot of people that work out of their homes. If they do not get service, then they must have an off-site office or go somewhere else for data connection. There are a lot of people that are relocating to the Pueblo West area from much larger communities, so they are expecting to have data and cell coverage. It is definitely a big deal. Mr. Linden questioned who Mr. David Anderson was and if he had given her his card. Ms. Thomas replied yes, noting he was sitting back in the corner with her. Mr. Linden questioned if he was another realtor that shared the opinion she just testified to. Ms. Thomas replied that Mr. Anderson worked with Re-Max Pueblo West, another Pueblo West realtor. Mr. Linden thanked her for her testimony. Ms. Thomas asked him the question about property values, and if he had the same impression that to have a cell tower in the area would not drop property values. Mr. Linden questioned if she felt there was a benefit to have extra data coverage at that location. Ms. Thomas replied yes.

Mr. Kent Shelman, 528 West Archer Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. He stated he had a background in Mechanical Environmental Engineering, noting he worked ten years for the government. He specialized in environmental site assessments, noise abatement, and the like, noting he had a lot of expertise in those areas. In 2001, he became a real estate appraiser and, in 2006, he became a real estate broker with Re-Max Pueblo West, noting he was very active in Pueblo West and has a great deal of experience in the area. He was also on the Pueblo West Committee of Architecture for nine years, noting that for seven of those years he was the president. He has covered this topic several times and has a great deal of expertise. He stated that negative commentary may be heard about the value, so he wanted to put his appraiser hat on and talk about it. The first thing is the PWMD COA operates off the rules of the covenants. The covenants have no protective class for "view". If any argument is about view, there is 50 years of case studies when the PWMD COA has not given anybody any protection because of a view issue. If the project fits within the zoning, the footprint, and

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offsets and determined height restrictions for each type of zoning, they have always been allowed. He felt this issue was off the table. He stated his opinion on value was that Pueblo West prior to fifty years ago was a working cattle ranch. He had no doubt that if there was a silo that was 100 years old sitting on that property, if they were trying to take it down, there would probably be a whole room of people saying it shouldn't be taken down because it would destroy the character and ambiance of the land. He is having a hard time seeing the negative. As an appraiser supporting a value, the positives are very evident because of two things. In Pueblo West in the A-3 Zone Districts, most of those parcels cannot get high-speed Internet or cable. Those areas rely a great deal on the data services provided by cellular telecommunication providers. Customers are paying \$40-\$50 or more per phone to access that kind of service. There is a reasonable expectation that when you move to a metropolitan district such as Pueblo West that those types of services would be provided. It would be a positive impact to the community as a whole to have cellular services in the area. The proposed tower would not only provide better coverage but also increase the number of people that can be on a service at one time, i.e., increasing the capacity for cellular coverage. He stated that he didn't think it was reasonable to put a dollar amount on the impact of someone's view. He stated that he has never had a client tell him that they didn't want to live next to a silo or any other structure. He stated that there are other cellular towers in Pueblo West that are closer to residential properties than the proposed stealth silo tower on the Ottinos' property. He stated there were not many protesting those towers. There are several different communities like the one in Colorado Springs, Colorado called Flying Horse, which is a ranch-style development, noting there are several towers scattered around the area. He stated that the proposed location for the cellular tower is an area where cellular service is desperately needed.

Ms. Alt questioned in the packet it talks about collocation. A picture was shown of a tower with all kinds of things stuck on it. How can you collocate on a silo? Mr. Shelman replied that the tower is hidden within the silo. The silo is a shell that obscures the view of all the equipment. Each one of the cellular providers will collocate on the tower. Looking at the picture, each one of the rectangles is an antenna for a cell phone provider. He stated that if a windmill design was used, you would still see the antennas. Mr. Bruestle questioned if the cell tower owner was willing to collocate with other companies. Mr. Shelman replied he was correct. The business model is to attach more than one carrier. He stated that most jurisdictions, if not all, encourage collocations when available. He wants to build a structure that can hold multiple carriers. He stated the Commission will push tenants that need coverage in the area towards an existing structure that has the capacity to hold multiple antennas. The internal structure will be a triangular steel structure that will be inside the stealth silo casing. Mr. Mancha questioned if it would provide for three carriers. Mr. Shelman replied it would provide for three cell phone providers. Mr. Mancha stated that one of them would be for the applicant leaving two open spaces. Mr. Shelman replied yes. Mr. Linden questioned Mr. Shelman if he was a commercial broker. Mr. Shelman replied that he primarily works in the residential field. Mr. Linden questioned if he was familiar with the Ottinos' property. Mr. Shelman replied yes, noting that he has visited the property. He stated that 75% to 85% of his business comes from Pueblo West properties. Mr. Linden questioned if having the proposed cellular tower in the area would be a selling point for purchasers of property in the area. Mr. Shelman replied yes. Mr. Linden referred to a picture of the Ottinos' property pointing out the North 10 and South 10. Mr. Shelman replied he was very familiar with the properties. Mr. Linden questioned if he heard Mr. Ottino state that he stipulated in writing with the Pueblo West Metropolitan District to not commercially develop the south 10 acres zoned as A-1. Mr. Shelman replied yes. Mr. Linden questioned if he felt that land was valuable to the neighborhood as not being commercially developed. Mr. Shelman replied that areas of land referred to as outparcels or nature areas are predominantly used by members of the community to ride horses and hike. Mr. Linden questioned as past president of the Pueblo West Committee of Architecture if he was familiar with the property referred to as the south 10 acres as being an outparcel of Pueblo West's jurisdiction. Mr. Shelman replied he was, noting that if Mr. Ottino were to choose to build on that parcel, the silo would be a use-by-right with no height restriction.

Mr. Linden question how much time was left on the clock. Ms. Day replied there were 10 minutes left for the proponents. She questioned how many others were going to speak in favor of the application. She noted that three or four people raised their hands.

Mr. Linden questioned Mr. Grugan, referring to the Ottino property site location map on the monitors. He pointed out a parcel to the east corner also in the A-1 Zone District. Mr. Grugan stated he was familiar with the parcel. Mr. Linden questioned if he was aware that that parcel was owned by the Pueblo West Metropolitan District. Mr. Grugan replied yes.

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Mr. Linden questioned if he had approached the Pueblo West Metropolitan District about constructing a tower on that parcel to which they declined. Mr. Grugan replied yes.

Mr. Linden stated that he hoped the Commission has read Ms. Wallingford-Ingo's report, noting that it was in his client's favor; it speaks for itself. It is a well-considered, thorough legal analysis of the proposed project. He stated that he was a lawyer and he could not write that well. He would not be able to get that detail and substantiate the opinions that well. He asked the Commission to consider a couple of things when listening to testimony. They are here for a special use permit for a cell tower, but what you need to understand is through the evolution of the project from 2016 when T-Mobile first approached the Ottinos about building a cell tower, it has evolved from a cell tower to a grain silo structure. You might hear that it is not a real silo. He stated that a real silo could be built, if they wanted to. Mr. Ottino is a custom builder. He stated he could submit the plans to build a grain silo and get a building permit to build the silo as depicted in the specific spot requested. Or it could be moved to the South 10 and do the exact same thing without any height restriction because it is not within the Pueblo West Metropolitan District's jurisdiction. He stated they had to go through the Pueblo West Committee of Architecture to get a 60-foot height variance through several hearings. Did Mr. Ottino state that he was related to them? He is Mr. Ottino's nephew. He hoped the Commission could set that aside, because, legally, what they are talking about is two people that have the legal right to do exactly what they are requesting. The only issue for the Commission is to decide if they are going to allow them to put the cell tower equipment at the top of the silo. If it is denied, then the Commission has denied what is clearly a great benefit to the community. As we all know, it is not just about making a phone call anymore. People want data, video, and access, especially our youth. They want communication, noting that this is how business is conducted. Malls are closing and buying is moving online. If you want the community to thrive, they need these services. He stated that he respects all those in attendance, noting this meeting was local government at its best. Everyone gets the opportunity to give their opinion. He stated that he could be challenged if he stated anything that was legally incorrect. There have been some comments about threats of, you could do this or that, and the proposal was being forced down our throats. He stated if it was his application and not the Ottinos, the tower may not be in the proposed location and it might not be subject to 60 feet. The Ottinos have bent over backwards to consider the neighborhood as whole and where it would site specifically be most suited. Does it impact the Noland's the most? Undoubtedly. However, Mr. Noland testified that the proposed tower was going to obstruct his "million-dollar view". First of all, Mr. Noland purchased his property next to an A-1 zoned parcel. He stated the proposed tower was moved up and across in an effort to preserve the view. A grain silo on A-1 zoned property is a use-by-right. He stated they did not need anyone's permission to build a grain silo. Ms. Day stated that testimony time was up. Mr. Linden stated he needed 30 more seconds. The last crazy thing, the A-1 zoned south 10 acres that everyone testified at the COA hearings didn't realize that the Ottinos owned the parcel. He stated that the Ottinos agreed to a condition of approval that if the tower were to be placed on the North 10 to leave the South 10 unobstructed. They didn't have to do this, but they did. He wanted to make sure the Commission was aware as testimony is considered that everyone in attendance is good people, noting the Ottinos have tried to give everyone consideration with how to determine where the best spot as a neighborhood is for the cell tower.

Mr. Bruestle questioned with respect to a special use permit, when a request is granted how long the permit was valid, and does it run with the applicant or with the property? Ms. Day replied that the special use permit runs with the property and is valid until it is revoked or there is an application to change it. Mr. Linden stated he felt it was important to know that they have contracted with T-Mobile representatives, that should it not be in use, then they are under bond contract to remove the tower. Mr. Bruestle stated that if the applicant is no longer using the land for a cell tower that they would request that the special use permit be rescinded. Mr. Linden replied no. What he was saying is if the cell tower communication companies were to abandon use of it, then the Ottinos could require T-Mobile to remove the tower. Mr. Bruestle questioned the removal of the special use permit. Mr. Linden stated that the special use permit was for the cell tower equipment. The grain silo structure was an allowable use-by-right in the County.

Ms. Wendy Kern, 39555 Fields Road, Avondale, Colorado 81022 spoke in favor of the special use permit. She stated that the Commission knows who she is, and she knows the Commission's voting records. In 2017, the Commission approved a 1,500-acre gravel pit in an A-1 Zone District. The Commission felt it was harmonious, which is one of the requirements. The Commission felt that it met the safety, health, and welfare, which is another one of the requirements. So, if a 1,500-acre gravel pit in the A-1 Zone District can

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meet those requirements to meet a special use permit, then, tonight, a 50' x 50' space certainly meets that. The Commission also approved 140 trucks a day leaving the gravel pit, which has built up to over 300 trucks a day on 36th Lane. This was also approved to be harmonious and meeting the safety, health, and welfare of the community. The applicant has indicated there would be one truck every two months. The Commission feels and its voting record shows that it is safety, health, and welfare, and it is harmonious to approve large commercial applications in A-1 zoning. The neighbors in this neighborhood should thank their lucky stars because the land in question is large enough to put a gravel pit on. The gravel pit currently on 36th Lane is reaching 100 acres of 60-foot stockpiles. Sixty feet in our part of the community and 60 feet in this part of the community looks a whole lot different. So, by the Commission's voting record, the Commission has to absolutely approve this proposed application as the Commission has already approved it in the past by approving 1,500-acre special use permit in the A-1 Zone District.

Mr. Edward De Siata, 965 West Osceola Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. He stated he lived directly behind the Ottinos' 20-acre outparcel, noting he would have the best view of the cell tower. He stated he did not have a problem with the proposed cell tower, noting that it was going to improve his cellular service. He felt that the way it was going to be built, it would blend in with the surrounding area. Mr. Ottino has two trees that are twelve foot shorter than the cell tower. In another two to three years, those trees are going to be as tall as the cell tower. He did not see what the big issue was about the cell tower. He stated it was not going to hurt any views. The tower would help the area, noting that he drops many calls. He asked the Commission to approve the special use permit.

Mr. Jeremiah Peaslee, 307 South El Sobrante Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. He stated he lived on the road leading into Mr. Ottino's driveway. He sees the front of Mr. Ottino's home, noting the Ottinos have been fantastic neighbors for the past 18 years he has lived there. He stated the cell tower would improve the utilities for the Pueblo West area with data coverage and cell service. He stated that CenturyLink is the only other data service provider and it is not very good. He stated the Ottinos have done everything possible to make this project as aesthetically pleasing as possible for the neighborhood. He stated he felt the Ottinos were crazy for offering up their other 10 acres for community use. That land could provide the Ottinos with potential income and they are willing to give it up for the community.

Ms. Susie Morgan, 1021 West Valparaiso Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. She stated her parcel was two lots from the Ottinos. She stated that she worked for Messrs. Robert McCulloch Sr. and Jr. If Mr. McCulloch were alive, he would be saying, "What are you people thinking? Progress is progress." She stated that her daughter lives in Colorado Springs, Colorado, and calls her every evening and they lose calls. She stated that the tower is needed for communication purposes. This is what it is all about.

Ms. Jenn Priest, 1042 West Osceola Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. She stated that she can see the area of the proposed structure. She noted that she was originally on the opposing side but felt that she was misinformed. Having learned the background of the project, she didn't see any reasons why the tower should not be approved. She comes from Baltimore City, Maryland, where cellular service is abundant, noting that it was impossible to keep a phone call at her home in Pueblo West or entertain her three-year-old with Internet. She thought a silo in the middle of a field would look obnoxious, but she didn't know that there would be a fence with trees and there were already existing trees. She thought it was great that Mr. Ottino has moved the position of the proposed tower taking into consideration of the neighbors. She felt the proposed tower would be a major benefit to the neighborhood. She was concerned that the property values would be lowered because of the nearby tower; however, three people testified this evening that it would not lower property values.

Mr. Jim Maggard, 1125 West Shenandoah Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. He was on the COA at the time the proposal was originally presented. One of the reasons the application was denied at the first meeting was because of the height and they needed more information. At the end of the meeting, the COA was presented with the idea of the Pueblo West Metropolitan District (PWMD) putting up two towers. After the meeting, they were all shocked because they knew nothing about the two towers being considered. They would have probably, in discussions with the other committee members, if they had known about the towers the PWMD were planning, made a

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different decision. There has been a lot of misconception about the proposed project. He lives in the area and has no problems with the proposed tower and location and felt it would be welcomed. He is also a T-Mobile subscriber and has had problems with cellular connections and he would welcome the tower. Knowing the background on how the project has been delayed, he wanted the Planning Commission to know.

Ms. Sonja Fettig, 217 South Golfwood Lane, Pueblo West, Colorado 81007 spoke in favor of the special use permit. She has lived in Pueblo West since 1993 when there were very few people. They called their houses "little houses on the prairie" because you could see them from one McCulloch to the other. She has watched the entire growth of Pueblo West and the County and the changes that come with it. Several years ago, her family had the opportunity to move away. They were very lucky to have job offers in northern Colorado. They put their house on the market, noting that her property is well kept. She stated that more than one person stated they would put an offer on the home if it had high-speed Internet. They needed this service to accomplish what they needed personally and for their family. After a lot of thought and consideration, they pulled the house off the market and decided to invest themselves in Pueblo West and the County of Pueblo for the rest of their lives because they want to be in the area. They want to retire, which they have done, and in some areas of Pueblo West, they are lucky enough to have a cable system that allows them that Internet speed. There are many areas in Pueblo West that do not have that ability. It is required to use a land line or some type of satellite dish. She stated she lives on the edge of this property. She didn't care who her friends were or who her neighbors were, but she respected them and wanted to understand them. She has been in the real estate business and title company business in the Pueblo West community since 1994. She has seen a lot of arguments to and for all kinds of things. This whole thing is about the values of our homes and our community. She stated she could tell you firsthand it works the other way if we do not have these services. She hoped that everyone could come together and deal with this issue. She believed that it was needed and hoped the proposed plan would be the lesser of having huge towers or huge satellite dishes or whatever it is that will come along and it also gives the companies the ability to bring in two more carriers that will give them that much more service and, it will, in her heart, not decrease any value of any kind because if you cannot offer that you are going to take a hit on your house.

Mr. Richard Rolen, 1009 West Osceola Drive, Pueblo West, Colorado 81007 spoke in favor of the special use permit. He stated he was a retired telephone man who managed and taught electronics. He put in the first electronic office in the City of Pueblo. It was the first electronic office in all of Colorado. He knows about the communications industry, noting it is trying to improve everyone's life. The proposed tower is an opportunity to improve the lifestyle of people and was very fortunate for the Pueblo West community. He stated that Mr. Ottino lives in front of his parcel. There may be 10 acres or so between them. His only request would be that the tower have a big flower painted on it so that he could see it when he works in his garden.

IN OPPOSITION

Ms. Linda McMillan, Esq., 601 North Main Street, Pueblo West, CO 81007 represented John and Debbie Noland who are in opposition to the special use permit. She questioned the time limitation of the testimony, noting it was stated that each side would have an hour to present. She stated Mr. Linden started his presentation at 6:25 p.m., noting the time was now 7:42 p.m. Ms. Day replied that 45 minutes is allowed for someone giving a presentation representing, noting they were not going to stop anyone from testifying. After the initial presentation, five minutes per person for individual testimony will be allowed. She stated the time frame is to try to keep it within the hour. She stated that adequate time would be given for her to represent her clients. Ms. McMillan stated that testimony would be presented by Mr. and Mrs. Noland and Mr. Ivor Hill followed by her rebuttal. She stated that Mrs. Noland would distribute a packet of information to the Commission. Ms. Day asked if she wanted the packets entered as exhibits. Ms. McMillan replied yes. Ms. Day stated the packet would be entered into the record as Opposer's Exhibit No. 1.

Mr. John "Pat" Noland and Mrs. Debbie Noland, 972 West Aledo Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. He stated their property was directly east of the Ottino property. He stated the proposed tower's equipment compound would be 150 feet from his property line. He stated he was aware that he does not own the right of the view over the top of the Ottinos' property. While they appreciate the view, it was understood when he bought his home. What they do own is the right to the governing agencies that make decisions about these kinds of things to abide by the codes, bylaws,

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and covenants and allow them to have a voice that that they can prevent intrusive construction that could potentially affect the valley of his property. He appreciated the opportunity to speak to the Commission this evening. He trusted the members of the Commission would see that such a facility less than 200 feet from their bedroom window is not harmonious with his property. Such a structure would dramatically affect the aesthetic appeal of their home. As the closest property owners to the proposed tower facility, it was important to canvas the neighborhood to get an understanding where the homeowners stood in terms of opposition. As expected, they found many who oppose the project for a variety of reasons. He provided a comprehensive list of those opposed to the cell tower facility project. In total there were twenty-three properties that were in opposition, which were marked on a map that was provided in the packet (Opposer's Exhibit No. 1). Also included in the packet were copies of the list, letters of opposition, and a signed petition. They transferred the data that was collected when they were canvassing, noting that his wife, Debbie, did most of the door-to-door contacts. That information was transferred to the map that shows the location of the tower and the distances to the different homes. It provided a good depiction of where the opposition lies. He stated he mapped out those in support, which are indicated by the blue triangles. He stated the map provided a visual of the concentration of the opposition just to the east of the proposed tower. It also gives a good idea of those in support, noting a pocket of support on the map. (Ms. Noland held up some enlarged photos taken from their property while Mr. Noland spoke about them.) There has been some artistic license taken regarding the artistic renderings of the photos on both sides of this issue. His intent in gathering his information was to make sure that people got perspective of what the proposed tower would look like from his home. He stated the top one may not be quite as high as it should be and may need to be shifted over just a little bit. The bottom one, from where he was standing, is almost perfect. Regarding the Pueblo County Code for special use permits, Section B, the granting of a special use will not substantially modify the land use plan or the intent, purpose, and spirit of this Title, he would ask anybody how far they would have to drive to find a grain silo. He spent an entire day a few months ago driving in concentric circles around the area looking for a grain silo or anything similar to it. The closest grain silo he could find was in Avondale. It was half the size of what is proposed, and it was a fully functioning grain silo on a working farm. Urbanization has caught up with the subject property. It is surrounded by very nice homes, like his and it simply does not fit the environment or match the current neighborhood. He believed the 60-foot grain silo does not meet the spirit of the special use permit standards as it pertained to the situation. There are no circumstances that would call for a 60-foot grain silo to be situated in a Pueblo West residential neighborhood where no grain is grown or cultivated, especially sitting so close to a neighbor's home like his. Section C of the special use permit proposal incorporates reasonable means to create an environment harmonious with that of the surrounding properties. This is all about aesthetics. The cell tower does not meet the aesthetics standards of a neighborhood like his. It is not harmonious with his property. The tower is much higher than any nearby structure. It is 36 feet taller than the Ottinos' barn. It would not be harmonious on anyone else's property from 150 feet away. It is also situated closer to his home than it is to the Ottinos. The expectation is for his family and a few close neighbors to carry the full aesthetic burden of the proposed cell tower facility. He stated this issue has been a two-year long distraction and a study of contradictions. On one hand, the Ottinos have gone on record that they were asking to locate the proposed tower in the location that was presented because it is in the best interest of the surrounding neighbors as well as themselves, noting they were trying to make the project as aesthetically pleasing as possible for all. He stated, basically, the objective is to disregard his family's perspective and place the tower at the proposed site to protect others and themselves from the poor aesthetics of the proposed tower. On the other hand, the Ottinos have campaigned for support from nearby property owners, obviously not all. The Ottinos warned people that if they didn't get to put the cell tower next to his home, there would be some other obtrusive structure or development on the southern 10 acres. The Pueblo County Code regarding telecommunication towers states, "in an attempt to minimize the proliferation of telecommunication towers throughout Pueblo County all possibilities of collocation on existing facilities within a three-mile radius must be exhausted...". He stated there were already two cellular towers clearly visible from his driveway. One of them is 1.1 miles to the north and the other is 2.7 miles to the east. The placement of another tower 150 feet from his property line goes against the intent of the Code. It would unfairly place three cell towers within a three-mile radius, noting that one of them is only a few feet away from his property. As he mentioned, they canvased the surrounding neighborhoods around the subject property and found a mix of responses. Some support the initiative and some don't, noting several are neutral and some simply don't understand the matter. He wanted to point out a couple of things about the list of supporters that the Ottinos have on record. The list is different from his and it has expanded making multiple entries for each property.

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Some properties were listed twice on different pages. Some on the list told him they were neutral. Some supporters are more than a mile away. Some were not in support at all and actually provided letters in opposition. A common thread of those in support is they were presented with ultimatums of what would happen if the tower construction project was not approved and they felt it was in their best interest to concede. It was not because they wanted a tower. Some would see the proposed cell tower from over 1,200 feet away, noting some of them lived on Osceola and the image would be very small from that distance and a non-factor. He stated the proposed cell tower just did not fit. He asked the members of the Pueblo County Planning Commission to agree that a 60-foot cell tower disguised as a grain silo does not meet the Pueblo County standards for such an area and, most of all, it is simply not harmonious with his personal property. Because there have been discussions about service, he stated he has two cellular service carriers, i.e., one for his home use and one for work use. Neither of them is provided by T-Mobile, and he can go anywhere he wants to in Pueblo West with adequate coverage. He stated that he is tethered to one of those phones. It works perfectly. Anything said about the benefits of wireless service being a selling point for a house is offset by the perception of living 150 from a cell tower facility. He agrees that cell service is very important but hanging onto the FCC regulations and not being able to talk about health in this meeting environment, but you can talk about the perception the cell companies have right and it is not good. A lot of people would absolutely refuse to buy a house like his that has a cell tower 200 feet away from its bedroom window. He felt the tower would affect the marketability. He stated that he was not prepared to talk about the Pueblo West Committee of Architecture (COA), but he wanted to mention a couple of issues. The Ottinos were denied a variance before he moved into his home. He bought his home and was notified a couple weeks later about the proposed tower and he found himself at a COA meeting trying to defend themselves, noting they didn't even have time to unpack their belongings. He stated they were not prepared because they did not know what the covenants were for the area. There was no way he could properly defend himself, so it was approved. One year later, the extension was denied, and it was denied because of the presentation that he gave to the COA. They understood it, and he was given a public apology that night for ever having given that variance the year before. He was called the next day and was given a long apologetic message on his cell phone indicating they did not want to give a variance for the proposed cell tower. Mr. Linden stated he objected to that testimony. Mr. Noland stated they were not in that mode right now. Chair Lowe informed Mr. Linden he would be able to address any comment in his rebuttal. Ms. Day stated that testimony needed to be relevant to what can be considered in this evening's hearing. Mr. Noland stated that there was testimony given about the COA and he wanted to clarify a few things. Ms. Day stated that the Commission understands that the COA is a private covenant enforcement agency and their function is completely different from what is considered by this Commission. Mr. Noland understood. He stated that he did not receive any notices to attend the subsequent meetings and one of those meetings was a private meeting between the COA and the Ottinos' team. He stated that the proposed tower was closer to his home than it is to the Ottinos and they were not invited.

Mr. Mancha questioned his statement indicating that people were threatened. Mr. Noland replied that in order to get support for this project, the Ottinos stated that if they did not get their way, they would build something more obtrusive on the southern 10 acres. This was the Ottinos' response and how they were leveraging the support from a lot of people for the proposed tower. He understands that there were people in attendance that didn't feel that way, but it happened to him also. He stated that he was the subject of the very same thing.

Ms. Day stated that she wanted to remind the Commission that their questioning was relevant to the standards that need to be followed when making a decision on a special use permit.

Ms. Debbie Noland, 972 West Aledo Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. She stated that the purchase of their home was their grand finale, their forever home. She believed they would live in this home until they could no longer take care of it. She finally got her swimming pool, noting the beautiful view of the mountains, sunsets, and sunrises. They enjoy entertaining family and friends. She would like each Commission member to think about their grand finale of a home and then imagine a 60-foot cell tower looming over it from just 200 feet away from your property line. This is what they have been faced with. They are not standing here because they want to. They are standing here because they feel like they need to project themselves. They felt there was no choice but to try to stop the proposed tower from being built. After talking with many neighbors, she learned that they were not alone in their feelings. She appreciated each and everyone of their concerns and thoughts on the matter. A cell tower this close to their home

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would jeopardize everything they worked for in their lives. This home was their dream and a cell tower would take that joy away every day. She hoped the Commission would understand their feelings and thanked them for listening. She introduced Mr. Ivor Hill, a local appraiser, who was engaged to help understand the impacts that the proposed construction will have on their home.

Mr. Ivor Hill, 9500 Short Cut Road, Rye, Colorado 81069 provided expert testimony on behalf of the Nolands who are in opposition to the special use permit. He stated that Mr. Kent Shelman was his former brother-in-law and recruited him to work in Pueblo, Colorado seventeen years ago. Ms. Day stated that Mrs. Noland was providing some information to the Commissioners and asked if he wanted it to be entered as exhibits. Mr. Hill replied yes. Ms. Day stated the packet of information would be entered into the record as Opposer's Exhibit No. 2. Mr. Hill stated he has been a resident of Pueblo County since March 2003. He is a State certified appraiser with an office located at 616 West 11th Street, Pueblo, Colorado 81003. He has been involved with real estate evaluation well over 30 years in the United States and internationally. He has a master's degree in Property Evaluation and Management from a leading United Kingdom university. He is an SRA Member of the Appraisal Institute and has had the honor of twice speaking on Capitol Hill in Washington, D.C., and several times to the Colorado Senate on House Subcommittees relating to real estate issues having impact on communities especially in the City of Pueblo and Pueblo County, where he is located. Since arriving in this community, he has completed approximately 5,400 appraisals in the Southeastern quadrant of the State of Colorado ranging from vacant land, subdivision analyses, and large private prison complexes. He believes he has a good grasp of property values in this community and the impact on them by externalities such as communication towers located nearby properties. Before he starts, any appraiser has to give testimony. He stated that this testimony is rendered in accordance with Standard Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice (USPAP). He was recently requested to consider the impacts to Mr. and Mrs. Noland's property value if permission were to be granted for the construction of a communications aerial whether it be screened or whatever on the adjacent property. He stated that he was neither in opposition to nor in support of the application. An appraiser cannot take a position; it must be a neutral position. He stated he was providing factual testimony. The property located at 972 West Aledo Drive, Pueblo West, Colorado 81007 was visited with Mr. and Mrs. Noland on July 27, 2019. Mr. and Mrs. Noland fully describe the extent of the issue to be addressed. His scope of work extended to the following three areas, i.e., national publications, interviews with real estate professionals in the local market several of which were owners of large companies such as Re-Max, and market data. Starting with national publications and looking at the national research, there are several opinions being expressed ranging from minimal impact through to high impact. Most of the research that has been undertaken has been on properties located in what best can be described as entry-level housing, which is where most of the towers are being located. The 1999 article, The Impact of Communication Towers on Residential Property Values, offered by the Appraisal Institute member Allen G. Dorin, concluded that it was difficult to accurately determine the impact on values in close proximity to communication towers, but it recognized there is a resistance of members of the public from living near them. The 2014 survey, commissioned by the National Institute for Science, Law, and Public Policy (NISLPP), studied the effects of buying decisions of those living near to cell towers and antennas. Of the 1,000 persons that responded to the survey, 79% stated that under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antenna. This clearly reduces the number of potential buyers or renters for an impacted property and, therefore, by default, would probably result in an extended marketing time and/or reduced sale price. The Dictionary of Real Estate Appraisal, published by the Appraisal Institute, noting he has a copy with him, includes the following for definition of market value, "A reasonable time is allowed for exposure in the open market." Extended marketing times would necessitate a negative adjustment to the sale price to determine a value base on the above definition. Interviews were done with local real estate professionals, which included realtors, appraisers, the El Paso County Assessor, and property managers. The El Paso County Assessor, Mr. Steve Schleiker, was interviewed as they had similar issues with overhead transmission lines from a new wind farm near Calhan, Colorado where all of the impacted property owners objected to the transmission lines being constructed and how it effects their property values if sold. Several leading real estate professionals with substantial experience with this market area were interviewed by himself. Again, he found a divergence of opinions as to the impact of any externality on an adjacent property's market value. However, did state while it would be difficult to accurately determine an exact amount of percentage of the reduction in property values and rental properties, they all agreed that there would be some impact on value. The opinions ranged

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from two percent through to not less than ten percent. They all also agreed that marketing times would be extended. Market data extracted from the local market--there is minimal local data available to analyze the true impact of communication towers on property values. There is a communications tower located on the south side of Highway 50 on the St. Charles Mesa that has been made to look like a windmill water tower. There has only been a total of three sales on the four adjacent streets in the past two years. He noted that this data was extracted yesterday and this morning. He stated this was an inadequate number from which to accurately form a true trend. There is, however, sufficient data to the impact of nearby water storage tanks just as those found north off Highway 50, which are also considered to be another form of external obsolescence. Data was obtained related to the property prices for three adjacent streets, i.e., Wills Boulevard, Widener Street, and Longhorn Drive. This was compared to a nearby adjacent street not impacted by the water storage tanks. This data indicates the median sale price of \$106.60 per square foot for properties located adjacent to the water storage tanks and impacted by the view. Comparing this to a street located one block north of the impacted streets and developed with similar vintage units indicates the following: Meadowlark Lane, located one street north of the impacted streets had twenty sales in the last two years and the median sale price was \$215,905 with a median unit size of 1,679 square feet, which equals \$128.63 per square foot as compared to \$106.60 for the ones that were immediately located adjacent to an externality. This street is developed with similar sized units as the three adjacent streets previously mentioned. The actual median sale price is 20.67% higher than the units located alongside the water tanks. It is, therefore, reasonable to assume that the communication aerial, if constructed, would have a negative impact on the overall value of Mr. and Mrs. Noland's property and anything close to it. That is an excessive amount indicated, as previously mentioned, reflecting current data and market trends relating to externalities. Finally, he heard on previous testimony this evening that while it is accepted that property prices will go down adjacent to telecommunications towers, that they will recover over time. This is simply not true. The disparity of unit prices between those properties located near to a tower and properties located further away will always remain. He asked if there were any questions of him.

Ms. Alt stated she was trying to read the material that was presented to her and she doesn't have enough time to read it, but she noticed that one of the comments from the study say, "because of the diversity of representation in each of the allocated segments of the range in adjusted unit prices, it concluded there is insufficient evidence to suggest there was any measurable impact on value." She was not trying to be negative but trying to say that they are inundated with material and trying to listen to a speaker, and she is being asked to make an intelligent decision. Ms. Day stated if the Commission felt it did not have sufficient time during the hearing to absorb the material that was presented and needed more time to review, it has the option of closing the hearing and taking it under deliberation and coming back with a decision at a later date or leaving the hearing open and continuing it, which would allow additional testimony. The hearing could also be closed this evening and a decision rendered. She also stated that the Commission could call for a short recess to review the material. Ms. Alt replied that people are asking the Commission to make a decision that is going to affect a lot of people and they were given a lot of material. Ms. Day stated it was part of the discretion of the Commission. Mr. Hill stated that he takes a neutral position and there were some opinions where there was no impact or unable to determine the impact and some of them said there was an impact and it was a certain percentage amount. He stated she picked the article that stated they were not able to determine it.

Mr. Linden stated he had questions for Mr. Hill and wasn't sure if the Commission wanted him to reserve them for the rebuttal. Chair Lowe replied that questions from the Commission only were allowed at this time, and he would be able to address his questions to Mr. Hill during rebuttal.

Ms. Day clarified for legal counsel if they were requesting to examine the witnesses, it's allowed; however, it is the Commission's preference to have those questions be addressed to the Commission Chair, who will then call the party to the podium during the rebuttal portion of the meeting. Mr. Linden replied he understood, but Mr. Hill reported to testify as an expert before the Commission and should be subject to cross examination. He stated reserved the right to cross examine Mr. Hill based on the fact that he testified as an expert.

Ms. McMillan, Esq., provided a summation. She stated there were two special use permit standards that she wanted to focus on, i.e., the granting of the special use permit will not substantially modify the land use plan or the intent, purpose, and spirit of this Title. As staff pointed out in its report, the stated purpose of the A-1 Zone District is to encourage open

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use of the land in keeping with its natural characteristics and agricultural functions. One of the gentlemen for the applicants stated that if there were a 100-year old silo on the property and someone wanted to tear it down, there would be a hue and cry. If there were 100-year only silos on properties in Pueblo West, that would be a natural characteristic of the land and there would probably be a hue and cry. However, there are no 100-year old silos in Pueblo West. He also said that no one had ever said to him that they didn't want to buy property next to a silo, and the reason is because there are no silos in Pueblo West. A silo is not a natural characteristic for Pueblo West. It is not in keeping with the natural characteristics of the area. Pueblo West is not an agricultural area. Silos are located where there is agriculture. When she drives through West Texas and Kansas, she sees fields of cotton and wheat and she sees silos. This is where they belong. That is a natural characteristic. There are no similar structures anywhere in Pueblo West that look like a silo. It was mentioned that there are 48-foot trees that will soften the look; however, if you look on the Ottinos' aerial photo from their packet labeled as appropriate tower location, you can see that those big trees appear to be between the silo and the Ottinos' house. There are trees that will block the view from the Ottinos' house, but there are no trees of that height between the Nolands' house and the silo. There was not a single person that testified in favor of the application that said they were in favor of the application and would be happy to have that silo in my backyard; not a single one. They are happy to have it in the Nolands' backyard; that is okay. Not one said the structure was so harmonious, they would put one up in their yard too. It is not harmonious; it is an eyesore. Nobody wants this type of structure in their backyard. The second standard she wanted to address was the special use permit proposal should incorporate reasonable means to create an environment harmonious with the surrounding properties. One thing that tells us that this is not harmonious with the surrounding properties is the testimony from Mr. Ivor Hill, who indicated and testified that the evidence shows that property values go down around that sort of structure. They go down because they are not harmonious. If it is on farmland, it will not affect the property value because it belongs there. In places where these structures are constructed, where they do not belong, Mr. Hill's research suggests that it does affect property value and, therefore, it is not harmonious. The proposed use literally sticks out like a sore thumb. As everyone has admitted, it most affects the Nolands. It is great that the Ottinos have considered the neighbors to the south, but it has also been mentioned that the proposed silo is closer to the Nolands than it is to the Ottinos. The Ottinos are the ones getting the benefit by placing this structure on their property. Why aren't they bearing the onus of the structure. The structure has been placed on the Ottinos' property so that it is blocked by trees so that it is not close to their residence and close to the barn. The Ottinos are the ones getting the money, but the Nolands are the ones that must look at it. It is not harmonious. If it were harmonious, they would be happy to have it right next to their house. You can look at the Ottinos' land and see many places where the proposed structure could be placed. They could move it to the other side of their house where the Ottinos would have to look at it but their neighbors would not. They could move it into the middle where everyone would share the burden, but they have placed it right smack next to the Nolands' house and she just did not see how that was fair. There were some issues with the artistic renderings. Mr. Noland felt he did as good of a job as he could. Even if you look at the Ottinos' rendering labeled after installment, you look at the silo and right behind it you can see the Noland's house. It is looming over the Nolands' house and behind the Ottinos' barn where it is not affecting the Ottinos and behind the big trees where the Ottinos can't see it. She stated that Mr. Noland's picture was not that wrong, noting she did not think the Ottinos was any better. She stated the Ottinos talk about how much they love their house and love their yard and have it just right. The Nolands' love their house too. They have a beautiful swimming pool and want to sit outside and not have to look at that thing. If the Ottinos like, let them look at it. A denial of the proposed structure will not prohibit installation, noting there are plenty of other places. The person from T-Mobile stated that there was nowhere else to go. She stated there were plenty of other places to go on the Ottinos' land. She stated she did not get the logic from the testimony given by the lady from Avondale, Colorado, who stated that since the Commission approved a gravel pit, it must also approve this application. She stated that she was aware of a stealth tower that was proposed in the St. Charles Mesa area near some nice residences, it was denied by the Commission. It was a windmill stealth tower and it was denied, noting that she was in favor of it. She questioned the denial of the stealth tower on the Mesa and granting this one and being consistent in its ruling. She concluded that looking at standards B and C, this application does not meet the standards of approval.

Mr. Mike Snell, 933 West Aledo Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. A lot of people were making statements that they did not have cell phone service. He didn't know if that was true for the area, noting that he has cell phone service and has never had a dropped call. He is on Verizon's network and has never had a

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problem with data service for his cell and text uses. He stated they run data across a land line for home use and stream television and stream a lot of data per minute without any issues through CenturyLink. These are some option for people in the area. He stated he works a couple times a year from his home and is able to access data over the Internet. He stated that he has children that play in the area and he was concerned about construction traffic. He stated there is already a large truck that goes to the Ottinos' property and he would rather not see anymore commercial vehicles in the residential area.

Ms. Barbara Davis, 1183 West Loasa Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. She stated last year at this time, she and her neighbors were before the Commission to oppose a stealth tower to be built at 529 South Avenida del Oro, which is only 0.6 mile from the proposed tower. At that time, they were able to collect signatures of opposition from ninety-nine people and several letters of opposition were submitted. Letters were received from local real estate agents, which are in the records of Special Use Permit No. 2017-009. Of the ninety-nine signatures, a vast majority were not aware of the proposal nor were they having any cell service problems; that tower is in the same vicinity of the proposed cell tower. She stated that she was not aware of the proposed cell tower and wished she had had more time to prepare her testimony. She stated she was in attendance because when she was petitioning for signatures and making people aware of the cell tower, a good many of them were totally unaware of it. She realized that there is a 300-foot requirement of notification of people, noting the parcels are large acreages and people are spread further apart. She felt this was why people did not know about the hearings, noting these types of issues would definitely affect them. She stated that the letter of the law dictates notification of a hearing to those within 300 feet of the proposed site; however, the spirit of the law is to ensure that everyone affected is notified of the opportunity to be heard at a public hearing. How can they do this if they are not aware of it? The current proposal will affect people for miles around Pueblo West. She stated she had a map that shows exactly how visible the proposed tower will be across Pueblo West. There are people that live to the east on Hacienda del Sol and people that live on Conquistador that have expensive properties. People bought their properties thinking they had unobstructed views. What she found is, once again, stating if it wasn't in their backyard, they were not concerned about it. Last year with Black Hills Energy's application, there were more people because it affected more backyards. This does not necessarily affect your backyard, but once again it affects the views. People moved to Pueblo West with the expectations of enjoying those views. They say that there is no value in views; however, when properties were purchased, people wanted to make sure there were no electrical poles and lines, no Loaf 'n Jugs and the like. Here we are, we must reside by the covenants, yet embrace a 60-foot tower, noting she felt it was ridiculous to expect that. She stated she had a copy of the map showing the visibility of the tower if the Commission wanted it. Ms. Day questioned if she would like to enter it as an exhibit. Ms. Davis replied yes. The map was entered into the record as Opposer's Exhibit No. 3. She stated there was testimony indicating there was no value in views; however, when she bought her property, they paid more for that piece of land than someone else in another location because of the views. She stated that Pueblo West was considered as "Country Residential" and paid more because of it. When lots are advertised, views are one of the amenities. Last year, when she was doing research for the tower proposed on Avenida del Oro, she spent hours and hours at the library and took pictures with her phone of residential ads for properties and roughly 85% of them mentioned the views in Pueblo West. She noted that 100% of them did not mention cell phone coverage, noting it was not a selling aspect for homes no matter what anyone else says. Ms. Day stated that individual testimony is limited to five minutes per person and she was a bit over. Ms. Davis stated the home page of Pueblo West brags about the vistas of the Great Rocky Mountains from the luscious Spanish Peaks to the white capped Pikes Peak offering 300 days of sunshine and breath-taking and awe-inspiring sunrises and sunsets, magnificent star gazing at night, which is pollution free and relaxing. When she did her research some time ago, but felt it would still be true, of 1,000 surveyed 94% reported that cell towers in the neighborhood would impact interest in a property and the price they were willing to pay for it. Seventy-nine percent said under no circumstances would they purchase or rent a property within a few blocks of cell towers and antennas. Various studies showed various amounts of loss from 5% to 20% of property values. Because of the factors previously mentioned, she would strongly urge the Commission to deny the proposed tower or ask for a continuance so that more information could be gathered. Last year when she was before the Commission, it was denied by the Commission stating it was not harmonious with the environment and she believes the same holds true for the current proposed application.

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Mr. Parker Emerson, 969 West Aledo Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. He stated based on all the maps, he would be the second most affected person. He considered the Nolands and the Ottinos as great neighbors and got along with both parties. He agreed that a silo may not be the best aesthetic because it doesn't fit the area. He would like to know why this was not a concern, noting that he has a son that is almost one-year old. He was concerned with the unknown health risks related to 5G cell towers. Ms. Day replied that it was a Federal regulation prohibiting local governments from considering health risks relative to telecommunication towers. Mr. Emerson stated that it is a huge deal right now, noting that the City of Brussels stopped sites that were approving 5G cell coverage and wanted private contractors to investigate the health standards. He stated that he was a tech nerd and in listening to a lot of podcasts, the 5G radiation exposure is definitely higher. Ms. Day began to say that his testimony was irrelevant when Mr. Emerson cut her off and stated that he just wanted to express his concern and thanked the Commission.

Mr. Cliff Davis, 1183 West Loasa Drive, Pueblo West, Colorado 81007 spoke in opposition to the special use permit. He currently retired out of the military and is currently residing in Washington, D.C. He lives 9.4 miles from the Washington Monument. He stated, at the nation's capital, he has one bar of service at his home. He understands that the Ottinos want to put up a cell tower; however, he has been in the Pueblo West area looking at property because he is about to finish off a dual major and looking at property at Hacienda del Sol, which is a \$459,000 home. He spoke with Ms. Alicia Irwin of Re-Max of Pueblo and she stated, "I would definitely reduce the property value if a cell phone tower blocked the views." She did not know about the proposed cell phone tower. Mr. Shelman works with her at Re-Max. He was confused how it was not known through an entire organization that a cell phone tower was possibly being built in the area. Mr. Linden apologized to interrupt and questioned if the speaker had indicated he lived in Pueblo West or not. Mr. Davis stated he currently had a Pueblo West address. Mr. Linden asked him if he lived in Pueblo West. Mr. Davis stated he lives in Pueblo West more than half the year. He stated a statement was made that the subject was agricultural property and you can do anything you want with it. House Resolve 42 of the 109th Congress put up a Freedom to Display the American Flag Act 2005. In that act, if he wanted, he could put up a 60-foot flagpole. He questioned how many 60-foot flagpoles were currently in Pueblo West. He stated there were two--one being that first entrance of McCulloch Boulevard. He stated because of that Act, he could establish a 60-foot flagpole on residential property, and no one could stop him. Could you imagine everyone in opposition putting up a 60-foot flagpole and a 40-foot flagpole and what that would do to Pueblo West. Mr. Linden asked Mr. Davis to please state his address for the record. Mr. Davis replied 1183 West Loasa Drive. Mr. Linden questioned if it was on the map being shown. Mr. Davis replied no, but he would be able to see the silo.

Mr. Bruestle questioned if testimony in favor and in opposition were closed. Chair Lowe replied yes. Ms. Day stated that it was at the discretion of the Commission to call someone up to answer any questions. She also stated that legal counsel has the right to cross examine witnesses.

REBUTTAL

Mr. Linden rebutted the testimony. He called Mr. Ivor Hill to the podium. Mr. Linden questioned if he testified to two reports. Mr. Hill replied if it was the two reports he was hold, yes. Mr. Linden questioned the names of the reports. Mr. Hill replied the first one was a 1999 article, "The Impact of Communication Towers and Residential Property Values", authored by the Appraisal Institute's member Allen G. Dorin, and the second one was a 2014 survey commissioned by the National Institute for Science, Law, and Public Policy (NISLPP). Mr. Linden questioned if he had the 2014 survey with him. Mr. Hill replied that he thought he did and asked if he could get his file. Mr. Linden questioned if it was reference in the article asking if neighborhood cell towers impact property values. Mr. Hill stated he would have to get his file to answer his question. He stated that he did have the survey. Mr. Linden questioned when he was hired. Mr. Hill replied he was first contacted by Mrs. Noland approximately in April of this year. His explained he was going to be out of the country and would not be available. He stated he ended up in intensive care at the hospital, so his trip did not happen. Mrs. Noland contacted him in July of this year, and he visited with the Nolands on July 27, 2019. Mr. Linden questioned how much time he spent on this project. Mr. Hill replied that he had the advantage that he had done research on a similar facility last year or two years ago for a project on the St. Charles Mesa. He had a lot of background research and templates. His total time on this current project was

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approximately 15 hours. Mr. Linden questioned what his compensation was. Mr. Hill replied \$1,500, noting that was an inexpensive fee. Mr. Linden stated that was \$100 an hour. Mr. Hill stated that his fees are normally upwards of \$900. Mr. Linden questioned if that was by the hour. Mr. Hill replied, yes, for Federal court cases. Mr. Linden stated he didn't hear him speak about any analyses of grain silos. He questioned Mr. Hill if he did any analyses of grain silos. Mr. Hill replied that testimony was given that there aren't any grain silos in Pueblo West. Mr. Linden asked if he had done any testimony or research on grain silos. Mr. Hill stated that grain silos are typically found on larger agricultural lands, for instance, his own land talking about million-dollar views. He just paid a million dollars for a property in Rye, Colorado. He has a lot more land and there are no grain silos there. When you have grain silos, you have much larger acreage so there was not a need to analyze it. Mr. Linden stated that he instead took a report that analyzed residential cell towers that was drafted 20 years ago for the City of Richmond in Virginia. Mr. Hill replied that was correct, noting it was supplemented by one that was done in 2014; only five years ago. Mr. Linden stated that one talked about the risks of cell tower antennas experience and the physical affects from radiation. Mr. Hill replied that radiation sickness was not a part of the scope of his work, noting he was not an expert in that. Mr. Linden stated this is what was submitted to the Commission. Mr. Hill stated that he wasn't sure what was submitted, and it was given to counsel. Mr. Linden questioned if he wanted to give him a copy. Mr. Hill replied that the title of the document was "Do neighborhood cell towers impact property values?", noting that it had nothing to do with radiation in the title. Mr. Linden stated that the Commission could read the fourth paragraph from the article. He asked Mr. Hill if he had read the submission. Mr. Hill replied of course he did. Mr. Linden questioned if he had prepared a written report. Mr. Hill replied no. Mr. Linden questioned when he concluded his analysis. Mr. Hill replied that he explained during his testimony that the research that he did, most of it was done yesterday and today. Mr. Linden stated yesterday and today? Mr. Hill replied that was when he finished it. Mr. Linden stated that even though he had the opportunity to conclusively look at other sites before, you finished it yesterday or today. Mr. Hill replied that in the last four months, he has probably done 60 divorce cases, one of which was 28 properties in a Federal court case that made national news. Mr. Linden stated he was just asking for a yes or no answer. Mr. Hill stated that he got the time available and he already had a lot of the data from previous research, which he checked to still be valid and it was. Mr. Linden questioned if he had been to the proposed site. Mr. Hill replied that he explained in testimony that he was there on the 27th of July. Mr. Linden questioned when he does his analysis, if he considered the permitted uses listed in zoning codes, particularly in this instance of the property right next door to your clients. Mr. Hill replied his scope of work was not to consider "your client's property" nor did he inspect it because he would be trespassing without the permission of your client. My scope of work was to assess the impact on a potential reduction of value. Mr. Linden repeated the question, do you consider the permitted uses-by-right when conducting an evaluation, as you testified to, for the impact of a telecommunications tower? Mr. Hill replied that he did not conclude a value. Mr. Linden questioned if he concluded an evaluation for the Ottinos' deed restriction on the south 10 acres. Mr. Hill replied that he did not conclude a value; it was not a part of his scope of work. Mr. Linden questioned if he had notes on the realtors he spoke with. Mr. Hill stated absolutely. Mr. Linden stated that he would trust him and questioned if all the realtors you testified to said there would be a negative impact; none of them said there would be a positive benefit to the community? Mr. Hill replied that he spoke to appraisers as well, noting he spoke to Mr. Michael Martinez and read the comments. Mr. Linden stated he was only talking about the realtors. Your testimony was, all the realtors gave evaluation somewhere between 2% and 10%. Mr. Hill stated they were contemporaneous notes that were made on a standard questionnaire he drew up. He stated that Mr. Greg Ratliff, who is a partner in Re-Max Associates, which is a different agency than Mr. Shelman's, stated the agent considered the marketing time would be extended and a price reduction in excess of 10% should be granted. The price of property would limit potential buyers. Mr. Shawn Martinez, one of the owners of Rocky Mountain Realtors, which he believes may be the largest realty company in the area from what he was told, stated that he considered there would be an impact to the price reduction of 5% to 10%, noting he had no knowledge of a transaction to support that; that was just his feeling. He stated he was a very experienced realtor. Mr. Linden questioned if he had that statement in writing from him. Mr. Hill replied that he had his notes. Mr. Linden questioned if he had the statement in writing from Mr. Shawn Martinez. Mr. Hill was about to answer when Mr. Linden stated he had no further questions and wanted to move forward.

Ms. Day stated there were eight minutes remaining for rebuttal.

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Mr. Linden stated he was not trying to be disrespectful to anyone including Mr. Hill, but how an appraiser can come up here and testify to you that he did not consider the uses permitted by right on the adjacent, which he read to the Commission--agricultural custom contractor, drilling company, equestrian arena, farming, ranching, greenhouses, marijuana, hay, grain, feed, seed, fertilizer, retail storage and/or wholesale, hemp establishments, marijuana-all kinds of marijuana establishments, sawmill, water distillation, and bottling. Again, you must recognize that if you put something up that is a permitted use, there is no property evaluation analysis. What if he asked Mr. Hill to analyze do people want to live next door to a large marijuana greenhouse because it is a permitted use-by-right on both the parcels. Do they want to live next to a sawmill? Do they want to live next to farming and ranching? He has heard three or four times, this is not a rural area, this is a residential area. He stated the north and south 10 acres are zoned A-1. The surrounding properties are zoned A-3. The zoning code says it is "Country Residential" or large acre parcels. How can you get up in good faith and charge somebody to come in here and tell you it is residential and give you a report that is based on Richmond, Virginia, from 1999 for telecommunication towers, which is not what is being talked about. He stated they are talking about utilizing what the Code says what is the latest in stealth technology so nobody and can see the cell tower antennas. He stated he could not remember if his name was Parker Emerson, noting that the Ottinos feel the same way about him. He stated that the Commission could take a break and review the reports, but the Telecommunications Reform Act has mandated that you cannot consider the radio waves, noting we are all experiencing radio waves right now. If we turned on a radio, it would work. The Federal government said you cannot consider harmful effects. With due respect, we cannot consider that. Mr. Emerson is a great guy and a great neighbor, and he appreciated his testimony. He doesn't appreciate the expert testimony because it is not on good faith, noting the Commission could render their own opinions on that. The interesting thing about the expert testimony, where are the realtors to testify that the proposed tower will hurt the property evaluations. Those pictures are not accurate. They admitted they are not accurate. You have in your packet this picture with Vertical Bridge, which shows an actual simulation of the tower. The design engineers did it. He was not sure who did it. He didn't want to cross examine. They didn't cross examine the Ottinos. Take a look at Vertical Bridge's engineered simulation, it is going to show the tower right of the tree, so it is not just a little off, it is a lot off. Let's make sure the Commission makes informed decisions based on the accurate reports. He stated what is also off is the bottom picture because it is showing the tower right outside of the fence line and not reducing for the 205 feet. He'll go back to what he stated earlier; we are quibbling over order. There are no threats. He wasn't sure if Mr. Maggard was still present, noting he and Mr. Shelman were at the COA hearing. The same thing was said. In fact, it was said to him on the record, Mr. Linden threatened me in the hallway. He didn't threaten anybody. When you talk to somebody and you try to say, listen, we are trying to move it, we are trying to consider your views, we are trying to be respectful, but did you know that the property is zoned A-1? Did you know that there are other uses, the ones he previously stated? Did you know that they could do a lot of different things with their property? Did you know that we don't have to be in front of the COA if we want to put the tower on the South10? But here is what we will do. At that hearing, during a break, Mr. Ottino approached him and said, I'll preserve it. I won't build on it. We'll write a letter; no commercial development. Is that threatening somebody or is that being considerate? That is taking into consideration your neighbor's feelings. At the time, you can ask the two gentlemen, because they sat on the Board, it was about the million-dollar view. There is another thing that you need to take a look at. The diagram in your packet on page (Ms. Day questioned how much more time he needed for rebuttal. Mr. Linden replied five minutes) 38, which is a .pdf, is from Ms. Wallingford-Ingo's report. Ms. Wallingford-Ingo stated it was Exhibit No. 11b. Mr. Linden stated that there were five letters of support talking about how the adjacent neighbors felt. He pointed out the people in conjunction with the neighborhood. He urged the Commission to talk to the Zoning Director and talk to counsel if the Commission has any consideration of denying the application. He stated, on record in the opening, that he challenged anyone to contradict what he stated about the legal efficiency of this application because it is all there. The denial must be based on substantial evidence to the contrary of which there is none. How do we know that? It is A-1 property; he can go to Ms. Wallingford-Ingo tomorrow with the building plans for the structure, pay for the charges, and get a building permit. He challenged anyone to contradict him that a structure at a height of 60 feet on that parcel could be constructed because it is within the PWMD and they have a 60-foot approval from them. It is not a threat. They took into consideration people's opinion. He stated you can go down to the South 10 and build an unrestricted height structure without any approval. In an A-1 zone district, a grain silo is a permitted use-by-right. They could have come back to the Commission once it was built and said we want to drop antennas into an existing structure. What is being argued now is the order of development; the chicken or the egg.

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Ms. Wallingford-Ingo's report will tell you that special use reviews, as long as they are listed as a special use in the Code, which this is, are not inherently not inharmonious with the neighborhood because when this Code was written, it took into consideration all of the uses he spoke about. As far as impacting potential adjacent uses and homes, the Code takes that into consideration. The Code says, on an A-1 property, we are going to let you do marijuana, greenhouses, sawmills, agriculture. He asked the Commission to take a look at the definition of an agricultural custom contractor. The Code considers the impact on surrounding property and unfortunately, very unfortunately apparently, Mr. Noland purchased right next door to an A-1 zoned property. There aren't any silos. Probably not true. There are, noting Mr. Shelman could testify to that if it wanted to be heard. There are silos, but again that is not the point. There aren't any marijuana greenhouses on the map either. There aren't any sawmills, bottling water plants, agricultural custom contractor yards, but there could be on A-1 land. He stated he hated making this argument. When you are talking about property rights, all we are trying to do is ask that our property rights be respected and understand that they have tried to consider everyone else's. Is somebody going to bear the brunt more than somebody 1,000 feet away? I guess, but it is not a telecommunications tower visually. It's not a windmill with the telecommunications equipment visible and the windmill really doesn't move; it is a grain silo. Ms. Day stated that he was out of time.

Mr. Schuster questioned the distance between the adjacent property and the proposed tower. The Nolands testified it was 150 feet from their house. Mr. Ottino stated it should be part of the package showing an accurate plot plan. It is physically 205 feet from their residence, which is equivalent to a 1.5-acre lot in that area. Mr. Schuster questioned from their residence. Mr. Ottino replied from their residence, 205 feet from the centerline of the tower as proposed. Mr. Bruestle questioned if it was residence or property line. Mr. Ottino replied to the residence, noting he was not sure about the measurement to the property but thought it was in the package. Their property ends, then there is a 50-foot equestrian and utility easement between their property and his 10-acre parcel. Mr. Schuster showed Mr. Ottino a map and asked if that is where the easement is located. Mr. Ottino replied that their trees lie right on the border and then there is a 50-easement before his property line. Mr. Schuster questioned the representation of what the silo would look like, i.e., a silver bullet. Mr. Ottino stated that the Nolands show the silo from behind the trees and away from the view from the front of the house, when the accurate depiction is way over here and back further from what the Nolands' depiction shows. He showed Mr. Schuster the row of trees. Ms. Wallingford-Ingo stated that there are photo simulations in our packet. Mr. Schuster stated he knew that but wanted to make sure he understood. Mr. Ottino stated that the Nolands' photo shows the tower right here, as you can see from that line of sight, with the tower over here, there is no way you can put that behind those trees accurately. Mr. Schuster questioned why the proposed site was picked rather than somewhere closer to the barn or over where the neighbors would not see it. Mr. Ottino replied as you can see on the plot plan it is in close proximity to the barn and part of the whole reason behind this is that it is more fitting an agricultural silo next to a midwestern looking barn, noting there was a photograph of the barn. Mr. Schuster stated that he saw the photograph of the barn. Mr. Ottino stated that that area has already been disturbed and developed because that is part of the ground he has developed over the years. To try to place the tower further away from those buildings would really make it stick out. Mr. Schuster stated he wasn't thinking further way but closer. He questioned a location on the plot plan. Mr. Ottino replied that it was the leach field for his home. He noted that more trees around the silo would be added.

Chair Lowe closed the hearing and entered staff's comments into the record.

MOTION

Mr. Bruestle moved to approve Special Use Permit No. 2019-002 with seven conditions and Directive to Staff as per Staff Memorandum, dated August 14, 2019. Mr. Griego seconded the motion.

Discussion ensued. Ms. Alt stated that she tries to vote objectively on everything. She does not have a cell phone, has never had a cell phone, and does not want a cell phone. She is neither pro nor con on cell phones. She was trying to look only at what is here.

Chair Lowe stated that a lot of information was given tonight, noting that he could not review it all because he did not have time before the meeting. He had hoped that the hearing could be continued so that he could get more of a perspective from both sides.

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PUEBLO COUNTY PLANNING COMMISSION
AUGUST 21, 2019**

Ms. Day stated there was a motion and a second on the table, which would have to be withdrawn to entertain a motion to continue.

Chair Lowe stated that is what he would like to see happen, but first we must vote on the motion on the floor, unless the person would like to withdraw their motion.

Ms. Day recommended a roll call vote.

Mr. Schuster--yes.
Ms. Alt--yes.
Mr. Griego--yes.
Chair Lowe--yes.
Mr. Mancha--yes.
Mr. Bruestle--yes.
Ms. Hatton--yes.

Motion carried by a 7-0-1 vote with Ms. Leonard abstaining. PCPC Resolution No. 19-011, dated August 21, 2019, was also approved.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Mr. Bruestle stated that his colleague, Ms. Hatton, and several other Commissioners have been advocating for an update of a Comprehensive Plan. He just wanted to let everyone know that he would be a member of a team from Pueblo. In September, the team are going to be guests of the Senora Institute and will be attending a 2½ day workshop. This offer was made to all municipalities on the Front Range, and Pueblo responded and was accepted at the workshop. They are going to bring together something that has not taken place with any consistency within Pueblo County ever before and that incorporates water planning and land planning at the same time. When the workshop is over, he would be glad to bring the results of the team's work to the Commission because he thought it is going to be helpful with the Comprehensive Plan whenever that takes place.

Chair Lowe stated that it would be appreciated.

REPORTS OF COMMITTEES

None.

ADJOURNMENT

There being no further business, Chair Lowe adjourned the meeting at 9:12 p.m.

Respectfully submitted,

Gail Wallingford-Ingo, Planner II
Department of Planning and Development

SMS