



**TO:                   BOARD OF ADA COUNTY COMMISSIONERS**

**HEARING DATE:** August 10, 2022

**STAFF:** Connor Lindstrom, Associate Planner

**PROJECT NO.:** 202103048 A

**APPLICANT:** Clark Wardle, LLP

### **INTRODUCTION**

A reconsideration of the Board of Ada County Commissioner's decision to approve the appeal 202103048 A, which overturned the Ada County Planning & Zoning Commission's approval of 202103048 CU; a conditional use for a 100' cell tower for commercial use. The property is located at 12016 W Floating Feather Rd and contains 2.88 acres in the Rural Residential (RR) district; Section 6, T.4N, R.1W.



*Figure 1 – Aerial of the Site*

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#### **STAFF REPORT**

Project #202103048-CU-A Reconsideration  
Clark Wardle, LLP

## EXECUTIVE SUMMARY

Clark Wardle LLP, the original applicant, applied for a conditional use permit to construct a 100' tall commercial cell tower within a 2,500 square foot fenced lease area, to improve service for wireless users and devices in the area surrounding the subject property.

Access to the facility is proposed from the existing driveway, which aligns with Floating Feather Rd to the east. Per the requirements of the Ada County Development Code, the cell tower has been designed to accommodate the equipment of up to three individual carriers.

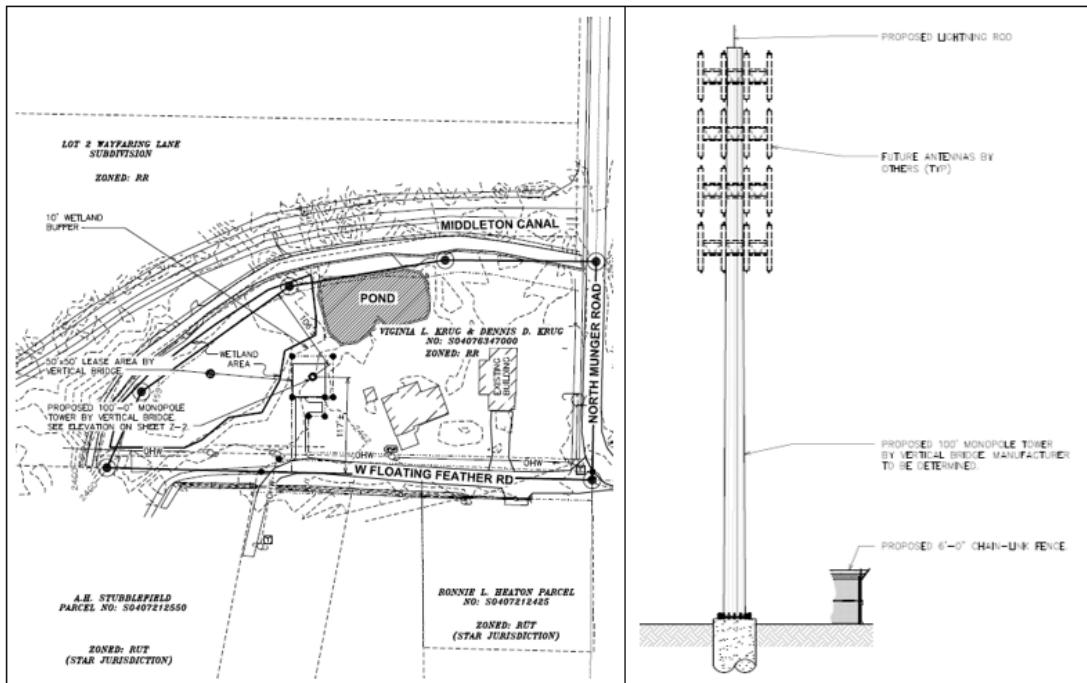


Figure 2 – Site Plan and Elevation

- At their February 10, 2022 public hearing, the Ada County Planning & Zoning Commission approved the conditional use permit with conditions of approval.
- On February 24, 2022, Development Services accepted an application from William Lind, appealing the Planning & Zoning Commission's decision.
- On May 11, 2022, the Board of Ada County Commissioners heard the appeal and voted to approve the appeal, overturning the Planning & Zoning Commission's approval. The application was tabled to the Board's May 31, 2022 Open Business Meeting.
- At their May 31, 2022, Open Business Meeting, the Board signed revised Findings of Fact, and Conclusions of Law & Order.
- On June 13, 2022, Josh Leonard with Clark Wardle filed for a request for reconsideration with the Board of Ada County Commissioners.
- On July 12, 2022, the Board of Ada County Commissioners granted a motion for reconsideration to consider only the matter of a cell tower located in Canyon County where

colocation may be possible to remedy the significant gap in coverage identified by the applicant.

- On July 12, 2022, Development Services Staff scheduled the reconsideration to be held on August 10, 2022, before the Board of Ada County Commissioners.
- A radius notice to the public, as well as an agency transmittal, were both completed on July 13, 2022.
- Legal notice of the public hearing was posted in the [Idaho Statesman](#) on July 26, 2022.
- A public service announcement was released on August 1, 2022.

At the time this reconsideration report was written, and following the radius notice and agency transmittal, one (1) letter was received in opposition to the project.

The Board should consider the evidence and testimony presented during the public hearing prior to rendering its decision concerning this application.

#### **EXHIBIT LIST – PROJECT NO.: 202103048-A Reconsideration**

1. Ada County Planning & Zoning Commission's Findings of Fact. 16 pages.
2. Board of Ada County Commissioners' Findings of Fact. 16 pages.
3. Josh Leonard's Reconsideration Submittal Docs. 35 pages.
4. Board of Ada County Commissioners' Reconsideration Motion. 1 page.
5. Action Letter. 1 page.
6. Mailing List. 2 pages.
7. Radius Notice. 2 pages.
8. Agency Transmittal. 2 pages.
9. Comments received on July 18, 2022, from Jim McCoy. 1 page.
10. Legal Notice of Public Hearing posted on July 26, 2022. 1 page.
11. Comments received on July 29, 2022, from Carol Corkey. 1 page.
12. Public Service Announcement released on August 1, 2022. 1 page.



## **BEFORE THE ADA COUNTY PLANNING & ZONING COMMISSION**

In re:

Application of Clark Wardle LLP

Project No. 202103048 CU

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

#### **FINDINGS OF FACT**

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

**A. The Commission finds that the record is comprised of:**

1. Exhibits to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 202103048 CU.
4. All information and testimony presented at the Public Hearing held on February 10, 2022.

**B. As to procedural items, the Commission finds the following:**

1. In accordance with Section 8-7A-2B of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on July 8, 2021.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on September 28, 2021.
3. On November 16, 2021 Development Services accepted Project No. 202103048 CU and scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 10, 2022.
4. On November 23, 2021, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

Project No. 202103048 CU

Clark Wardle LLP

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202103048-A

Reconsideration

5. On January 4, 2022, property owners within 1,000 feet of the site were notified of the hearing by mail. Legal notice of the Commission's hearing was published in The Idaho Statesman on January 24, 2022. Notices of the public hearing were posted on the property on January 28, 2022 and a certification sign posting was submitted to the director on January 31, 2022.

**C. As to the project description, the Board finds based on the application materials found in the file for Project No. 202103048 CU the following:**

1. PROPOSED USES: Communications Tower (Tower or Antenna Structure, Commercial)
2. PROPOSED STRUCTURES: 100' communications tower and 2,500 square foot fenced lease area.
3. PROPOSED SITE IMPROVEMENTS: Fencing surrounding the lease area.

**D. Based on the materials found in the file for Project No. 202103048 CU, the Commission finds the following concerning the project description:**

1. PARCEL NUMBER AND LOCATION: The parcel number is S0406347000 and the property is located at 12016 W Floating Feather Rd, Section 6 of T. 4N, R.1W.
2. OWNERSHIP: Virginia and Dennis Krug.
3. SITE CHARACTERISTICS

Property size: 2.88 acres.

Existing structures: 1,816 square foot single family home with a 484 attached garage.

Existing vegetation: Residential landscaping and dryland shrubs, grasses, and forbs.

Slope: The subject property is relatively flat.

Irrigation: None.

Drainage: The natural drainage of the property is towards the northwest.

Views: The site has clear views in all directions.

**E. Based on the officially adopted Ada County land use maps, the Commission finds the following concerning the current land use and zoning:**

The property is single-family residential with pasture in the Rural Residential (RR) District.

**F. Based on the officially adopted Ada County land use maps, the Commission finds the following concerning the surrounding land use and zoning:**

North: The site is single-family residential with pasture in the Rural Residential (RR) District.

South: The site is single-family residential in the Rural-Urban Transition (RUT) District.

East: The site is an open space lot associated with a single-family residential development in the City of Star's Medium Density Residential (R-3) District.

West: The site is single-family residential with pasture in the Rural Residential (RR) District.

**G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 202103048 CU, the Commission finds the following concerning services:**

Access Street and Designation: Access is off Floating Feather Rd, which is designated as a minor arterial.

Fire Protection: Star Fire District.

Sewage Disposal: Septic.

Water Service: Individual Well.

Irrigation District: Middleton Irrigation and Middleton Ditch Co.

Drainage District: Drainage District No. 2.

**H. As to the applicable law, the Commission finds the following:**

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Commission finds that the **City of Star Comprehensive Plan** is applicable because the subject property is within Star's area of city impact. The Commission finds the application complies with the **City of Star Comprehensive Plan** based on the following:

The Commission finds that the Future Land Use Map designates the site as *Medium Density Residential*, which is primarily intended for single-family homes at densities of four dwelling units or less per acre. As the property contains an existing single-family home, and as the proposed cell tower is proposed in order to support the wireless needs of surrounding residents, it is compatible with the adopted Land Use Map.

As the cell tower is proposed in order improve phone and internet service for residents and businesses within the area, it is supported by the following goal and policy of the Star Comprehensive Plan regarding the adequate provision of services and utilities.

*Goal: To promote the social and economic needs of the City by identifying and ensuring adequate infrastructure and services to meet those needs.*

*Policy: Utilities must be sized, and access provided to serve future, as well as immediate development.*

2. The Commission finds **Section 8-5-3-114 of the Ada County Code** is applicable because the applicant has applied to construct a communications tower (Tower or Antenna Structure, Private). The Commission finds that the application complies with **Section 8-5-3-114 of the Ada County Code**. Regarding Section 8-5-3-114 the Commission finds

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

the following:

A. Applicability:

1. The following regulations shall apply to tower structures and associated equipment for the purpose of commercial radio, television, telephone, paging, or satellite reception and/or transmission.

*The Commission finds that the proposed tower is for a commercial cell tower.*

B. General Standards for Commercial Tower Structures and Associated Equipment:

1. Radio Frequency Emissions: The facility shall comply with FCC standards regarding radio frequency (RF) emissions..

*The Commission finds as a condition of approval the tower shall comply with FCC standards regarding radio frequency (RF) emissions.*

2. Approval Required: The facility shall have approval from the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics prior to operation.

*The Commission finds as a condition of approval the applicant shall receive approval from the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics prior to operation.*

3. Additional Approval: The facility shall have approval from the Boise Airport Director prior to operation. The approval shall include specific reference to the site location, height of the facility, lighting, and issuance of an avigation easement.

*The Commission finds as a condition of approval the applicant shall receive approval from the Boise Airport Director, including specific reference to the site location, height of the facility, lighting, and issuance of an avigation easement, prior to operation.*

4. Permits Required: The applicant or owner shall be required to obtain all necessary permits, as may be required under Federal, State or local statutes, regulations, or ordinances including, but not limited to, building permits.

*The Commission finds as a condition of approval the applicant shall obtain all necessary permits as may be required under Federal, State or local statutes, regulations, or ordinances including, but not limited to, building permits.*

5. Maintenance of Facility: The facility shall be maintained in compliance with all Federal, State, and local regulations and the construction standards set forth in this section.

*The Commission finds as a condition of approval that the facility shall be maintained in compliance with all Federal, State, and local regulations and the construction standards set forth in this section.*

6. Public Nuisance Prohibited: The owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.

*The Commission finds as a condition of approval the owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.*

7. Outdoor Storage Areas: The proposed facility shall meet the standards for outdoor storage areas in section 8-5-3-78 of this chapter.

*The Commission finds the proposed facility meets the standards for outdoor storage areas in section 8-5-3-78 of this chapter.*

8. Conditional Use Approval: For any facility requiring conditional use approval, the director shall notify all property owners within a minimum of one thousand feet (1,000') of any property boundary of the proposed site.

*The Commission finds the director notified all property owners within a minimum of one thousand feet (1000') of any property boundary of the proposed site.*

9. Removal:

- a. Any tower that has had no antenna mounted upon it for a period of 120 consecutive days, or if the antennas mounted thereon are not operated for a period of 120 successive days, shall be considered abandoned. The tower owner or landowner thereof shall:

- (1) Remove any such tower and any accompanying equipment enclosure within ninety (90) days of abandonment; and
- (2) Bring the location of the removed facility back to its original state, or better.

*The Commission finds as a condition of approval, the tower owner or landowner shall be required to remove the facility in accordance with Section 8-5-3-114.9 (a.1 and a.2) of Ada County Code if necessary.*

- b. The Director, upon determining that a tower has been abandoned, shall serve notice of its determination of abandonment upon the owner of the tower.
  - (1) The notice shall contain the reasons why the tower has been deemed abandoned, the owner's obligation to remove the tower and the owner's right to appeal the determination of abandonment.
  - (2) If the structure and equipment enclosure are not removed within 90 days, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the tower owner or landowner.

*The Commission finds as a condition of approval, that if the Director determines the tower has been abandoned, shall serve notice of its determination of abandonment upon the owner of the tower in accordance with Section 8-5-3-114.9 (b.1 and b.2) of Ada County Code.*

10. Tower Construction, Setback, And Fall Zone Standards:

- a. The tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards for Steel Antenna Supporting

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#### FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Structures," or as hereinafter may be amended.

*The Commission finds that the tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards for Steel Antenna Supporting Structures," or as hereinafter may be amended.*

- b. Within the Boise Air Terminal Airport Influence Areas Overlay District, the height limit on the tower or antenna structure shall be as required by the Code of Federal Regulations 14 CFR 77.

*The Commission finds the tower is not located within the Boise Air Terminal Airport Influence Areas Overlay District. As a result, this standard does not apply.*

- c. Towers over twenty feet (20') in height must be designed to allow for future arrangements of antennas upon the tower. Such towers must also be designed to accept antennas mounted at varying heights.

*The Commission finds the tower has been designed to allow for future arrangements of antennas and to accept antennas mounted at varying heights.*

- d. If the tower does not exceed the height limitations of the applicable base district, the tower shall meet the setback requirements of the district. If the tower exceeds the height limitation of the applicable base district, the tower shall meet the setback requirements of the district or it shall be set back one foot (1') for every ten feet (10') of total tower height from all property lines, whichever is greater.

*The Commission finds the tower exceeds the height limitations of the Rural Residential (RR) District and meets the required setback standards from all property lines, which are greater than one foot (1') for every ten feet (10') of total tower height.*

- e. In addition to the setback requirement noted in the preceding paragraph, a fall zone for each tower shall be delineated and permanently restricted from future development, as follows:

- (1) The fall zone shall consist of the land area centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower height.
- (2) If the fall zone does not lie completely within the subject property, the applicant must obtain a nonrevocable easement from all owners of property within the fall zone that prohibits the construction or placement of new structures within the fall zone, except as may be specifically permitted through the conditional use process. If an easement is utilized, a copy of the fully executed easement agreement shall be submitted as part of the application.

*The Commission finds the fall zone for the tower lies completely within the subject property.*

- f. Towers shall be architecturally and visually compatible with the existing

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#### FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the applicable base district and/or comprehensive plan. The decision making body shall consider, but shall not be limited to, the following factors: similar height, color, bulk, and/or shape, or camouflage techniques to disguise the facility. This shall not preclude towers requiring FAA painting and/or marking from meeting those standards.

*The Commission finds the tower will be architecturally and visually compatible with existing structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the applicable base district and/or comprehensive plan.*

- g. This subsection B shall not apply to small wireless facilities that meet the standards found in subsections C and D of this section.

*The Commission finds that the tower is subject to subsection B of Section 8-5-3-114 of the Ada County Code.*

C. General Standards for Small Wireless Support Structures and Small Wireless Facilities:

1. Small Wireless Support Structures:

- a. Small Wireless Support Structures shall not exceed the height limitation of forty five feet (45').
- b. Small wireless support structures that are over twenty feet (20') in height and located within a utility easement or public right-of-way must be designed to allow for future arrangements of antennas and to accept antennas mounted at varying heights upon the small wireless support structure, to the extent reasonably feasible based upon construction, engineering and design standards.
- c. Small wireless support structures shall be permitted within utility easements or public rights-of-way in accordance with the requirements of this section.
- d. Single carrier small wireless support structures may be used within utility easements and public rights-of-way due to the height restrictions imposed by this section.
- e. The replacement of pre-existing small wireless support structures shall be subject to all the same requirements as the construction of new small wireless support structures.

2. Small Wireless Facilities:

- f. Small wireless facilities located within utility easements or public rights-of-way are exempted from setback requirements.
- g. Small wireless facilities may extend up to ten feet (10') above the height of a small wireless support structure.
- h. Small wireless facilities may be mounted on a roof of a building only if the height of the small wireless facility at the highest point does not exceed the horizontal distance from the small wireless facility to the edge of the roof.

- i. The Small Wireless Facilities shall be architecturally and visually compatible with regard to similar height, color, bulk, and/or shape, and/or use of camouflage techniques.

*The Commission finds the tower is neither a small wireless support structure nor a small wireless facility. As a result, these standards do not apply.*

D. Application Requirements:

1. Suitability Analysis of the Proposed Site: The analysis shall include, but is not limited to, the following:
  - a. Description of the surrounding area within one mile of the subject site including topography; and
  - b. For towers and/or associated facilities that do not meet the definition of Small Wireless Support Structures and Small Wireless Facilities. Propagation charts showing existing and proposed transmission coverage at the subject site and within an area large enough to provide an understanding of why the facility needs to be placed at the chosen location.
  - c. For towers and/or associated facilities that meet the definition of Small Wireless Support Structures and Small Wireless Facilities. A map and written analysis describing existing and proposed transmission coverage.

*The Commission finds the applicant's proposal complies with Section 8-5-3-114.D (1a, 1b, and 1c) of the Ada County Code.*

2. Facilities Meeting Definitions of Small Wireless Support Structures And Facilities: For towers and/or associated facilities that meet the definitions of small wireless support structures and small wireless facilities: if applicable, a signed lease agreement, master lease agreement or letter of authorization from the property owner or controlling entity that requires the applicant to remove the tower and/or associated facilities upon cessation of use.

*The Commission finds included in the applicant's proposal a signed lease agreement requiring the applicant to remove the tower and/or associated facilities upon cessation of use.*

3. Prior To Construction: Before construction of a small wireless support structure or small wireless facility commences in a utility easement or public right-of-way, the applicant shall provide written evidence of a permit, license, or legal right or approval to use such structure or facility by the Ada County Highway District, other controlling entity, or the owner.

*The Commission finds the tower is not a small wireless support structure or facility. As a result, this standard does not apply.*

4. Applicants may submit consolidated applications for up to five (5) Small Wireless Facilities being installed, modified, replaced, or collocated.

*The Commission finds the tower is not a small wireless support facility. As a result, this standard does not apply.*

E. Additional Application Requirements for Facilities that Require a Conditional Use

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Approval:

1. Engineering data showing that the tower is designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of one additional user if the tower is over twenty feet (20') in height. If the tower is over one hundred ten feet (110') in height, it shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of two (2) additional users.

*The Commission finds the tower is designed structurally, electrically, and in all other respects to exceed this standard as it will allow for equipment of up to four users.*

2. A report from a qualified and licensed professional engineer that describes the facility height and design (including a cross section and elevation); documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; describes the facility's capacity; and any other information necessary to evaluate the request. The report must include the engineer's stamp and registration number.

*The Commission finds a report from qualified and licensed professional engineer that describes the facility height and design (including a cross section and elevation) has been included with the applicant's proposal. This report documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; describes the facility's capacity; and all other information necessary to evaluate the request. The report includes the engineer's stamp and registration number.*

3. A letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this title, if additional users agree in writing to meet reasonable terms and conditions for shared use.

*The Commission finds a letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this title, if additional users agree in writing to meet reasonable terms and conditions for shared use has been included with the applicant's proposal.*

4. A map and written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within a two (2) mile radius.

*The Commission finds a map and written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within a two (2) mile radius has been included with the applicant's proposal.*

5. It shall be the burden of the applicant to demonstrate that the proposed facility cannot be accommodated on an approved tower or structure within the two (2) mile search radius due to one or more of the following reasons:

- a. Unwillingness of a property owner, or tower or facility owner to entertain shared use.
- b. The planned equipment would exceed the structural capacity of the existing

tower or structure, as documented by a qualified and licensed professional engineer, and the existing tower or facility structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- c. The planned equipment would cause radio interference with material impacting the usability of other existing or planned equipment at the tower or structure, and the interference cannot be prevented at a reasonable cost as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
- d. Existing or approved towers or other structures within the search radius cannot accommodate the planned equipment at a height necessary to be commercially functional as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
- e. The proposed collocation with an existing tower or structure would be in violation of a local, State, or Federal law.
- f. Any other unforeseen reasons that make it unfeasible to collocate upon an existing or approved tower or structure as documented by a qualified and licensed professional engineer, or other professional qualified to provide necessary documentation.

*The Commission finds the applicant has demonstrated the proposed facility cannot be accommodated on an approved tower or structure within the two (2) mile search radius because no such towers or suitable structures exist.*

- 6. It shall be the burden of the applicant to demonstrate that a good faith effort has been made to solicit the location of the proposed tower on federal, state, county or city property when such property exist within the two (2) mile radius. Evidence of this shall include, at a minimum, copies of notices sent by certified mail, return receipt requested, to all federal, state, county or city property managers asking the possibility of locating the proposed tower on said property and requesting a written response within fifteen business days.
  - a. Unwillingness of a property owner, or tower or facility owner to entertain shared use.
  - b. The planned equipment would exceed the structural capacity of the existing tower or structure, as documented by a qualified and licensed professional engineer, and the existing tower or facility structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

*The Commission finds the applicant has demonstrated a good faith effort has been made to solicit the location of the proposed tower on federal, state, county or city property when such property exist within the two (2) mile radius. Included as exhibits within the applicant's proposal are copies of notices sent by certified mail, return receipt requested, to all federal, state, county or city property managers asking the possibility of locating the proposed tower on said property and requesting a written response within fifteen business days. These*

*notices were sent to the Idaho Transportation Department, Idaho Department of Highways, the Ada County Highway District, the West Ada School District, the City of Star, and the Idaho Department of Lands.*

7. It shall be the burden of the applicant to demonstrate that a good faith effort has been made to solicit additional users for the proposed tower. Evidence of this shall include, at a minimum, copies of notices sent by certified mail, return receipt requested, to all other providers of cellular and wireless communications services within Ada County, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing the costs, and requesting a written response within fifteen business days.

*The Commission finds the applicant has demonstrated a good faith effort to solicit additional users for the proposed tower. Included as exhibits within the applicant's proposal are copies of notices sent by certified mail, return receipt requested, to Verizon Wireless, AT&T, DISH Network, and T-Mobile.*

3. The Commission finds **Section 8-5B-5 of the Ada County Code** is applicable because the applicant has applied for a conditional use to construct a communications tower. The Commission finds that the application complies with **Section 8-5B-5 of the Ada County Code**. Regarding Section 8-5B-5 the Commission finds the following:

1. The proposed use shall not be detrimental to the public health, safety, or welfare;

*The Commission finds that the communications tower is not detrimental to the public health, safety, and welfare because it is in conformance with the specific use standards for a (Tower or Antenna Structure, Commercial) as evidenced by Findings of Fact Section H(2). In addition, the communications tower will provide service for wireless users and devices in the area surrounding the subject property, which has and is expected to continue to see additional residential development.*

2. The proposed use shall not create undue adverse impacts on surrounding properties;

*The Commission finds that the communications tower does not create undue adverse impacts on surrounding properties. Although the tower will be visible from neighboring properties, adjacent uses will be able to continue to function as they have in the past. It is not anticipated that the tower will impede the normal use and development of surrounding properties; or create undue adverse impacts..*

3. The proposed use is consistent with the applicable comprehensive plan;

*The Commission finds as evidenced in Findings of Fact Section H(1) herein, that the tower is consistent with the Ada County Comprehensive Plan.*

4. The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;

*The Commission finds that the communications tower complies with the purpose statement of the Rural Preservation (RP) District as the tower will be improving radio communications for those lands in the Rural Preservation (RP) District in north Ada County.*

*The Commission finds as evidenced in Findings of Fact Section H(2) that the communications tower complies with the specific use standards for (Tower or*

*(Antenna Structure, Commercial).*

5. The proposed use complies with all applicable county ordinances;

*The Commission finds that the communications tower complies with all applicable county ordinances as outlined in Findings of Fact Section B and as outlined herein.*

6. The proposed use complies with all applicable state and federal regulations;

*The Commission finds that all uses are innately required to comply with all applicable state and federal regulations as a matter of law.*

7. The proposed use and facilities shall not impede the normal development of surrounding property;

*The Commission finds that there has been no evidence of record submitted at this time to indicate that the communications tower will impede the normal development of surrounding property.*

8. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use;

*The Commission finds that adequate facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are being provided for the communications tower. The application was transmitted to applicable agencies and political subdivisions on November 23, 2021.*

- *Stacey Yarrington, Community & Regional Planner responded in Exhibit #34 that the property is within Star's area of city impact; therefore, the applicable comprehensive plan is Star's Comprehensive Plan as adopted by Ada County. The future land use map designates the site as Medium Density Residential, which is primarily intended for single-family homes at densities of four dwelling units or less per acre. As the property contains an existing single-family home, and as the proposed cell tower is proposed in order to support the wireless needs of surrounding residents, it is compatible with the adopted Land Use Map.*
- *The Ada County Building Official replied in Exhibit #36 that the Building Division has no objection to the conditional use application for a commercial cell tower; however, the applicant should be aware permits will be required for the tower as well as any related structures on the property.*
- *The City of Star responded in Exhibit #37 that the original location proposed for the project could conflict with the future extension of Floating Feather Rd west of Munger Rd. To address this concern, the applicant submitted a revised site plan showing the project relocated approximately 50' to the north.*
- *The Ada County Engineer provided the following comments in Exhibit #35:*
  1. *The applicant, engineer or record or contractor shall notify the county engineer when a construction start date is established.*
  2. *The county engineer will not approve any finished grade slopes that are steeper than 2:1.*
  3. *All drainage shall be retained onsite during and after construction.*

4. *The contractor shall utilize existing haul roads, or the applicant shall submit an exhibit showing haul routes.*
  5. *Earthmoving equipment operation hours shall be limited to between 7:00 am and 6:00 pm.*
  6. *The engineer of record shall submit a letter stating the work has been completed in substantial compliance with approved plans.*
  7. *The applicant shall schedule a final inspection with the county engineer upon completion of the project.*
  8. *The applicant shall be responsible for restoring all disturbed areas. Restoration shall match the approved plans. For unapproved areas of disturbance the county engineer shall determine the level of restoration. This could include geotechnical reports, grading, erosion control blankets and hydro seeding.*
  9. *The applicant shall provide concealed or TREE type monopole options to planning for approval.*
9. Political subdivisions, including school districts, will be able to provide services for the proposed use.

*The Commission finds that the application was transmitted to political subdivisions including the West Ada School District on May 14, 2021 and there has not been any evidence submitted into the record to indicate that political subdivisions would not be able to provide services to the communications tower.*

## **CONCLUSIONS OF LAW**

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Commission concludes that Project No. 202103048 CU complies with the Ada County Comprehensive Plan.
2. The Commission concludes that Project No. 202103048 CU complies with Section 8-5-3-114 of the Ada County Code.
3. The Commission concludes that Project No. 202103048 CU complies with Section 8-5B-5 of the Ada County Code.

## ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein and the testimony from the public hearing, the Commission approves Project No. 202103048 CU, subject to the Conditions of Approval attached as Exhibit A and the Updated Site Plan dated January 28, 2022.

**DATED** this 10<sup>th</sup> day of February, 2022.

By: Brenda Blitman  
Brenda Blitman, Chairperson  
Ada County Planning and Zoning Commission

ATTEST:

  
Leon Letson, Secretary

## CONDITIONS OF APPROVAL

**REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT NO. 202103048 CU WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL TWO YEARS OF THE WRITTEN DECISION TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED, THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE. SITE IMPROVEMENTS ARE NOT ALLOWED UNTIL THE ZONING CERTIFICATE HAS BEEN ISSUED.**

1. The applicant and/or owner shall obtain written approval of the development (site plan and/or use) from the agencies noted below. All site improvements are prohibited prior to approval of these agencies.
  - a) The Federal Aviation Administration (FAA) shall approve the facility.
  - b) The Chief of the Idaho Bureau of Aeronautics shall approve the facility.
  - c) If applicable, the County Engineer must approve a surface drainage run-off plan. The plan shall contain all proposed site grading. Please contact the County Engineer at (208) 287-7900 for fee and application information. See Section 8-4A-11 of the Ada County Code for drainage plan standards.
2. The facility shall have approval from the Boise Airport Director prior to operation.
3. The applicant and/or owner shall provide details of the fencing material. The fencing material shall comply with the standards in Section 8-5-3-78 of the Ada County Code. Cyclone or chainlink fencing (with or without slats) shall not be deemed a screening material.
4. The applicant and/or owner shall submit a copy of the final set of plans that is stamped by a licensed engineer.
5. The applicant and/or owner shall submit to the Director a draft of the lease area description and the Record of Survey for review prior to recording.
6. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the County Building Official at (208) 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.
7. A building permit is required for the tower and fenced lease area.
8. A Certificate of Occupancy will be issued when all of the above conditions have been met. In the event conditions cannot be met by the desired date of occupancy, the owner and/or applicant may request a surety agreement in lieu of completing the improvements.

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## CONDITIONS OF APPROVAL

## EXHIBIT A

See Title 8, Chapter 4, Article K of the Ada County Code for the terms and regulations of surety agreements.

### **TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.**

9. A zoning certificate and/or a building permit may not be issued until 15 days after the Commission issued the written decision on the proposed development. In the event the decision of the Commission is appealed, the building permit may not be issued until the appeal is resolved in favor of the proposed development. See Section 8-7-7 of the Ada County Code for more information on appeals.
10. The use must comply with the specific use standards for [Tower or Antenna Structure, Commercial] in Section 8-5-3-114 of the Ada County Code.
11. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
12. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
13. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
14. All drainage shall be retained onsite during and after construction.
15. The contractor shall restore disturbed areas to predevelopment condition according to the County Engineer.
16. Any outdoor storage on the site shall comply with Section 8-5-3-78 of the Ada County Code.
17. If there is a change in ownership or lessee interest, Ada County Development Services shall be notified of such change and any subsequent owners or lessee interests will abide by the conditions of approval.
18. The tower and associated facilities shall comply with FCC standards regarding radio frequency (RF) emissions.
19. The facility shall be maintained in compliance with all federal, state, and local regulations and construction standards,
20. The facility shall be removed within sixty (60) days after cessation of use.

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#### **CONDITIONS OF APPROVAL**

Project No. 202103048 CU

Clark Wardle LLP

Exhibit A Page 2



## **BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS**

In re:

Application of William Lind

Project No. 202103048-A (x\_ref: 202103048-CU)

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

#### **FINDINGS OF FACT**

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

**A. The Board finds that the record is comprised of:**

1. Exhibits to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 202103048-A and 202103048-CU.
4. All information and testimony presented at the Public Hearing held on May 11, 2022.

**B. As to procedural items, the Board finds the following:**

1. On February 10, 2022, the Ada County Planning & Zoning Commission approved Project No. 202103048-CU with conditions of approval.
2. On February 24, 2022 Development Services accepted an application from William Lind, appealing the Planning & Zoning Commission's decision, and scheduled the appeal before the Board of Ada County Commissioners public hearing on May 11, 2022.
3. On March 9, 2022, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibits.

4. On March 9, 2022, property owners within 1,000 feet of the site were notified of the hearing by mail. Legal notice of the Board's hearing was published in The Idaho Statesman on April 25, 2022. Notices of the public hearing were posted on the property on April 21, 2022 and a certification sign posting was submitted to the director on April 21, 2022.

**C. As to the project description, the Board finds based on the application materials found in the file for Project No. 202103048 A the following:**

1. PROPOSED USES: Communications Tower (Tower or Antenna Structure, Commercial)
2. PROPOSED STRUCTURES: 100' communications tower and 2,500 square foot fenced lease area.
3. PROPOSED SITE IMPROVEMENTS: Fencing surrounding the lease area.

**D. Based on the materials found in the file for Project No. 202103048 A, the Board finds the following concerning the project description:**

1. PARCEL NUMBER AND LOCATION: The parcel number is S0406347000 and the property is located at 12016 W Floating Feather Rd, Section 6 of T. 4N, R.1W.
2. OWNERSHIP: Virginia and Dennis Krug.
3. SITE CHARACTERISTICS

Property size: 2.88 acres.

Existing structures: 1,816 square foot single family home with a 484 attached garage.

Existing vegetation: Residential landscaping and dryland shrubs, grasses, and forbs.

Slope: The subject property is relatively flat.

Irrigation: None.

Drainage: The natural drainage of the property is towards the northwest.

Views: The site has clear views in all directions.

**E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:**

The property is single-family residential with pasture in the Rural Residential (RR) District.

**F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:**

North: The site is single-family residential with pasture in the Rural Residential (RR) District.

South: The site is single-family residential in the Rural-Urban Transition (RUT) District.

East: The site is an open space lot associated with a single-family residential development in the City of Star's Medium Density Residential (R-3) District.

West: The site is single-family residential with pasture in the Rural Residential (RR) District.

**G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 202103048 A, the Board finds the following concerning services:**

Access Street and Designation: Access is off Floating Feather Rd, which is designated as a minor arterial.

Fire Protection: Star Fire District.

Sewage Disposal: Septic.

Water Service: Individual Well.

Irrigation District: Middleton Irrigation and Middleton Ditch Co.

Drainage District: Drainage District No. 2.

**H. As to the applicable law, the Board finds the following:**

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds that **Section 8-7-7 of the Ada County Code** is applicable because the applicant is appealing the Ada County Planning & Zoning Commissions decision of Project No. 202103048-CU. The Board finds the application complies with **Section 8-7-7 of the Ada County Code**. Regarding Section 8-7-7 of the Ada County Code, the Board finds the following:

A. Application: Any decision or action may be appealed as set forth in this chapter. The appellant shall be an affected person as defined in Idaho Code section 67-6521(1)(a).

1. A person aggrieved by a final decision or action within the jurisdiction and authority of the Board (see subsection 8-7-2A of this chapter), the hearing examiner (see subsection 8-7-2F of this chapter), or the commission (see subsection 8-7-2D of this chapter) may appeal to the board.

*The Board finds that the appellant is William Lind, who is an individual aggrieved by the Commission's decision of granting approval of the 100' tall commercial cell tower. William Lind provided public testimony on the project prior to the Planning and Zoning Commission's decision.*

B. Appeal Procedures:

1. Appeals of written decision shall be filed with the director within fifteen (15) days after the date of the written decision, or it shall not be accepted. An application and fees as set forth in article A of this chapter, shall be submitted to the director on forms provided by the development services department.

*The Board finds that William Lind filed an appeal with the Director on February 24, 2022, which is within fifteen (15) days after the date of the written decision made on February 10, 2022.*

2. The Director shall schedule and the board shall hold a public hearing and make a decision pursuant to the procedures as set forth in section 8-7A-8 of this chapter.

*The Board finds that the Director scheduled a public hearing in front of the Board of County Commissioners on May 11, 2022 and that the Board held a public hearing on May 11, 2022. The Board made a decision pursuant to the procedures as set forth in Section 8-7A-8.*

3. At the public hearing the board shall consider the order, requirements, permit, decision, or determination of the commission, and any attached conditions thereto. The board shall consider any additional evidence that may be offered by the public, applicant, director, and/or commission.

*The Board finds that they have, at their May 11, 2022 public hearing, considered the order, decision, determination, and supporting materials from the Planning and Zoning Commission's decision as well as evidence submitted to the Board at their May 11, 2022 public hearing.*

*The Board finds that the appellant has submitted a detailed letter (Exhibit #3A) illustrating why the Board should reverse the Planning and Zoning Commission's decision and deny the Conditional Use (Project No. 202103048-CU).*

*The main points of the appellant's arguments are as follows:*

- a) *No report included with the application from a qualified and licensed professional engineer that describes the facility's capacity to transmit cell tower signals and other related information necessary to fully evaluate the request.*
  - b) *No demonstration that the location where the tower is to be located is not a public nuisance and that the tower itself will not become a public nuisance once installed.*
  - c) *A distorted propagation map was submitted in support of the application with no sufficient supporting evidence of how they established the existing coverage range and how they are to achieve the proposed coverage range.*
  - d) *Nothing in the Supporting Documents indicates a NEPA review has been performed.*
  - e) *The County's authority is derived from the Idaho State Constitution and the Local Land Use Planning Act, not the Federal Communications Commission or the Federal Telecommunications Act.*
  - f) *Not compatible with surrounding uses.*
4. The Board may affirm, reverse, modify, in whole or in part the order, requirement, permit, decision, or determination appealed from, or make or substitute any additional conditions that in its deliberations it may find warranted.

*The Board finds that they have, at their May 11, 2022 public hearing, considered the order, decision, determination, and supporting material from the Planning and*

*Zoning Commission's decision as well as evidence submitted to the Board before and at their May 11, 2022 public hearing.*

*The Board approves the appeal and overturns the Planning and Zoning Commission's decision. In response to the appellant's argument stated in item "3" above, the Board provides the following:*

- a) *Tower Engineering Professionals, Inc. is a licensed engineer that has provided the required plans and reporting.*
- b) *It is a term of approval that the owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.*
- c) *A propagation map and written analysis was submitted but did not supply enough evidence that the facility cannot be accommodated on an existing tower that is located approximately 1.65 miles from the property, which is within a two (2) mile radius.*
- d) *Federal, State, & Local agencies regulating environmental regulations have been transmitted to. No agencies provided opposition or concerns with the proposed cell tower.*
- e) *Section 332(c)(7) of the Communications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules. Both the Board of County Commissioners and Planning & Zoning Commission have heard the application and have the ability to place conditions on the project as they see fit.*
- f) *The application is for a commercial cell tower which is a conditional use in the Rural Residential (RR) zone. The tower is compatible with the Medium Density Residential Future Land Use designation by the City of Star. The tower will provide improve phone and internet service for residents and businesses in the surrounding residential areas.*

### **Star Comprehensive Plan**

2. The Board finds that the **City of Star Comprehensive Plan** is applicable because the subject property is within Star's area of city impact. The Board finds the application complies with the **City of Star Comprehensive Plan** based on the following:

The Board finds that the Future Land Use Map designates the site as *Medium Density Residential*, which is primarily intended for single-family homes at densities of four dwelling units or less per acre. As the property contains an existing single-family home, and as the proposed cell tower is proposed in order to support the wireless needs of surrounding residents, it is compatible with the adopted Land Use Map.

As the cell tower is proposed in order to improve phone and internet service for residents and businesses within the area, it is supported by the following goal and policy of the Star Comprehensive Plan regarding the adequate provision of services and utilities.

*Goal: To promote the social and economic needs of the City by identifying and ensuring adequate infrastructure and services to meet those needs.*

*Policy: Utilities must be sized, and access provided to serve future, as well as immediate development.*

3. The Board finds **Section 8-5-3-114 of the Ada County Code** is applicable because the applicant has applied to construct a communications tower (Tower or Antenna Structure, Commercial). The Board finds that the application does not comply with **Section 8-5-3-114 of the Ada County Code**. Regarding Section 8-5-3-114 the Board finds the following:

A. Applicability:

- A. The following regulations shall apply to tower structures and associated equipment for the purpose of commercial radio, television, telephone, paging, or satellite reception and/or transmission.

*The Board finds that the proposed tower is for a commercial cell tower.*

B. General Standards for Commercial Tower Structures and Associated Equipment:

1. Radio Frequency Emissions: The facility shall comply with FCC standards regarding radio frequency (RF) emissions..

*The Board finds as a condition of approval the tower shall comply with FCC standards regarding radio frequency (RF) emissions.*

2. Approval Required: The facility shall have approval from the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics prior to operation.

*The Board finds as a condition of approval the applicant shall receive approval from the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics prior to operation.*

3. Additional Approval: The facility shall have approval from the Boise Airport Director prior to operation. The approval shall include specific reference to the site location, height of the facility, lighting, and issuance of an avigation easement.

*The Board finds as a condition of approval the applicant shall receive approval from the Boise Airport Director, including specific reference to the site location, height of the facility, lighting, and issuance of an avigation easement, prior to operation.*

4. Permits Required: The applicant or owner shall be required to obtain all necessary permits, as may be required under Federal, State or local statutes, regulations, or ordinances including, but not limited to, building permits.

*The Board finds as a condition of approval the applicant shall obtain all necessary permits as may be required under Federal, State or local statutes, regulations, or ordinances including, but not limited to, building permits.*

5. Maintenance of Facility: The facility shall be maintained in compliance with all Federal, State, and local regulations and the construction standards set forth in this section.

*The Board finds as a condition of approval that the facility shall be maintained in*

*compliance with all Federal, State, and local regulations and the construction standards set forth in this section.*

6. Public Nuisance Prohibited: The owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.

*The Board finds as a condition of approval the owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep and to prevent the creation of a public nuisance.*

7. Outdoor Storage Areas: The proposed facility shall meet the standards for outdoor storage areas in section 8-5-3-78 of this chapter.

*The Board finds the proposed facility meets the standards for outdoor storage areas in section 8-5-3-78 of this chapter.*

8. Conditional Use Approval: For any facility requiring conditional use approval, the director shall notify all property owners within a minimum of one thousand feet (1,000') of any property boundary of the proposed site.

*The Board finds the director notified all property owners within a minimum of one thousand feet (1000') of any property boundary of the proposed site.*

9. Removal:

a. Any tower that has had no antenna mounted upon it for a period of 120 consecutive days, or if the antennas mounted thereon are not operated for a period of 120 successive days, shall be considered abandoned. The tower owner or landowner thereof shall:

- (1) Remove any such tower and any accompanying equipment enclosure within ninety (90) days of abandonment; and
- (2) Bring the location of the removed facility back to its original state, or better.

*The Board finds as a condition of approval, the tower owner or landowner shall be required to remove the facility in accordance with Section 8- 5-3-114.9 (a.1 and a.2) of Ada County Code if necessary.*

b. The Director, upon determining that a tower has been abandoned, shall serve notice of its determination of abandonment upon the owner of the tower.

(1) The notice shall contain the reasons why the tower has been deemed abandoned, the owner's obligation to remove the tower and the owner's right to appeal the determination of abandonment.

(2) If the structure and equipment enclosure are not removed within 90 days, then the County has the right without further notice to enter upon the land and remove and abate such structures at the expense of the tower owner or landowner.

*The Board finds as a condition of approval, that if the Director determines the tower has been abandoned, shall serve notice of its determination of abandonment upon the owner of the tower in accordance with Section 8- 5-3-114.9 (b.1 and b.2) of Ada County Code.*

10. Tower Construction, Setback, And Fall Zone Standards:

- a. The tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards for Steel Antenna Supporting Structures," or as hereinafter may be amended.

*The Board finds that the tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards for Steel Antenna Supporting Structures," or as hereinafter may be amended.*

- b. Within the Boise Air Terminal Airport Influence Areas Overlay District, the height limit on the tower or antenna structure shall be as required by the Code of Federal Regulations 14 CFR 77.

*The Board finds the tower is not located within the Boise Air Terminal Airport Influence Areas Overlay District. As a result, this standard does not apply.*

- c. Towers over twenty feet (20') in height must be designed to allow for future arrangements of antennas upon the tower. Such towers must also be designed to accept antennas mounted at varying heights.

*The Board finds the tower has been designed to allow for future arrangements of antennas and to accept antennas mounted at varying heights.*

- d. If the tower does not exceed the height limitations of the applicable base district, the tower shall meet the setback requirements of the district. If the tower exceeds the height limitation of the applicable base district, the tower shall meet the setback requirements of the district or it shall be set back one foot (1') for every ten feet (10') of total tower height from all property lines, whichever is greater.

*The Board finds the tower exceeds the height limitations of the Rural Residential (RR) District and meets the required setback standards from all property lines, which are greater than one foot (1') for every ten feet (10') of total tower height.*

- e. In addition to the setback requirement noted in the preceding paragraph, a fall zone for each tower shall be delineated and permanently restricted from future development, as follows:

- (1) The fall zone shall consist of the land area centered beneath the tower and circumscribed by a circle with a radius equal to a length of one foot (1') for every ten feet (10') of tower height.
- (2) If the fall zone does not lie completely within the subject property, the applicant must obtain a nonrevocable easement from all owners of property within the fall zone that prohibits the construction or placement of new structures within the fall zone, except as may be specifically permitted through the conditional use process. If an easement is utilized, a copy of the fully executed easement agreement shall be submitted as part of the application.

*The Board finds the fall zone for the tower lies completely within the subject*

*property.*

- f. Towers shall be architecturally and visually compatible with the existing structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the applicable base district and/or comprehensive plan. The decision making body shall consider, but shall not be limited to, the following factors: similar height, color, bulk, and/or shape, or camouflage techniques to disguise the facility. This shall not preclude towers requiring FAA painting and/or marking from meeting those standards.

*The Board finds the tower will be architecturally and visually compatible with existing structures, vegetation, and/or uses in the area or likely to exist in the area under the terms of the applicable base district and/or comprehensive plan.*

- g. This subsection B shall not apply to small wireless facilities that meet the standards found in subsections C and D of this section.

*The Board finds that the tower is subject to subsection B of Section 8-5-3-114 of the Ada County Code.*

C. General Standards for Small Wireless Support Structures and Small Wireless Facilities:

1. Small Wireless Support Structures:

- a. Small Wireless Support Structures shall not exceed the height limitation of forty five feet (45').
- b. Small wireless support structures that are over twenty feet (20') in height and located within a utility easement or public right-of-way must be designed to allow for future arrangements of antennas and to accept antennas mounted at varying heights upon the small wireless support structure, to the extent reasonably feasible based upon construction, engineering and design standards.
- c. Small wireless support structures shall be permitted within utility easements or public rights-of-way in accordance with the requirements of this section.
- d. Single carrier small wireless support structures may be used within utility easements and public rights-of-way due to the height restrictions imposed by this section.
- e. The replacement of pre-existing small wireless support structures shall be subject to all the same requirements as the construction of new small wireless support structures.

2. Small Wireless Facilities:

- f. Small wireless facilities located within utility easements or public rights-of-way are exempted from setback requirements.
- g. Small wireless facilities may extend up to ten feet (10') above the height of a small wireless support structure.
- h. Small wireless facilities may be mounted on a roof of a building only if the height of the small wireless facility at the highest point does not exceed the horizontal distance from the small wireless facility to the edge of the roof.

- i. The Small Wireless Facilities shall be architecturally and visually compatible with regard to similar height, color, bulk, and/or shape, and/or use of camouflage techniques.

*The Board finds the tower is neither a small wireless support structure nor a small wireless facility. As a result, these standards do not apply.*

D. Application Requirements:

1. Suitability Analysis of the Proposed Site: The analysis shall include, but is not limited to, the following:
  - a. Description of the surrounding area within one mile of the subject site including topography; and
  - b. For towers and/or associated facilities that do not meet the definition of Small Wireless Support Structures and Small Wireless Facilities. Propagation charts showing existing and proposed transmission coverage at the subject site and within an area large enough to provide an understanding of why the facility needs to be placed at the chosen location.
  - c. For towers and/or associated facilities that meet the definition of Small Wireless Support Structures and Small Wireless Facilities. A map and written analysis describing existing and proposed transmission coverage.

*The Board finds the applicant's proposal complies with Section 8-5-3-114.D (1a, 1b, and 1c) of the Ada County Code.*

2. Facilities Meeting Definitions of Small Wireless Support Structures And Facilities: For towers and/or associated facilities that meet the definitions of small wireless support structures and small wireless facilities: if applicable, a signed lease agreement, master lease agreement or letter of authorization from the property owner or controlling entity that requires the applicant to remove the tower and/or associated facilities upon cessation of use.

*The Board finds included in the applicant's proposal a signed lease agreement requiring the applicant to remove the tower and/or associated facilities upon cessation of use.*

3. Prior To Construction: Before construction of a small wireless support structure or small wireless facility commences in a utility easement or public right-of-way, the applicant shall provide written evidence of a permit, license, or legal right or approval to use such structure or facility by the Ada County Highway District, other controlling entity, or the owner.

*The Board finds the tower is not a small wireless support structure or facility. As a result, this standard does not apply.*

4. Applicants may submit consolidated applications for up to five (5) Small Wireless Facilities being installed, modified, replaced, or collocated.

*The Board finds the tower is not a small wireless support facility. As a result, this standard does not apply.*

E. Additional Application Requirements for Facilities that Require a Conditional Use

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

**Approval:**

1. Engineering data showing that the tower is designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of one additional user if the tower is over twenty feet (20') in height. If the tower is over one hundred ten feet (110') in height, it shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's equipment and comparable equipment for a minimum of two (2) additional users.

*The Board finds the tower is designed structurally, electrically, and in all other respects to exceed this standard as it will allow for equipment of up to four users.*

2. A report from a qualified and licensed professional engineer that describes the facility height and design (including a cross section and elevation); documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; describes the facility's capacity; and any other information necessary to evaluate the request. The report must include the engineer's stamp and registration number.

*The Board finds a report from qualified and licensed professional engineer that describes the facility height and design (including a cross section and elevation) has been included with the applicant's proposal. This report documents the height above grade for the recommended mounting position for collocated antennas and the minimum separation distances between antennas; describes the facility's capacity; and all other information necessary to evaluate the request. The report includes the engineer's stamp and registration number.*

3. A letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this title, if additional users agree in writing to meet reasonable terms and conditions for shared use.

*The Board finds a letter of intent committing the facility owner and successors to allow the shared use of the facility, as required by this title, if additional users agree in writing to meet reasonable terms and conditions for shared use has been included with the applicant's proposal.*

4. A map and written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within a two (2) mile radius.

*The Board finds a map and written analysis was provided, but the applicant failed to depict why an existing private tower that is approximately 1.65 miles from the site, cannot accommodate the proposed facility.*

5. It shall be the burden of the applicant to demonstrate that the proposed facility cannot be accommodated on an approved tower or structure within the two (2) mile search radius due to one or more of the following reasons:

- a. Unwillingness of a property owner, or tower or facility owner to entertain shared use.
- b. The planned equipment would exceed the structural capacity of the existing tower or structure, as documented by a qualified and licensed professional

engineer, and the existing tower or facility structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

- c. The planned equipment would cause radio interference with material impacting the usability of other existing or planned equipment at the tower or structure, and the interference cannot be prevented at a reasonable cost as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
- d. Existing or approved towers or other structures within the search radius cannot accommodate the planned equipment at a height necessary to be commercially functional as documented by a qualified and licensed professional engineer or other professional qualified to provide necessary documentation.
- e. The proposed collocation with an existing tower or structure would be in violation of a local, State, or Federal law.
- f. Any other unforeseen reasons that make it unfeasible to collocate upon an existing or approved tower or structure as documented by a qualified and licensed professional engineer, or other professional qualified to provide necessary documentation.

*The Board finds the applicant has not demonstrated in enough detail why the proposed facility cannot be accommodated on an existing tower which was identified approximately 1.65 miles from the proposed site.*

- 6. It shall be the burden of the applicant to demonstrate that a good faith effort has been made to solicit the location of the proposed tower on federal, state, county or city property when such property exist within the two (2) mile radius. Evidence of this shall include, at a minimum, copies of notices sent by certified mail, return receipt requested, to all federal, state, county or city property managers asking the possibility of locating the proposed tower on said property and requesting a written response within fifteen business days.
  - a. Unwillingness of a property owner, or tower or facility owner to entertain shared use.
  - b. The planned equipment would exceed the structural capacity of the existing tower or structure, as documented by a qualified and licensed professional engineer, and the existing tower or facility structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

*The Board finds the applicant has demonstrated a good faith effort has been made to solicit the location of the proposed tower on federal, state, county or city property when such property exist within the two (2) mile radius. Included as exhibits within the applicant's proposal are copies of notices sent by certified mail, return receipt requested, to all federal, state, county or city property managers asking the possibility of locating the proposed tower on said property and requesting a written response within fifteen business days. These notices were sent to the Idaho Transportation Department, Idaho Department of Highways, the Ada County Highway District, the West Ada School District, the City of Star, and the Idaho*

*Department of Lands.*

7. It shall be the burden of the applicant to demonstrate that a good faith effort has been made to solicit additional users for the proposed tower. Evidence of this shall include, at a minimum, copies of notices sent by certified mail, return receipt requested, to all other providers of cellular and wireless communications services within Ada County, advising of the intent to construct a new tower, identifying the location, inviting the joint use and sharing the costs, and requesting a written response within fifteen business days.

*The Board finds the applicant has demonstrated a good faith effort to solicit additional users for the proposed tower. Included as exhibits within the applicant's proposal are copies of notices sent by certified mail, return receipt requested, to Verizon Wireless, AT&T, DISH Network, and T-Mobile.*

4. The Board finds **Section 8-5B-5 of the Ada County Code** is applicable because the applicant has applied for a conditional use to construct a communications tower. The Board finds that the application does not comply with **Section 8-5B-5 of the Ada County Code**. Regarding Section 8-5B-5 the Board finds the following:

- A. The proposed use shall not be detrimental to the public health, safety, or welfare;

*The Board finds that the communications tower is not detrimental to the public health, safety, and welfare because it is in conformance with the specific use standards for a (Tower or Antenna Structure, Commercial) as evidenced by Findings of Fact Section H(2). In addition, the communications tower will provide service for wireless users and devices in the area surrounding the subject property, which has and is expected to continue to see additional residential development.*

- B. The proposed use shall not create undue adverse impacts on surrounding properties;

*The Board finds that the communications tower does not create undue adverse impacts on surrounding properties. Although the tower will be visible from neighboring properties, adjacent uses will be able to continue to function as they have in the past. It is not anticipated that the tower will impede the normal use and development of surrounding properties; or create undue adverse impacts..*

- C. The proposed use is consistent with the applicable comprehensive plan;

*The Board finds as evidenced in Findings of Fact Section H(1) herein, that the tower is consistent with the Ada County Comprehensive Plan.*

- D. The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;

*The Board finds that the communications tower complies with the purpose statement of the Rural Residential (RR) District as the tower will be improving radio communications for those lands in the Rural Residential (RR) District in north Ada County.*

*The Board finds as evidenced in Findings of Fact Section H(2) that the communications tower complies with the specific use standards for (Tower or Antenna Structure, Commercial).*

- E. The proposed use complies with all applicable county ordinances:

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Project No. 202103048 A

William Lind

*The Board finds that the communications tower fails to comply with the specific use standards for Tower or Antenna Structure, Commercial, as outlined in Findings of Fact Section B and as outlined herein.*

- F. The proposed use complies with all applicable state and federal regulations;

*The Board finds that all uses are innately required to comply with all applicable state and federal regulations as a matter of law.*

- G. The proposed use and facilities shall not impede the normal development of surrounding property;

*The Board finds that there has been no evidence of record submitted at this time to indicate that the communications tower will impede the normal development of surrounding property.*

- H. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use;

*The Board finds that adequate facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are being provided for the communications tower. The application was transmitted to applicable agencies and political subdivisions on November 23, 2021.*

- Stacey Yarrington, Community & Regional Planner responded in Exhibit #25 that the property is within Star's area of city impact; therefore, the applicable comprehensive plan is Star's Comprehensive Plan as adopted by Ada County. The future land use map designates the site as Medium Density Residential, which is primarily intended for single-family homes at densities of four dwelling units or less per acre. As the property contains an existing single-family home, and as the proposed cell tower is proposed in order to support the wireless needs of surrounding residents, it is compatible with the adopted Land Use Map.
- The Ada County Building Official replied in Exhibit #27 that the Building Division has no objection to the conditional use application for a commercial cell tower; however, the applicant should be aware permits will be required for the tower as well as any related structures on the property.
- The City of Star responded in Exhibit #28 that the original location proposed for the project could conflict with the future extension of Floating Feather Rd west of Munger Rd. To address this concern, the applicant submitted a revised site plan showing the project relocated approximately 50' to the north.
- The Ada County Engineer provided the following comments in Exhibit #26:
  1. The applicant, engineer or record or contractor shall notify the county engineer when a construction start date is established.
  2. The county engineer will not approve any finished grade slopes that are steeper than 2:1.
  3. All drainage shall be retained onsite during and after construction.
  4. The contractor shall utilize existing haul roads, or the applicant shall submit

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#### FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

- an exhibit showing haul routes.*
5. *Earthmoving equipment operation hours shall be limited to between 7:00 am and 6:00 pm.*
  6. *The engineer of record shall submit a letter stating the work has been completed in substantial compliance with approved plans.*
  7. *The applicant shall schedule a final inspection with the county engineer upon completion of the project.*
  8. *The applicant shall be responsible for restoring all disturbed areas. Restoration shall match the approved plans. For unapproved areas of disturbance the county engineer shall determine the level of restoration. This could include geotechnical reports, grading, erosion control blankets and hydro seeding.*
  9. *The applicant shall provide concealed or TREE type monopole options to planning for approval.*
- I. Political subdivisions, including school districts, will be able to provide services for the proposed use.

*The Board finds that the application was transmitted to political subdivisions including the West Ada School District on May 14, 2021 and there has not been any evidence submitted into the record to indicate that political subdivisions would not be able to provide services to the communications tower.*

## CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that Project No. 202103048-A complies with Section 8-7-7 of the Ada County Code.
2. The Board concludes that Project No. 202103048-A complies with the Star Comprehensive Plan.
3. The Board concludes that Project No. 202103048-A does not comply with Section 8-5-3-114 of the Ada County Code.
4. The Board concludes that Project No. 202103048-A does not comply with Section 8-5B-5 of the Ada County Code.

## ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein and the testimony from the public hearing, the Board approves Project No. 202103048-A and overturns the Commission's approval of Project No. 202103048-CU.

1 p+2  
@h

DATED this 31<sup>st</sup> day of May, 2022

Board of Ada County Commissioners



By: Rod Beck, Commissioner



By: Ryan Davidson, Commissioner



By: Kendra Kenyon, Commissioner

ATTEST:



Phil McGrane, Ada County Clerk

by Katie Reed, Assistant Deputy Clerk

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ORDER

Project No. 202103048 A  
William Lind

Exhibit A Page 1



# RECONSIDERATION REQUEST CHECKLIST

## (ACC 8-7E-5)

A Reconsideration Request requires the Board of Ada County Commissioners to consider the request and decide whether or not to grant it. If granted, a public hearing will be scheduled and held.

### GENERAL INFORMATION:

| Applicant: | DESCRIPTION  | Staff: |
|------------|--|--------|
|            | <b>APPLICATION # TO BE RECONSIDERED:</b> 202103048-A   |        |
|            | <b>DATE FINDINGS WERE APPROVED BY THE BoCC:</b> May 31, 2022   |        |
|            | <b>DETAILED LETTER</b> by the applicant fully describing the request addressing the following:   |        |
|            | Reason for the Reconsideration. Be Specific. <i>See attached</i>   |        |
|            | Specific deficiencies in the Board's previous decision. <i>See attached</i>  |        |
|            | File number of the original application: 202103048-CU  |        |
|            | Date of the written decision that is being appealed: May 31, 2022<br><b>*Must be filed within fourteen (14) days after the date of the written decision.</b> |        |

|   |  |
|---|--|
| <b>APPLICATION FEE: \$350</b><br><i>NOTE: Building, Engineering, and Surveying applications and fees may be required and are separate from Planning &amp; Zoning Applications and Fees.</i> |  |
|---|--|

Application will not be accepted unless all applicable items on the form are submitted. This application shall not be considered complete until staff has received all required information.

**PLEASE PRINT ALL INFORMATION CLEARLY & LEGIBLY!**

|  |   |            |                                     |
|--|---|------------|-------------------------------------|
| <b>APPLICANT/AGENT:</b>                          | <b>ADDITIONAL CONTACT, if applicable:</b> |            |                                     |
| Company Name (if applicable): Vertical Bridge    | Company Name (if applicable):             |            |                                     |
| Applicant Name: Joshua Leonard, Clark Wardle LLP | Applicant Name:                           |            |                                     |
| Address: 251 E. Front Street, Suite 310          | Address:                                  |            |                                     |
| City: Boise                                      | State: ID                                 | Zip: 83702 | City: _____ State: _____ Zip: _____ |
| Telephone: 208-388-1000                          | Fax: _____                                |            | Telephone: _____ Fax: _____         |
| Email: jleonard@clarkwardle.com                  | Email: _____                              |            |                                     |
| <b>ADDITIONAL CONTACT, if applicable:</b>        |   |            |                                     |
| Company Name (If applicable):                    |   |            |                                     |
| Name: _____                                      |   |            |                                     |
| Address: _____                                   |   |            |                                     |
| City: _____ State: _____ Zip: _____              |   |            |                                     |
| Telephone: _____ Fax: _____                      |   |            |                                     |
| Email: _____                                     |   |            |                                     |

I certify this information is correct to the best of my knowledge.

*[Signature]*

June 13, 2022

Signature: (Applicant) \_\_\_\_\_ Date: \_\_\_\_\_

### OFFICE USE ONLY:

|  |   |
|--|---|
| Project #:<br><b>202103048 - A - RECONSIDERATION</b> | PLANNING FEES:<br><b>350.00</b>   |
| RECEIVED BY:<br><b>ALISON CRIST</b>                  | DATE STAMPED:<br><b>RECEIVED</b><br><i>By Alison Crist at 8:27 am, Jun 14, 2022</i> |

**RECEIVED**

June 13, 2022

**By Alison Crist at 8:28 am, Jun 14, 2022**Joshua J. Leonard  
jleonard@clarkwardle.com

Board of Ada County Commissioners  
c/o: Ada County Development Services  
200 W. Front Street  
Boise, Idaho 83702

**Re: Request for Reconsideration: 202103048-A (202103048-CU).**

Dear Commissioners,

This firm represents Vertical Bridge (“Applicant”), which, on November 16, 2021, applied for a Conditional Use Permit (“CUP”) for a wireless communications facility on the parcel of real property addressed as 12016 W. Floating Feather Road and identified as the Ada County Assessor as Parcel No. S04060347000 (“Subject Property”). Following a public hearing during its February 10, 2022 meeting, the Ada County Planning and Zoning Commission (“P&Z”) approved Vertical Bridge’s CUP application. P&Z’s approval was appealed on February 23, 2022. The Board of Ada County Commissioners (“Board”) held a public hearing on May 11, 2022, and erred by overturning P&Z’s approval of Applicant’s CUP application, against staff’s recommendation.

This letter is the Applicant’s detailed narrative letter noting the reasons for our request for reconsideration and identifying specific deficiencies in the Board’s decision to overturn P&Z’s approval of Applicant’s CUP application.

**Reasons for the Reconsideration Request.**

There are several reasons for our Request for Reconsideration, but the two main reasons are:

- The Board of Ada County Commissioners (“Board”) significantly erred by overturning P&Z’s approval of Applicant’s CUP application, against County staff’s recommendation; and
- Our Request for Reconsideration offers the Board an opportunity to correct its erroneous denial of Applicant’s CUP application for a wireless communications facility without needlessly expending public funds to defend against a lawsuit in federal court based on the County’s violation of the “effective prohibition of telecom” provision of the Telecom Act of 1996.

The second reason, above, is particularly important. In November of 2019, in a federal lawsuit I filed against Ada County on behalf of another client, the Board conceded that its denial of that client’s CUP application for a wireless communications facility violated the Telecom Act of 1996. The circumstances

**RECEIVED**

**By Alison Crist at 8:28 am, Jun 14, 2022**

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

Page 2

of the federal lawsuit that Ada County settled in 2019 were extremely similar to the circumstances in this matter, Application 202103048-A (202103048-CU); as a result, if the County persists in denying the Application in this matter, then the Board's *repeat* violation the Telecom Act could result in the County being ordered to pay Applicant's attorneys' fees and costs in Applicant's forthcoming federal lawsuit against the County. Hopefully, however, the Board reconsiders its decision to deny application no. 202103048-CU and upholds P&Z's approval of the Applicant's CUP application, which would obviate the necessity of another federal lawsuit.

**Specific Deficiencies in the Board's Decision.**

The specific deficiencies in the Board's decision to grant the appeal and overturn P&Z's approval of Applicant's CUP application included:

1. By failing to offer the Applicant an opportunity during the public hearing to respond to "concerns" and "questions" presented during the public testimony portion of the May 11<sup>th</sup> public hearing, the Board violated Applicant's procedural due process rights. Specifically, the Applicant was not given an opportunity to respond to public testimony regarding the potential availability of existing wireless communications facilities. The Board's failure to offer the Applicant an opportunity to respond to "concerns" and "questions" presented in public testimony during the May 11<sup>th</sup> public hearing violated the Applicant's substantive and procedural due process rights, in violation of both the United States Constitution and the Idaho Constitution.

Additional information is submitted with this letter - the Applicant would have provided this information to the Board during the May 11, 2022, public hearing, but the Board failed to give the Applicant an opportunity to do so, thereby violating Applicant's due process rights.

As testified in the Declaration of J. Shad Rydalch and the Declaration of Jason Evans (both submitted herewith), and as testified during the May 11, 2022, public hearing held by the Board, the Proposed Site is the least intrusive means by which AT&T can fill the significant gap in wireless coverage that exists in the northern part of Star, Idaho.

The detailed information and evidence applicant provided with its CUP application, together with the presentation offered by Applicant's presentation on May 11<sup>th</sup> and the testimony of RF Expert Shad Rydalch during that public hearing, went unchallenged by the opponents, who failed to offer any evidence of *in-building* wireless coverage *in the carrier's search area*. The expert testimony and detailed evidence already in the Record is further supported by the additional information, documents, and evidence that accompanies this letter, together proving the *prima facie* case that Applicant is required to establish, specifically: **(a)** that a significant gap in the carrier's coverage exists, and **(b)** that the proposed facility is the least intrusive means to fill that significant gap in coverage.

**RECEIVED**

**By Alison Crist at 8:28 am, Jun 14, 2022**

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

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The Board's treatment of the Applicant and the Application differed greatly from the Board's treatment of other Conditional Use Permit applications for wireless communications facilities. In the matter on the May 11<sup>th</sup> agenda that preceded the Board's consideration of Mr. Lind's appeal of P&Z's approval of the Application, a similar (but distinct and different) application for a commercial tower, the applicant, SUEZ, was given multiple opportunities to explain, expound on, and present new evidence rebutting information that was presented by members of the public (including several of the same people who testified in opposition to the Applicant's CUP application) during their public testimony. Unlike SUEZ, however, the Applicant in this matter was given no such opportunity. This violated the Applicant's due process rights.

Additionally, the Applicant's due process rights were violated by the Board's disparagement of the propagation charts submitted by the Applicant with its CUP application, which propagation charts were required by Ada County Code.<sup>1</sup>

2. As noted in "Reasons for the Reconsideration Request," on page 1 of this letter, the Board, by denying the Applicant's CUP application, once again violated the federal Telecom Act of 1996's "effective prohibition of telecom" provision.
3. The Board's decision was based on gross mischaracterizations of the federal Telecom Act of 1996 by opponents of the Applicant's CUP application. Specifically, opponent Hank Allen (among others), a non-attorney, egregiously misstated both **(a)** the elements that a wireless communications facility applicant is required to demonstrate before the burden of proof shifts to the opponents of the wireless communications facility, and **(b)** the holdings of numerous federal courts across the county (including within the Ninth Circuit) regarding what constitutes a "significant gap in [wireless] coverage."
4. The Board's decision was not based on "substantial evidence," as required by the federal Telecom Act of 1996 -
  - a. The *only* evidence in the record of *in-building* wireless coverage was provided by the Applicant, and demonstrated a significant gap in AT&T's in-building wireless coverage.
  - b. The Applicant's evidence was uncontroverted by the opponents of the Application.
  - c. The opponents' "evidence" only consisted of: **(i)** "data" purporting to show satisfactory *outdoor* wireless coverage; **(ii)** with readings taken far outside the

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<sup>1</sup> Other than broadly requiring an applicant for a CUP to construct and operate a wireless communications facility to include propagation charts with its application, Ada County Code does not provide any further direction on what must be included in such propagation charts.

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

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carrier's search ring;<sup>2</sup> (iii) produced by a device that was not designed for the type of tests conducted by the opponents; and which device was operated by a biased non-expert who lacked the training or experience to properly operate the ill-suited device or correctly interpret the data it produced.

Essentially, the Board's decision was based on a "drive test" of *outdoor* coverage performed by a biased non-engineer, non-expert opponent of Applicant's CUP application, who used equipment that was not designed to conduct the type of test he attempted.

5. The Board's decision was based on incorrect and misleading testimony from opponents of Applicant's CUP application, including:
  - a. The opponents' argument that no "provider of wireless services" was involved in the Applicant's CUP application, which was patently untrue. During the May 11<sup>th</sup> public hearing, Joshua Leonard, Jason Evans, and Shad Rydalch all testified that AT&T is a wireless carrier, it will locate on the proposed wireless, and it supports Applicant's CUP application.
  - b. The opponents' unsupported statement that the "FHA won't underwrite loans for homes within the fall zone of a tower" intentionally (and incorrectly) asserts that the fall zone of the proposed wireless communications facility extends beyond the boundaries of the parcel on which it will be located, which is untrue. No homes (either existing or planned in the future) are in danger of falling within the scope of any FHA underwriting prohibitions.
  - c. Hank Allen, Vice President of the anti-wireless group calling itself "Idahoans for Safe Technology" confidently (but incorrectly) told the Board that the County's 2019 settlement in the Beagle (Skyview Lane) tower case in federal court was because the County had based its denial on the alleged health effects of RF emissions, which was untrue. In the Beagle matter, the Board, when it overturned P&Z's approval of Horizon Tower's CUP application, explicitly noted that it *was not* considering testimony regarding RF health effects. The actual reason the County settled Horizon Tower's federal court lawsuit and ultimately issued the CUP in that matter was because we submitted an affidavit from RF engineer/expert Steven Kennedy stating that none of the existing towers would resolve the significant gap in Verizon's coverage, and that the Beagle (Skyview Lane) site was

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<sup>2</sup> Opponent Hank Allen's non-expert measurements of *outdoor* wireless coverage were taken in a different location than the significant gap in coverage identified by AT&T, a wireless carrier. (See Declaration of J. Shad Rydalch, filed herewith.)

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

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not only the “least intrusive means” of closing that significant gap in coverage, it was the only feasible means of doing so.

Attached is a copy of the Consent Order and Judgment entered by the federal district court for the District of Idaho, in which the court also never mentioned the alleged health effects of RF. Based on the expert report of RF expert Steven Kennedy (*see page 4 of the attached Consent Order and Judgment*) in that case, the court determined that Horizon Tower undertook a good faith and thorough investigation of potential alternative sites,” “ruled out all existing towers in the vicinity as infeasible or unavailable for collocation,” and that the Skyview Lane site was “the least intrusive location to remedy a significant gap in wireless service.” (Quotes from p. 4 of the Consent Order and Judgment that resolved the 2019 *Horizon Tower v. Ada County* matter in federal court.)

6. Several of the opponents who testified during the Board’s public hearing on May 11, 2022, failed to disclose that they are officers of an anti-wireless non-profit organization that has the singular goal of stopping the construction of new wireless communications facilities. The testimony offered by all four of the officers of “Idahoans for Safe Technology” was biased and unreliable, and should have been disregarded by the Board.

It is obvious why none of these avidly anti-wireless activists disclosed their positions as officers of a special interest group whose goal is to prohibit new wireless infrastructure: They recognize, as the Board should, that their affiliation with “Idahoans for Safe Technology” diminishes the effect of their anti-wireless testimony in public hearings (like the one held on our clients’ CUP application on May 11<sup>th</sup>).

The entire Board of Directors of “Idahoans for Safe Technology” testified at the May 11th public hearing, without disclosing their affiliation (and thus without disclosing their bias):

| <u>Name</u>    | <u>Role at Idahoans for Safe Technology</u> | <u>Testified on May 11<sup>th</sup>?</u> |
|----------------|---|--|
| David DeHaas   | President                                   | <input checked="" type="checkbox"/>      |
| Hank Allen     | Vice President                              | <input checked="" type="checkbox"/>      |
| Vivian Lockary | Treasurer                                   | <input checked="" type="checkbox"/>      |
| Cathy Cooke    | Director                                    | <input checked="" type="checkbox"/>      |

7. Although Commissioner Kenyon, prior to the start of public testimony on May 11, 2022, asked each person testifying to state *how far they live from the proposed site of Applicant’s wireless communications facility*, only one person complied with the request, likely due to the fact that **more than one-half** of the opponents that offered testimony on May 11th *live nowhere near the proposed site*.

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

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8. The Board mistakenly assumed that the letters the Applicant sent to other wireless carriers somehow demonstrated that the Applicant was a speculative tower builder, which is incorrect and untrue. The Applicant, Vertical Bridge, proposes to construct the wireless communications facility to enable wireless carrier AT&T to resolve its substantial gap in coverage by locating its antennas on the proposed wireless communications facility.

The Applicant only sent letters to the other wireless carriers because it is expressly required in Ada County's code.

9. One of the two existing or permitted facilities that came up during the public testimony portion of the May 11<sup>th</sup> public hearing is located in Canyon County, and thus it is not within the Board's jurisdiction to require AT&T to locate on it.

This letter, its attachment, and the Declaration of J. Shad Rydalch and the Declaration of Nadine Bostwick, submitted herewith, provide incontrovertible proof that the County erred in approving William Lind's appeal of P&Z's approval of the Application. Accordingly, we respectfully request that the Board reconsider and reverse its decision, thereby upholding P&Z's approval of the Application.

We reserve all rights to present additional evidence and information upon the Board's reconsideration of its wrongful and incorrect approval of Mr. Lind's appeal.

Very truly yours,



Joshua J. Leonard

June 13, 2022

Re: Request for Reconsideration: 202103048-A (202103048-CU)

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## **EXHIBIT 1**

**Consent Order and Judgment  
entered by the  
Federal District Court for the District of Idaho  
in the matter of:**

**HORIZON TOWER LIMITED  
PARTNERSHIP-II, and  
HORIZON TOWER, LLC,  
Plaintiffs,**

**v.**

**ADA COUNTY, IDAHO, and  
BOARD OF ADA COUNTY  
COMMISSIONERS, Defendants.**

[*Please see attached.*]

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

HORIZON TOWER LIMITED  
PARTNERSHIP-II, and HORIZON  
TOWER, LLC,

Plaintiffs,

v.

ADA COUNTY, IDAHO, and BOARD OF  
ADA COUNTY COMMISSIONERS,

Defendants

Case No.: 1:19-cv-00125-DCN

**CONSENT ORDER AND  
JUDGMENT**

Upon joint motion by all parties to this action, and pursuant to the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7) (the “Communications Act” or “Act”), the parties’ Settlement Agreement filed with this Court, the documents and information submitted in this action, and based on applicable law, the Court finds and orders as follows:

This Court has jurisdiction over the parties, subject matter jurisdiction over this case pursuant to 47 U.S.C. § 332(c)(7)(B)(v) and 28 U.S.C. § 1331, and is authorized to issue declaratory relief pursuant to 28 U.S.C. § 2201-2202. The Court finds that venue is proper.

Plaintiffs Horizon Tower Limited Partnership-II and Horizon Tower, LLC (collectively “Horizon” or “Plaintiffs”) allege that Defendants Ada County (“County”) and the Board of Ada County Commissioners (“Board”) (collectively, the “Defendants”) unlawfully denied Plaintiffs’ application for a conditional use permit to construct a wireless telecommunications facility in Ada County, Idaho.

On June 20, 2018, Powder River Development Services, LLC (“Powder River”), as the contractor on behalf of Horizon, applied to the County for a conditional use permit (“CUP”) to allow the installation, operation, and maintenance of a personal wireless services facility at the Proposed Site (“Application”). The personal wireless service facility initially proposed by Horizon in its Application was an 85-foot tall monopole tower.

Based on feedback from neighbors, Horizon ultimately applied to install a 65-foot tall tower designed to resemble a pine tree to conceal the tower and make it “stealth” (the “Stealth Tower”). In addition, after meeting with some of the Opponents, Horizon moved the Proposed Facility to the back of the property to reduce the perceived visual impact. Thus, the Stealth Tower would be sited on a 50’x50’ gravel compound, surrounded by a solid vinyl fence, with vegetative screening in the form of 20 evergreen trees (with the Stealth Tower, as a whole, “Proposed Facility”).

On October 18, 2018, the Ada County Planning and Zoning Commission (the “Commission”) accepted written testimony and held a public hearing to evaluate the Application. At the October 18, 2018 public hearing, Horizon presented evidence and testimony, in addition to the Application and its supporting materials. On October 18, 2018, the Commission issued a “Findings of Fact, Conclusions of Law and Order” (“Commission Order”) approving Horizon’s Application, subject to standard conditions of approval.

On November 2, 2018, a group of property owners (collectively, the “Opponents”) filed an appeal (the “Appeal”) with the Board of the Commission Order approving the Application, pursuant to Section 8-7-2 of the County Code.

The Board accepted written public testimony and heard testimony on the Appeal on January 30, 2019.

On February 6, 2019, the Board issued a “Finding of Facts, Conclusions of Law and Order” (the “Denial”) by which the Board granted the Opponents’ appeal and reversed the Commission’s approval of Horizon’s application and, in so doing, denied Horizon’s Application. Pursuant to Idaho Code § 67-6535 and County Code § 8-7E-5.A, on February 20, 2019, Horizon exhausted its administrative remedies by filing a timely Motion for Reconsideration before the Board.

The Board denied Horizon’s Motion for Reconsideration on March 19, 2019 (the “Reconsideration Denial”), which constituted the County’s final action on the Application under Idaho and federal laws.

Horizon timely appealed under the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B) (the “Communications Act” or “Act”), from the denial by the County of its Application by filing the Complaint in the above-captioned case (the “TCA Case”).

On May 16, 2019, Defendants filed an Answer to Plaintiffs’ Complaint.

The Act, 47 U.S.C. § 332(c)(7)(B)(i)(II), preempts the County from denying the Application where doing so will effectively prohibit the provision of personal wireless services. Applicable federal case law holds that a denial violates the Act’s effective prohibition provision when the Application proposes to close a significant service coverage gap by the least intrusive means. *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009). Under *Anacortes*, the provider must make a *prima facie* showing of

effective prohibition by demonstrating that alternatives were considered and that the proposed wireless facility is the least intrusive means of filling the significant gap. 572 F.3d at 997-98.

On or about October 11, 2019, Horizon disclosed to the County an expert report drafted by Steven E. Kennedy, owner of Biwabkos Consultants, LLC (“Expert Report”). The Expert Report establishes that Plaintiffs have established that both Verizon Wireless and AT&T have a significant gap in their service in the vicinity of the Proposed Site. The Expert Report also establishes that Plaintiffs undertook a good faith and thorough investigation of potential alternative sites in and around the area of the Proposed Site. The Expert Report ruled out all existing towers in the vicinity as infeasible or unavailable for collocation. The Expert Report shows that Plaintiffs investigated several additional properties in the vicinity, but were unable to identify an available, technically feasible alternative to the Proposed Site. The Expert Report establishes that the Proposed Site is, therefore, the least intrusive location to remedy a significant gap in wireless service.

Counsel for the respective parties have engaged in discussions regarding settlement. The parties, after analyzing and weighing the issues involved in this case, and the inherent costs and risks associated with litigation, presented the Court with a resolution of the litigation that accomplishes the goals of the parties and which establishes a mechanism for the County and the Plaintiffs to meet their mutual objectives. Accordingly, Plaintiffs and the County have entered into and executed a Settlement Agreement to settle and resolve the claims by Plaintiffs in this matter.

The County is a body politic and corporate, pursuant to Idaho Code § 31-601, and its powers can only be exercised by the Board or its authorized agents and officers, pursuant to Idaho Code § 31-602.

The Board is authorized, pursuant to Idaho Code § 31-813, “[t]o direct and control the prosecution and defense of all suits to which the county is a party in interest....”

No third parties have petitioned to intervene in this matter.

Pursuant to the Communications Act and consistent with the parties’ Settlement Agreement, the Court finds Plaintiffs’ claims well-taken and specifically finds that the Proposed Facility at the Proposed Site is the least intrusive means of remedying a significant gap in personal wireless service of Verizon Wireless and AT&T. The Court further finds that the appropriate resolution is the issuance of an order requiring the Defendants to grant Plaintiffs’ Application and to issue the conditional use permit to construct the Proposed Facility attached hereto as Exhibit A.

Therefore, IT IS ORDERED that within ten (10) business days of this Consent Order and Judgment Defendants shall issue to Plaintiffs final zoning approval by approving and issuing the CUP attached hereto as Exhibit A, thereby authorizing the installation, operation and maintenance of the Proposed Facility at the Proposed Site, subject to the conditions of approval attached thereto.

IT IS FURTHER ORDERED that following issuance of the Defendants’ approval for the Proposed Facility, the Defendants will cooperate to the extent required by law to provide any and all additional approvals for, or documents or information about, the

Proposed Facility as may be required for the Plaintiffs to obtain the requisite building permit and any other approvals from Defendants.

IT IS FURTHER ORDERED that as a result of the Defendants' actions in response to this Order, granting the Plaintiffs' Application, and upon receipt of any other necessary approvals, Plaintiffs shall be authorized to construct, operate, maintain, and use a personal wireless service facility located at the Proposed Site, as proposed in the Application and as conditioned by this Order, the Parties' Settlement Agreement, and subject to the conditions of approval of the CUP attached hereto as Exhibit A. No other relief except that provided according to the provisions of this Consent Order and Judgment and the Settlement Agreement entered into by the Parties is granted hereby. No costs and/or attorney's fees are to be sought by or awarded to any party.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction of this action after the entry of this Consent Order and Judgment to the extent necessary to enforce compliance with it and the terms of the Settlement Agreement and to take any action necessary or appropriate for its interpretation, modification, or enforcement. Specifically, the Court's jurisdiction will continue until the proposed tower construction is complete. The Court's continuing jurisdiction does not extend to other zoning matters beyond the scope of the subject of the Application and Settlement Agreement.



DATED: November 7, 2019

A handwritten signature in black ink, appearing to read "D. NYE".

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David C. Nye  
Chief U.S. District Court Judge

**EXHIBIT A**  
to the  
**Consent Order and Judgment**

**BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS**

In re:  
Application of Powder River Development  
Services, LLC, on behalf of Horizon Tower  
Project No. 201801311 CU

In re:  
Application of Eberle Berlin Law Firm  
(Stanley J. Tharp, agent)  
Project No. 201801311 A

**ORDER GRANTING CONDITIONAL USE PERMIT**

On June 20, 2018, Powder River Development Services, LLC (“Powder River”), as the contractor on behalf of Horizon Tower Limited Partnership-II and Horizon Tower, LLC (collectively “Horizon”), applied to the County for a conditional use permit (“CUP”) to allow the installation, operation, and maintenance of a personal wireless services facility at 2557 N. Sky View Lane, Ada County, Idaho (the “Proposed Site”) (“Application”). The personal wireless service facility initially proposed by Horizon in its Application was an 85-foot tall monopole tower.

Based on feedback from neighbors, Horizon ultimately applied to install a 65-foot tall tower designed to resemble a pine tree to conceal the tower and make it “stealth” (the “Stealth Tower”). In addition, after meeting with some of the neighbors, Horizon moved the Proposed Facility to the back of the property to reduce the perceived visual impact. Thus, the Stealth Tower would be sited on a 50’x50’ gravel compound, surrounded by a solid vinyl fence, with vegetative screening in the form of 20 evergreen trees (with the Stealth Tower, as a whole, “Proposed Facility”).

On October 18, 2018, the Ada County Planning and Zoning Commission (the “Commission”) accepted written testimony and held a public hearing to evaluate the Application. At the October 18, 2018 public hearing, Horizon presented evidence and testimony, in addition to the Application and its supporting materials. On October 18, 2018, the Commission issued a “Findings of Fact, Conclusions of Law and Order” (“Commission Order”) approving Horizon’s Application, subject to standard conditions of approval.

On November 2, 2018, a group of property owners (collectively, the “Opponents”) filed an appeal (the “Appeal”) with the Board of the Commission Order approving the Application, pursuant to Section 8-7-2 of the County Code.

The Board accepted written public testimony and heard testimony on the Appeal on January 30, 2019.

On February 6, 2019, the Board issued a “Finding of Facts, Conclusions of Law and Order” (the “Denial”) by which the Board granted the Opponents’ appeal and reversed the Commission’s approval of Horizon’s application and, in so doing, denied Horizon’s Application. Pursuant to Idaho Code § 67-6535 and County Code § 8-7E-5.A, on February 20, 2019, Horizon exhausted its administrative remedies by filing a timely Motion for Reconsideration before the Board.

The Board denied Horizon's Motion for Reconsideration on March 19, 2019 (the "Reconsideration Denial"), which constituted the County's final action on the Application under Idaho and federal laws.

Horizon timely appealed the Denial and Reconsideration Denial to the federal district court for the District of Idaho under the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(B) (the "Communications Act" or "Act") by filing a Complaint captioned *Horizon Tower Limited Partnership-II v. Ada County*, Case No.: 1:19-cv-00125-DCN (the "TCA Case"). On May 16, 2019, the County and Board filed an Answer to Horizon's Complaint.

On November 7, 2019, the United States District Court for the District of Idaho in the TCA Case entered an Order and Judgment in which it found that the County's Denial had the effect of prohibiting personal wireless services, which prohibition violated 47 U.S.C. § 332(c)(7)(B)(i)(II). In that Order and Judgment, the Court ordered the County and Board to issue to Horizon final zoning approval by approving and issuing this Conditional Use Permit, subject to the conditions which are attached hereto as Exhibit A, thereby authorizing the installation, operation and maintenance of the Proposed Facility at the Proposed Site.

## ORDER

Based on the foregoing and pursuant to the Judgement and Order issued in the TCA Case, the Board grants Project # 201801311 CU, subject to the Conditions of Approval attached hereto as Exhibit A.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019

Board of Ada County Commissioners

By: \_\_\_\_\_  
Kendra Kenyon, Commissioner

By: \_\_\_\_\_  
Diana Lachiondo, Commissioner

By: \_\_\_\_\_  
Rick Visser, Commissioner

ATTEST:

---

Phil McGrane, Ada County Clerk

## EXHIBIT A

### CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT #201801311 CU WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL TWO YEARS OF THE WRITTEN DECISION TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED, THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE. SITE IMPROVEMENTS ARE NOT ALLOWED UNTIL THE ZONING CERTIFICATE HAS BEEN ISSUED.

1. The applicant and/or owner shall obtain written approval of the development (site plan and/or use) from the agencies noted below. All site improvements are prohibited prior to approval of these agencies.
  - a) The Federal Aviation Administration (FAA) shall approve the facility.
  - b) The Chief of the Idaho Bureau of Aeronautics shall approve the facility.
  - c) The Farmers Union Ditch Company must approve all proposed modifications to the existing irrigation system.
  - d) The Drainage District No. 2 must approve all proposed modifications to the existing drainage system.
  - e) If applicable, the County Engineer must approve a surface drainage run-off plan. The plan shall contain all proposed site grading. Please contact the County Engineer at (208) 287-7900 for fee and application information. See Section 8-4A-11 of the Ada County Code for drainage plan standards.
2. The facility shall have approval from the Boise Airport Director prior to operation.
3. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the County Building Official at (208) 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.
4. The footprint of the tower plus any equipment shelters cannot exceed 727 square feet.
5. A Professional Land Surveyor shall establish the boundary of the real property lease parcel and access and utility easements relative to the boundary of the parent parcel, monument corners of said lease parcel and access and utility easements, and file a Record of Survey with the Ada County Recorder's Office delineating said lease parcel relative to the boundary of the parent parcel. The Record of Survey shall be submitted to the Director for review prior to recordation.

6. Once construction is complete, the applicant shall request a zoning compliance inspection from the Development Services Department. Staff will check for compliance with the approved master site plan. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
7. A Certificate of Occupancy will be issued when all of the above conditions have been met. In the event conditions cannot be met by the desired date of occupancy, the owner and/or applicant may request a surety agreement in lieu of completing the improvements. See Title 8, Chapter 4, Article K of the Ada County Code for the terms and regulations of surety agreements.

**TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.**

8. A zoning certificate and/or a building permit may not be issued until 15 days after the Commission issued the written decision on the proposed development. In the event the decision of the Commission is appealed, the building permit may not be issued until the appeal is resolved in favor of the proposed development. See Section 8-7-7 of the Ada County Code for more information on appeals.
9. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
10. The use must comply with the specific use standards for [Tower or Antenna Structure, Commercial] in Section 8-5-3 of the Ada County Code.
11. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
12. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
13. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
14. All drainage shall be retained onsite during and after construction.
15. The contractor shall restore disturbed areas to predevelopment condition.
16. Any outdoor storage on the site shall be a solid fence. Per subsection 8-4F-5A cyclone or chainlink fencing (with or without slats) shall not be deemed a screening material.
17. If there is a change in ownership or lessee interest, Ada County Development Services shall be notified of such change and any subsequent owners or lessee interests will abide by the conditions of approval.
18. The tower and associated facilities shall comply with FCC standards regarding radio frequency (RF) emissions.

19. The facility shall be maintained in compliance with all federal, state, and local regulations and construction standards.
20. The facility shall be removed within sixty (60) days after cessation of use.
21. The applicant shall plant 20 evergreen trees around the site subject to approval of staff.

**RECEIVED**

**By Alison Crist at 8:30 am, Jun 14, 2022**

**DECLARATION OF JASON EVANS**

IN SUPPORT OF APPLICANT'S REQUEST FOR RECONSIDERATION  
OF APPLICATION NO. 202103048-A (202103048-CU)

1. My name is Jason Evans, I am a resident of the state of Idaho, I am over the age of eighteen (18) years, I am competent to testify and declare the facts set forth herein, and I make this declaration of my own knowledge.
2. On behalf of wireless carrier AT&T, I researched and examined potential locations for the wireless communications facility ("Proposed Facility") proposed in Ada County Conditional Use Permit ("CUP") Application No. 202103048-A ("Application").
3. In order to remedy a significant gap of reliable in-building and in-vehicle coverage that AT&T's Radio Frequency ("RF") experts identified in the area that will be served by the Proposed Facility, AT&T issued a search ring in the vicinity of N. Star Road from W. Floating Feather Road to W. State Street, and the surrounding area. A search ring is a geographic location that has a center point and a defined area within which to search for a location for a new wireless facility.
4. In the course of researching potential sites for the Proposed Facility, I reviewed possible site options within and around the search ring, keeping in mind the search ring and other factors, such as (a) whether a parcel meets the zoning and dimensional standards required for wireless communications facilities, under Ada County Code, and (b) whether the owner of a parcel that meets the zoning and dimensional standards would agree to use a portion of the parcel for construction and operation of a wireless communication facility.
5. With regard to the Proposed Facility, owners of parcels that were (a) located in a zoning district in which wireless communications facilities are permitted (either as a matter of right or with a CUP), (b) large enough to meet Ada County Code's dimensional standards, including setbacks, and (c) did not have existing structures that would impede with the construction and operation of the Proposed Facility were contacted with the request to lease space for a new wireless communications facility.
6. Attached as **Exhibit 1** to this Declaration is a table containing a list of potential alternative sites that I researched and considered in looking for a parcel of property on which the Proposed Facility could be constructed and operated to enable AT&T to fill the significant gap in wireless service it identified in the area of the search ring.

I declare, under penalty of perjury pursuant to the law of the state of Idaho, that the foregoing is true and correct to the best of my knowledge, information, and recollection.

/s/ Jason Evans

**Jason Evans**

Dated June 13, 2022

**RECEIVED**

*By Alison Crist at 8:30 am, Jun 14, 2022*

## **EXHIBIT 1**

to the  
Declaration of Jason Evans

### **TABLE OF POTENTIAL ALTERNATIVE SITE CANDIDATES RULED OUT**

| <b>Address</b>            | <b>Parcel No.</b> | <b>Owner</b>                | <b>Jurisdiction</b> | <b>Zoning</b> | <b>Reasons Ruled Out</b>   |
|---------------------------|-------------------|-----------------------------|---------------------|---------------|--|
| 11501 West Temple Lane    | S0418110510       | Star Sewer & Water District | City of Star        | LI            | Site was too far outside of the search ring. The coverage objective is the residential area to the north of the downtown corridor. |
| 2211 N. Pollard Lane      | R7747350415       | West Ada School District    | City of Star        | R-3           | West Ada policy prevents wireless telecommunications structure on elementary and middle school properties. Site was not viable.    |
| 809 West Moon Valley Road | R3720003507       | SBA Communications          | Ada County          | R             | This site did not meet the coverage objective to cover the residential to the north of the downtown area.                          |
| 198 N. Dawes Place        | S0409347054       | Ada County                  | Ada County          | MU            | This site location did not meet the coverage objectives of the residential homes to the north of the downtown area.                |
| 1500 North Star Road      | S0408223363       | City of Star                | City of Star        | R-3           | City of Star was not receptive to a wireless facility at the city park. There was not a viable location for the facility.          |

**RECEIVED**

**By Alison Crist at 8:29 am, Jun 14, 2022**

**DECLARATION OF RF EXPERT J. SHAD RYDALCH**

**IN SUPPORT OF APPLICANT'S REQUEST FOR RECONSIDERATION  
OF APPLICATION NO. 202103048-A (202103048-CU)**

**BACKGROUND**

1. My name is J. Shad Rydalch, I am a resident of the state of Idaho, I am over the age of eighteen (18) years, I am competent to testify and declare the facts set forth herein, and I make this declaration of my own knowledge.
2. I am the Radio Access Network (“RAN”) Engineer in Idaho, Montana, and Wyoming for wireless service provider AT&T. I helped identify the need for improvement of service levels on the north side of Star, Idaho. I have been responsible for the design of the proposed facility in application 202103048-CU (“Proposed Facility”), which will address the significant gap in wireless coverage and service, primarily the significant gap in in-vehicle and in-building service levels, on the north side of Star, Idaho.
3. As my educational and professional experience, I studied electronics for 2 years at Rick College in Rexburg, Idaho. I have 28 years of professional wireless experience designing complex communications networks in wireless communications industries, during which time I have been responsible for engineering, installing, and maintaining the following systems and facilities: 2-way radio, repeater, paging, microwave, cellular, PCS base stations, and mobile equipment. I personally have overseen the design and engineering of AT&T cellular base stations since 2002 for both greenfield and overlays on existing networks. I have specific training, experience and education in the design of advanced wireless networks including analog (“1G”), second generation (“2G”) based on CDMA (Code Division Multiple Access), GSM (Global System for Mobile Communications), GPRS (Global Packet Radio Systems) and EDGE (Enhanced Data GSM Environment), technologies, advanced wireless networks including the third generation (“3G”) network based on UMTS (Universal Mobile Telecommunications Systems) WCDMA (Wideband Code Division Multiple Access), HSPA+ (High Speed Packet Access Plus) technology, and fourth generation (“4G”) based on LTE (Long Term Evolution), and 5G NR (New Radio).
4. On behalf of wireless carrier AT&T, I identified a significant gap in AT&T’s wireless coverage – specifically a significant gap in AT&T’s in-vehicle and in-building wireless coverage and service--that exists in Star, Idaho. This significant gap in AT&T’s wireless service is centered along N. Star Road from W. Floating Feather Road to W. State Street and the surrounding area.
5. Wireless carrier AT&T operates LTE and 5G NR technologies. The frequency bands in which these technologies work are 700 Megahertz (“MHz”), 850 MHz, 1900 MHz, 2100 MHz, 2300 MHz, 3700 MHz. In order to operate in these bands, wireless carrier AT&T must obtain a Federal Communications Commission (“FCC”) license for each of the frequency bands they operate for this type of use. The frequencies provided come from a finite resource and must be acquired

(typically at auction for billions of dollars), and deployed in a comprehensive, highly-planned, and timely manner.

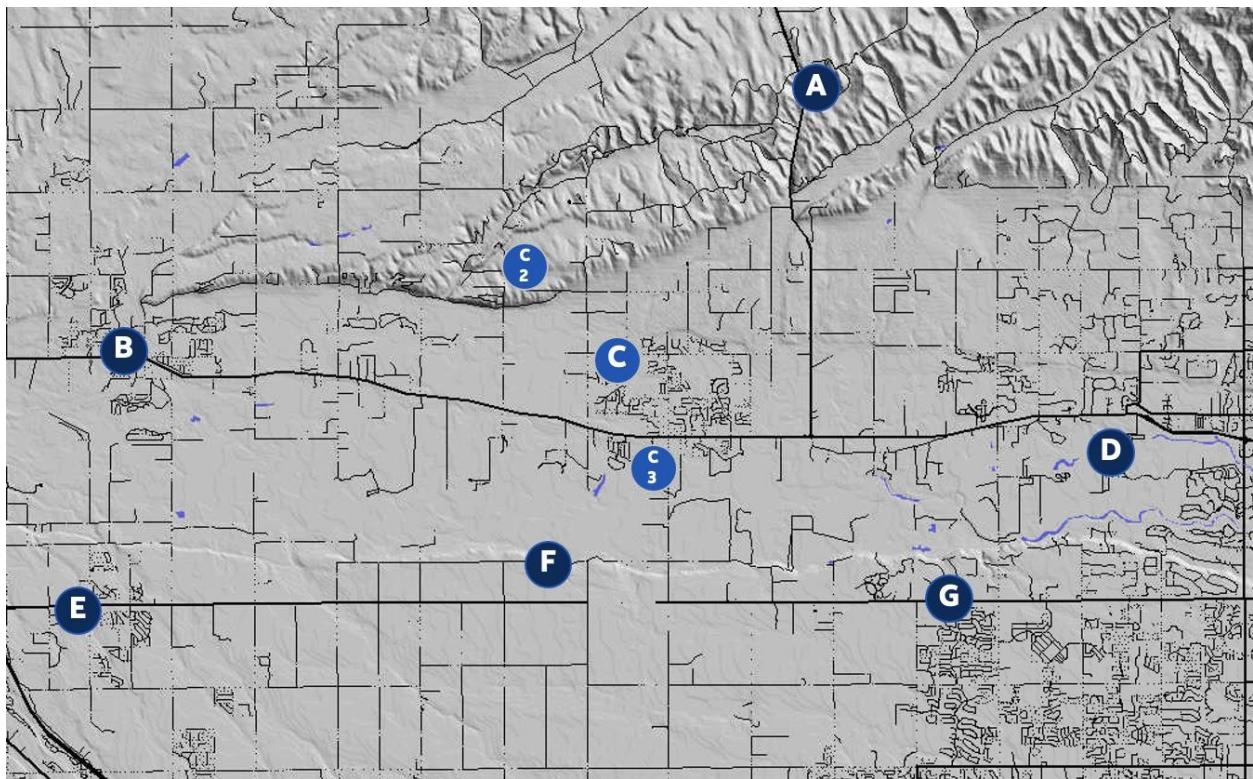
6. As background on wireless systems, the original cellular systems that were deployed in the 1984 timeframe, referred to as first generation or (1G), operated in the 850 MHz band and were analog only systems. As demand for mobile communication services increased the need for more wireless spectrum (frequencies) and spectrum efficient technology arose. It was during the mid-1990's that the 2nd generation (2G) mobile radio systems were deployed, known as personal communications systems (PCS), operating on the 1900 MHz PCS frequency band. 2G technologies were all digital and consisted of GSM and CDMA. The 2G technologies offered voice and data services, which generated once again a demand for more spectrum to address the user's needs. Additional spectrum in the 2100 MHz AWS band was auctioned off by the FCC to continue the expansion into 3G technology. The 3G technologies offered higher data rates and began the movement from circuit switched to packet switched data. Consistent with spectrum efficient technologies, 3G technologies brought forth UMTS and WCDMA to support more users and higher throughput via larger bandwidth channels. The current 4th Generation (4G) technology is known as Long Term Evolutions (LTE), which also included additional auctioned 700 MHz spectrum and more recently 600 MHz spectrum. LTE represents the current accepted standard for wireless technology allowing for high-speed data, support of data demanding applications, implementation of the internet of things (IoT) and the foundation for 5G networks. Beyond 4G lies 5G which includes higher data rates and the Internet of Things (IoTs); which will create more demand for capacity than would have been envisioned at the advent of 1G technology.
7. A common trend through all generations of wireless systems has been the need to identify more frequencies available for use, more advanced & spectrally efficient technologies, and more bandwidth to address the growing capacity and throughput needs of wireless users. It is not enough for wireless service providers, like AT&T, to only provide coverage (signal) to an area and not be able to support the capacity or throughput demands of the system and its users. A reliable network must provide both coverage signal and capacity. This must be performed using all frequency bands available to support the demands of users of wireless-connected devices.
8. According to the Cellular Telecommunications Industry Association ("CTIA"):
  - 77% of Americans own a smartphone, up from 35% in 2011.
  - There are approximately 400 million connected wireless mobile devices in the United States today, which is an average of 1.2 connected wireless devices for each person in the country -- compare that to 681,000 total connected wireless devices in the United States in 1986.
  - 80% of consumers consider wireless service "indispensable."
  - 89% of people always have their smartphone within arm's reach.
  - 80% of an estimated 240 million annual 9-1-1 calls made from wireless devices.

- What consumers want when picking a new place to live:
    - 67% want reliable wireless service;
    - 65% want good schools;
    - 60% want affordable housing; and
    - 41% want a good commuting time.
  - What users would give up to keep their smartphone:
    - 72% of users would give up chocolate to keep their smartphone;
    - 65% of users would give up TV to keep their smartphone; and
    - 63% of users would give up coffee to keep their smartphone.
9. AT&T strives to provide all of its wireless customers with a positive wireless voice and data experience. Simply put, a positive wireless experience includes the customer connecting to the network on first try, staying connected throughout the session, and ending the session when ready. For positive experiences with data connections (e.g., internet browsing) the speed must be as fast as the technology allows. A gap in wireless service causes a negative experience -- customers cannot place calls when they want to; when connected, voice call quality does not meet customer expectations; or, the call simply drops off (disconnects) without notice. A negative experience is not instantaneous, is much slower than consumers expect and demand, or the wireless connection is never established.

#### **SIGNIFICANT GAP IN RELIABLE WIRELESS COVERAGE AND SIGNAL**

10. AT&T has a significant gap in the vicinity of the proposed site (the “Proposed Site”) in Ada County Application No. 202103048-CU (the “Application”), resulting in a lack of reliable in-vehicle and in-building wireless coverage. Using several tools, I was able to confirm a significant gap in AT&T’s wireless coverage in the vicinity of the Proposed Site.
11. The locations labeled ‘A,’ ‘B,’ ‘C<sub>2</sub>,’ ‘D,’ ‘E,’ ‘F,’ and ‘G’ on the following aerial depiction (“**Image A**”) are existing wireless communications facilities in the area of Ada County, Idaho, that includes a portion of the City of Star, Idaho. The location labeled ‘C<sub>3</sub>’ is the location of a planned and permitted wireless communications facility. The location labeled ‘C’ is the location of the Proposed Site and Proposed Facility.

IMAGE A



'C' is the location of the Proposed Site.

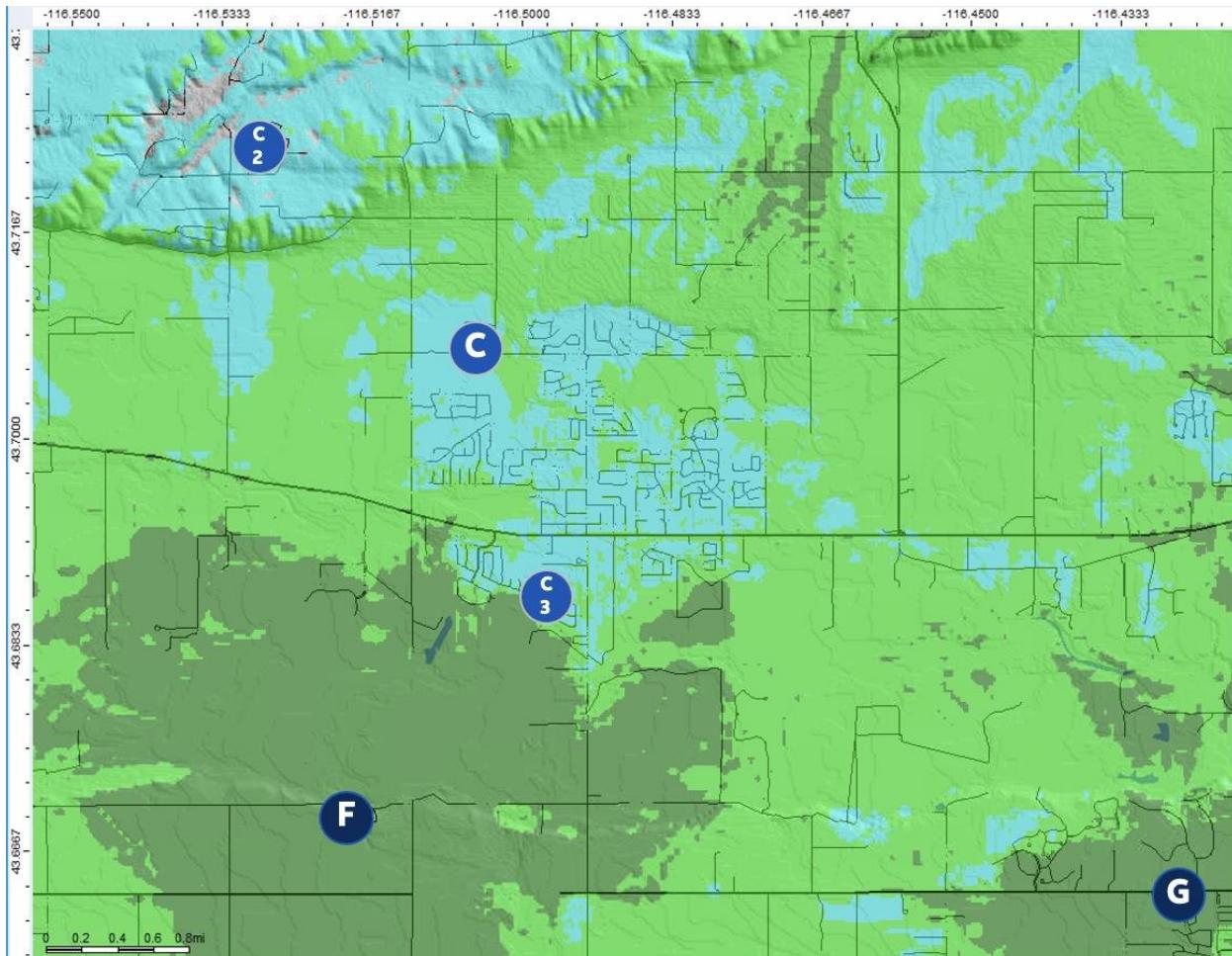
'C<sub>2</sub>' and 'C<sub>3</sub>' are the locations of existing (or permitted) wireless communications facilities noted by opponents of the Application during the Board's public hearing.

12. AT&T uses **Atoll** wireless planning tools by Forsk for its propagation studies. (See <https://www.forsk.com/atoll-overview>). This tool is a computer modeling environment based on local terrain and ground clutter and propagation analysis formulas provided by Net Scout: <https://www.netscout.com/product/rf-modeling>. Net Scout's propagation formulas are calibrated using real world drive data collected in a local market.
13. By using industry standard computer models tuned with local drive test data. AT&T uses real world collected data to calculate both existing and proposed coverage and service levels, presented in the form of a map with colors representing service levels. Atoll coverage maps predict the radio frequency coverage ("RF") coverage and signal strengths that can be expected over a geographic area based on certain input parameters. These parameters include, but are not limited to, factors such as: the frequency of the RF signal; the height, gain, and orientation of the antennas; the terrain over which the RF signals are being propagated; and the strength of the RF signals. Thus, coverage maps predict the RF signal strength over geographic areas on a map.
14. The Atoll planning tool is utilized by RF engineers to evaluate and plan coverage throughout the country. The coverage maps produced using Atoll are highly reliable and scientifically based for

the purpose of demonstrating current and proposed wireless coverage within the area around the Proposed Site and elsewhere.

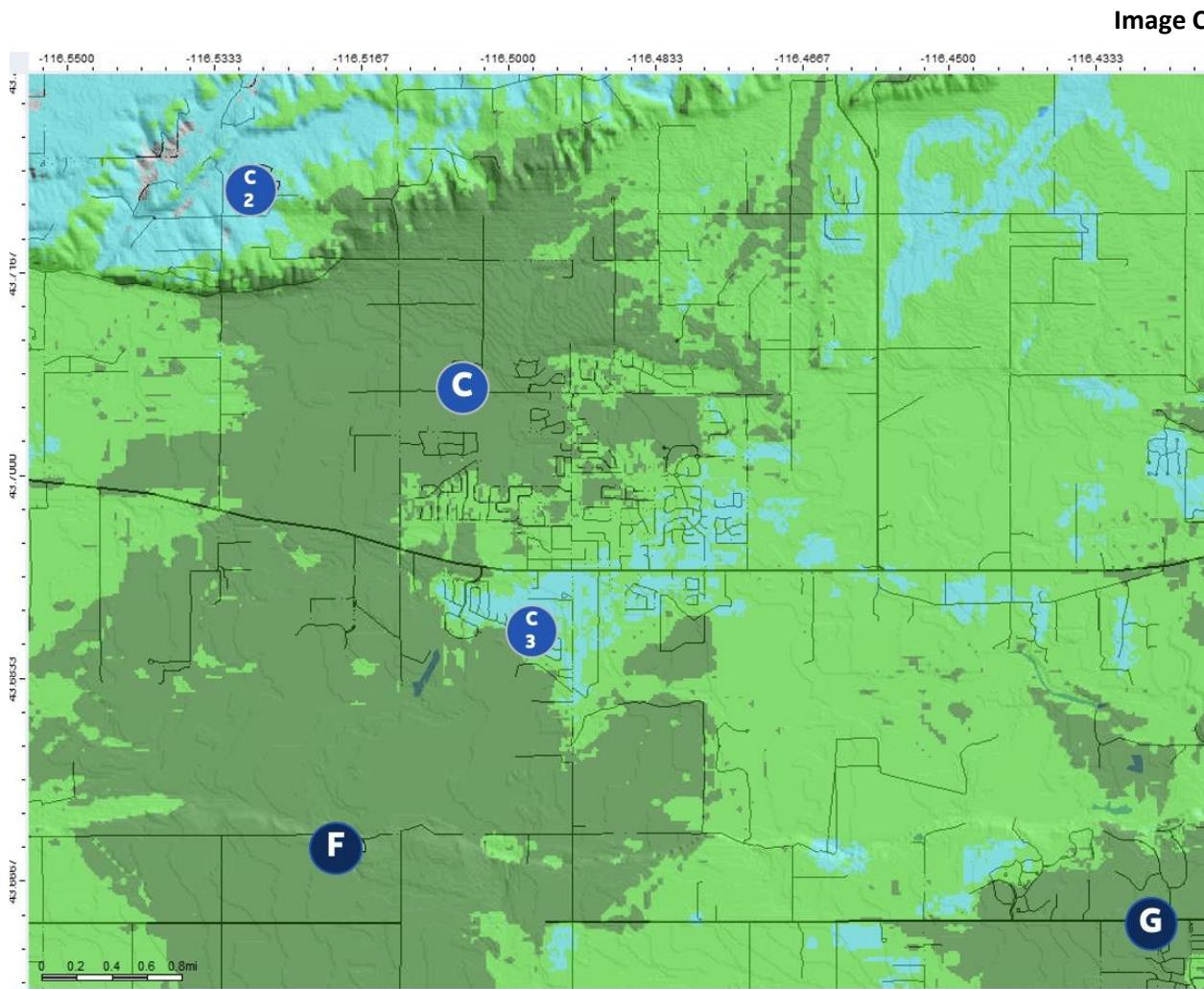
15. Calculated coverage maps, also known as propagation maps, have been prepared for the Proposed Site for AT&T.
16. AT&T's gap in reliable in-vehicle and in-building wireless service in the area of North Star (including the Proposed Site) is significant. The following ("Image B") is an Atoll-generated calculated coverage map depicting the coverage **without** the Proposed Site:

**Image B**



Modern consumers demand the ability to use their wireless phones and devices in their homes and offices. Accordingly, signal that is only strong enough for in-vehicle or open field use does not constitute the "provision of service." AT&T and all other wireless providers must be able to provide a reliable wireless signal at an in-building signal level, at a *minimum*, to avoid a gap in service.

17. The following (“**Image C**”) is an Atoll-generated calculated coverage map depicting wireless coverage *after* coverage and signal from the Proposed Site is added to the surrounding neighbor sites:



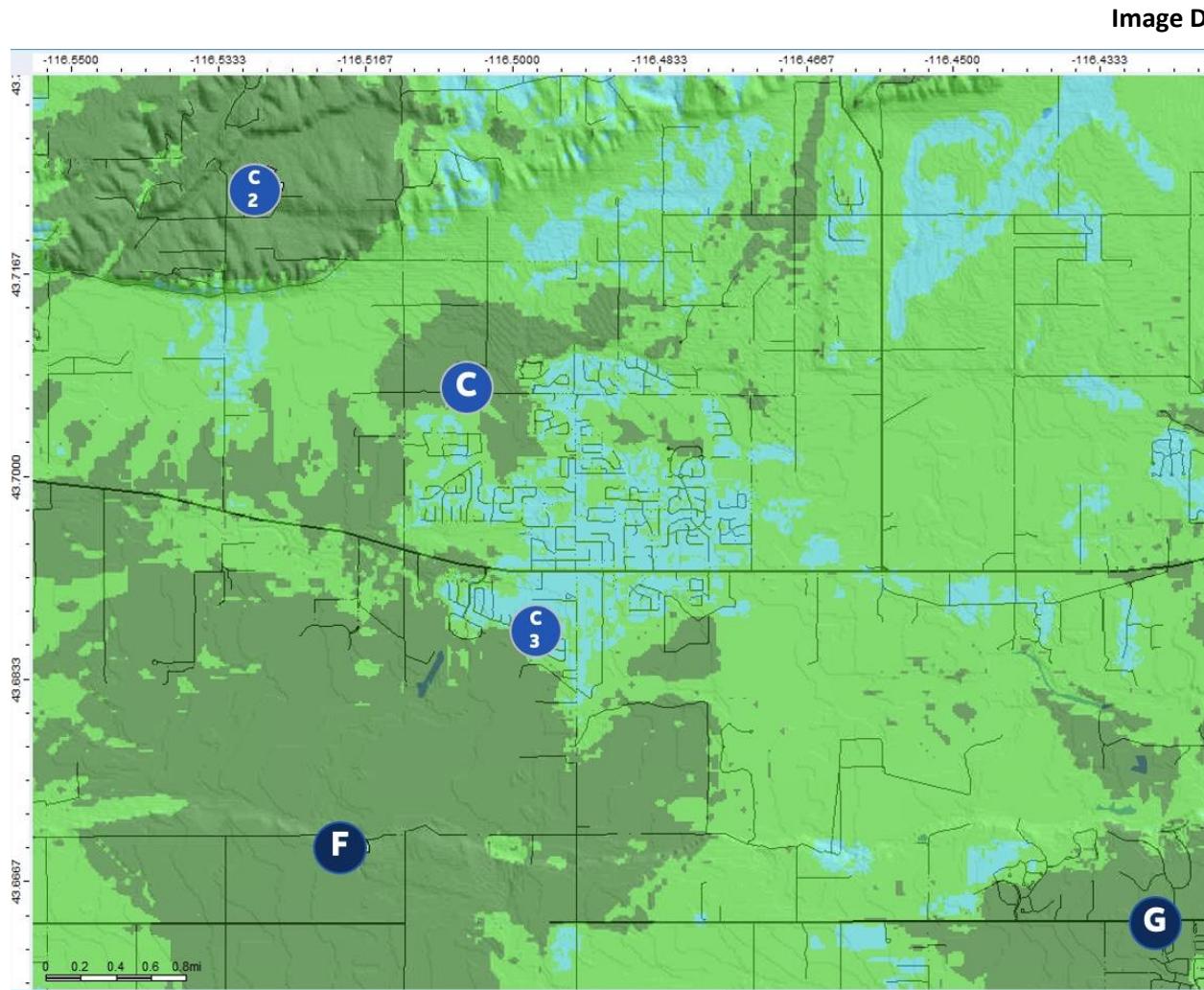
18. It can be seen from the difference between **Image B** and **Image C** that adding the Proposed Site would significantly increase in-building and in-vehicle wireless coverage within the area presently exhibiting a significant gap in AT&T’s wireless service. The objective for a facility in this area is to provide reliable in-building coverage in the area of Star and North Star. The in-building gap includes primarily residential buildings, as the area to be served by the Proposed Facility is located in a rapidly growing residential area of Star. The coverage maps show some of the major roads for reference.
19. In order to remedy the significant gap of reliable in-building and in-vehicle coverage in the area that will be served by the Proposed Facility, AT&T issued a search ring in the vicinity of N. Star Road from W. Floating Feather Road to W. State Street, and the surrounding area. A search ring is a geographic location that has a center point and a defined area within which to search for a

location for a new wireless facility. Search rings are an RF engineering tool that uses the geometric grid plan design of the entire network, including existing coverage signal, coverage quality, and capacity from varying frequency bands within the surrounding area to identify an area for a new wireless facility to fill AT&T's significant gap in wireless coverage. Typically, locating a site as close to the center of the carrier's identified search ring will most efficiently satisfy the carrier's RF engineering objectives for coverage, signal quality, and capacity.

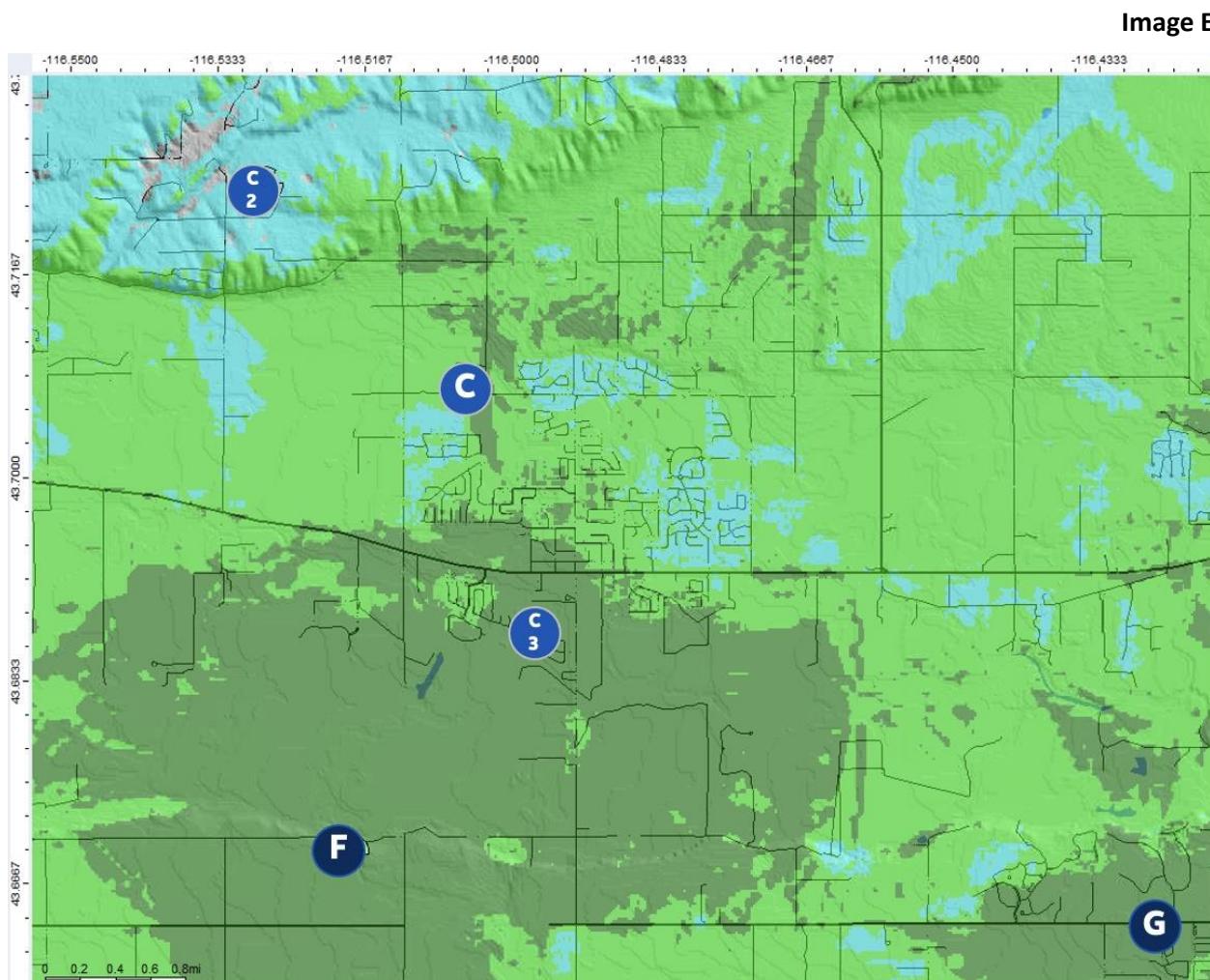
#### **OTHER SITES CONSIDERED AND RULED OUT**

20. Due to practical considerations beyond those of RF engineers, however, not all sites can be located in the center of the carrier's identified search ring. Communicating with the site acquisition specialist who located the Proposed Site and reviewing her Declaration (submitted herewith), the site acquisition specialist obviously searched for possible site options within and around the search ring, keeping in mind the search ring and other factors, such as (a) whether a parcel meets the zoning and dimensional standards required for wireless communications facilities, under Ada County Code, and (b) whether the owner of a parcel that meets the zoning and dimensional standards would agree to use a portion of the parcel for construction and operation of a wireless communication facility. With regard to the Proposed Site, numerous property owners were contacted with the request to lease space for a new wireless communications facility, but declined.
21. A review of the existing AT&T wireless network in and around the City of Star, Idaho, along with an analysis of propagation coverage maps of existing AT&T wireless communications facilities demonstrates that AT&T has a significant gap in reliable in-building wireless coverage and capacity in the vicinity of the Proposed Site.
22. A review of the area via Google Earth, topographic analysis, and a review of the record indicates the region consists of significant (and growing) residential population, along with some major rights-of-way that would benefit from improved wireless coverage in the area of the Proposed Site.
23. It is my understanding that a significant number of potential alternative site candidates in the area of the search ring provided by AT&T were investigated, but all either (a) failed to meet the zoning and dimensional standards required by Ada County Code for wireless communications facilities, or (b) the owner(s) declined to lease space for construction and use of a wireless communications facility.
24. During the public hearing held by the Board of Ada County Commissioners ("Board") on May 11, 2022, two additional potential alternative sites were proposed during the public testimony portion of the public hearing:
  - The first was a 300' tall tower owned by SBA that is located approximately 1.6 miles from the proposed site (see the location labeled "C<sub>2</sub>" on **Image A**, **Image B**, and **Image C**, above). The 300' tall tower is not within Ada County – it is located in Canyon County..

- The second was an as-yet unbuilt structure, planned to be much shorter than the 300' tall facility, that Horizon Tower obtained a Conditional Use Permit to construct and operate (see the location labeled “C<sub>3</sub>” on **Image A**, **Image B**, and **Image C**, above). It is my understanding that Horizon Tower intends to construct its tower within the next few months.
25. It is my expert opinion that ***neither the existing site labeled “C<sub>2</sub>” on the foregoing images, nor the permitted site labeled “C<sub>3</sub>” on the foregoing images, would enable AT&T to resolve its significant gap in wireless coverage*** in the area of the search ring, which ***will*** be resolved by AT&T’s placement of its antennas on the Proposed Facility.
26. The following (“**Image D**”) is an Atoll-generated calculated coverage map depicting wireless coverage from existing AT&T antennas *PLUS* adding AT&T antenna to the existing site labeled “C<sub>2</sub>” on the images in this Declaration:



27. As shown in **Image D**, immediately above, the existing facility labeled ‘C<sub>2</sub>’ does not provide in-building service within AT&T’s identified significant gap in wireless coverage, and thus the existing facility labeled ‘C<sub>2</sub>’ is not a viable site candidate.
28. The following (“**Image E**”) is an Atoll-generated calculated coverage map depicting wireless coverage from existing AT&T antennas *PLUS* adding AT&T antenna to Horizon Tower’s permitted site, which is labeled “C<sub>3</sub>” on the images in this Declaration:



29. As shown in **Image E**, immediately above, the existing facility labeled ‘C<sub>3</sub>’ does not provide reliable in-building service within AT&T’s identified significant gap in wireless coverage, and thus the existing facility labeled ‘C<sub>3</sub>’ is not a viable site candidate.

**DATA SUBMITTED BY HANK ALLEN, VP OF THE ANTI-WIRELESS GROUP CALLING ITSELF “IDAHOANS FOR SMART TECHNOLOGY, INC.,” SUPPORTS APPLICATION FOR PROPOSED FACILITY**

30. I reviewed the “drive test data” (*see page 2 of Late Exhibit 19A* in the Record – a copy of which is below – “**Image F**”) that Hank Allen, Vice President of the anti-wireless group that calls itself “Idahoans for Safe Technology Foundation, Inc.” submitted to the Board of Ada County

Commissioners a few days prior to the Board's public hearing on William Lind's appeal of the Planning and Zoning Commission's approval of Application No 202103048-CU.

| cellLinq1651695677272    |  |                     |                    |            |               |                |     |     |         |         |           |               |          | Image F   |  |  |
|--------------------------|--|---------------------|--------------------|------------|---------------|----------------|-----|-----|---------|---------|-----------|---------------|----------|-----------|--|--|
| Project                  | 202103048-CU 100-foot Cell Tower in Star     |                     |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| Address                  | 12016 W FLOATING FEATHER RD, STAR, ID, 83669 |                     |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| Contact                  | Hank Allen                                   |                     |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| Email                    | hank@idpacific.com                           |                     |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| Phone                    | 831-477-6940                                 |                     |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| Name                     | Location                                     | Date-Time           |                    |            |               |                |     |     |         |         |           |               |          |           |  |  |
| (P) 100' Star Cell Tower | 43.70677300732930                            | -116.50465087976000 | 05/02/2022 12:28pm | RSSI (dBm) | RSRQ/ECIO(dB) | RSRP/RSCP(dBm) | MCC | MNC | TAC/LAC | PCID/SC | CID       | Status        | Latitude | Longitude |  |  |
| Carrier                  | Technology                                   | Band                | DL Frequency       |            |               |                |     |     |         |         |           |               |          |           |  |  |
| AT&T Mobility            | 3G   | 5                   | 876.4              | -73        | -10           | -83            | 310 | 410 | 45988   | 290     | 20841755  | CELL_SUITABLE | 43.6748  | -116.485  |  |  |
| AT&T Mobility            | 4G   | 4                   | 2142.5             | -85        | -14           | -113           | 310 | 410 | 38660   | 8       | 110369504 | CELL_SUITABLE | 43.6479  | -116.5663 |  |  |
| AT&T Mobility            | 4G   | 4                   | 2125               | -80        | -13           | -110           | 310 | 410 | 38656   | 326     | 110359976 | CELL_SUITABLE |          |           |  |  |
| T-Mobile                 | 3G   | 2                   | 1952.2             | -68        | -9            | -77            | 310 | 260 | 5098    | 194     | 4826973   | CELL_SUITABLE | 43.6914  | -116.4895 |  |  |
| T-Mobile                 | 4G   | 4                   | 2150               | -65        | -13           | -95            | 310 | 260 | 10798   | 417     | 23172097  | CELL_SUITABLE | 43.7041  | -116.6211 |  |  |
| T-Mobile                 | 4G   | 4                   | 2137.5             | -71        | -12           | -97            | 310 | 260 | 10798   | 417     | 2317297   | CELL_SUITABLE | 43.6902  | -116.3455 |  |  |
| Verizon Wireless         | 4G   | 4                   | 2132.5             | -76        | -15           | -105           | 311 | 480 | 2817    | 310     | 79635513  | CELL_SUITABLE | 43.6378  | -116.5057 |  |  |
| Verizon Wireless         | 4G   | 4                   | 2115               | -72        | -13           | -102           | 311 | 480 | 2817    | 145     | 2827020   | CELL_SUITABLE | 43.7088  | -116.5071 |  |  |
| Verizon Wireless         | 4G   | 4                   | 2115               | -73        | -18           | -108           | 311 | 480 | 2817    | 310     | 79635212  | CELL_SUITABLE | 43.6244  | -116.5134 |  |  |
| Verizon Wireless         | 4G   | 5                   | 885                | -73        | -10           | -100           | 311 | 480 | 2817    | 285     | 2912018   | CELL_SUITABLE |          |           |  |  |

All three carriers have suitable wireless coverage at this location.

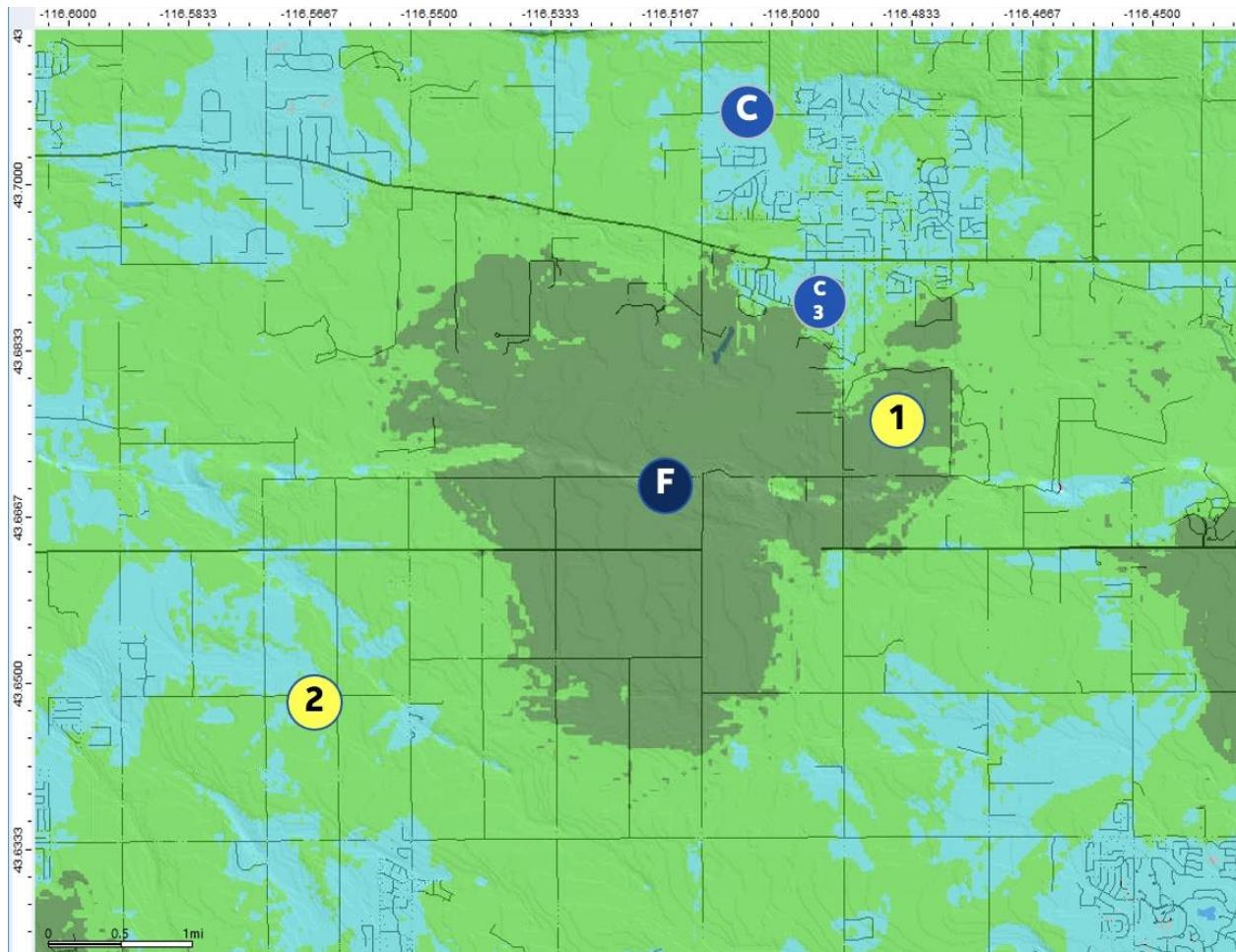
Missing Data

31. At the locations the data contained in the "drive test data" was collected, the data presented actually is accurate; however, ***based on the provided coordinates, Mr. Allen failed to collect his data within the area of the identified significant gap in AT&T's wireless coverage.*** Specifically, the coordinates of the locations at which Mr. Allen collected his AT&T -related data are:

- 43.6748 Latitude, -116.485 Longitude; and
- 43.6479 Latitude, -116.5663 Longitude.

These two locations, labeled '**1**' (43.6748 Latitude, -116.485 Longitude) and '**2**' (43.6479 Latitude, -116.5663 Longitude) in the following **Image F**, **are not near the location of AT&T's demonstrated significant gap in in-building wireless services** (labeled '**C**'):

**Image G**



32. Comparing the data points (labeled '1' and '2,' respectively) at which Mr. Allen collected his data:
- The data point labeled '1' is in an area in which AT&T acknowledges it already has good in-building coverage; and
  - The data point labeled '2' is in an area in which AT&T acknowledges it already has good in-vehicle coverage.

For geographical context, you can see the location of the Proposed Facility, which is labeled 'C' in the above **Image G**.

33. The data presented in **Image G**, above, which was presented by Application opponent Hank Allen, actually **confirms** (not contradicts) the fact that a significant gap in AT&T's wireless coverage exists where we identified it. In other words, the data contained in **Image G**, above, which was submitted by opponent Hank Allen, **agrees with** AT&T's propagation maps.
34. Importantly, however, the data contained in **Image G**, which was submitted by opponent Hank Allen, **omitted important location data**. (In **Image G**, above, please see my note in the red box.)

## **CONCLUSIONS**

35. Based upon my evaluation of the AT&T wireless network surrounding the Proposed Site, as discussed above, I conclude that the gap that exists in AT&T's wireless service is significant.
36. The Proposed Site is located within the gap area.
37. Neither the existing SBA facility (labeled **C<sub>2</sub>** in the above images) nor the planned and permitted Horizon Tower facility (labeled **C<sub>3</sub>** in the above images) would enable AT&T to fill its existing significant gap in wireless coverage.
38. Of the site options presented to RAN Engineering by the site acquisition specialist, the Proposed Site was the best fit for the objectives, to improve service levels (and particularly in-building service levels) and to increase wireless capacity in the geographic area identified in the search ring.
39. The Proposed Facility in Application No. 202103048-CU is the minimum height necessary to remedy a large portion of the significant gap in AT&T's wireless coverage.

I declare, under penalty of perjury pursuant to the law of the state of Idaho, that the foregoing is true and correct to the best of my knowledge, information, and recollection.



---

**J. Shad Rydalch**

Dated June 13, 2022

Joshua J. Leonard  
(208) 388-3868

[jleonard@clarkwardle.com](mailto:jleonard@clarkwardle.com)

*Via electronic mail (acrist@adacounty.id.gov)*

June 14, 2022

Alison Crist  
Ada County Development Services  
200 W. Front Street  
Boise, ID 83702

**RECEIVED**  
**By Alison Crist at 1:54 pm, Jun 14, 2022**

**Re: Addendum to Request for Reconsideration: 202103048-A (202103048-CU)**

Dear Alison:

We are in receipt of your email dated June 14, 2022 advising us that our Request for Reconsideration was complete and was ready for payment. As of the time of this letter payment should have been received by your office.

Additionally, our primary Request for Reconsideration failed to include a legend for the propagation maps so I have included that below.

Please let me know if you have any questions. Thank you!

Very truly yours,



Joshua J. Leonard

JJL/bdb  
Enclosure

**RECEIVED**

By Alison Crist at 1:54 pm, Jun 14, 2022

# Legend



Good In-Building



Good In-Vehicle



Good Outdoor

## BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In Re: Motion for Reconsideration of Project No. 202103048-A .

The Board of Ada County Commissioners (“Board”), having considered the Motion for Reconsideration (“Motion”) filed by Vertical Bridge (“Vertical”), by and through their counsel, Joshua Leonard with Clark Wardle, on June 13, 2022, and having reviewed the record, the Board finds that in regard to its decision upholding the appeal of Project No. 202103048-A and overturning the Planning and Zoning Commission’s (“P&Z”) decision to approve Project No. 202103048-CU:

1. While Vertical’s Motion sets out nine (9) deficiencies in the Board’s decision, the Board’s May 11, 2022, Facts, Findings, and Conclusions sets out the Board based its decision solely on the fact that there is a tower located in Canyon County that was not analyzed for use. Vertical was not provided an opportunity to respond to public comments on May 11. 2022, regarding the cell tower located in Canyon County.

**THEREFORE**, the Board hereby grants the Motion for Reconsideration to consider only the matter of the cell tower located in Canyon County and whether that cell tower can be used to collocate or otherwise remedy the significant gap in coverage. Notice of a time and place for the hearing will be forthcoming.

DATED this 12th day of July, 2022

### Board of Ada County Commissioners

By:



Rod Beck, Commissioner

By:



Ryan Davidson, Commissioner

By:



Kendra Kenyon, Commissioner

ATTEST:



Phil McGrane, Ada County Clerk

by Katie Reed, Assistant Deputy Clerk



# ADA COUNTY DEVELOPMENT SERVICES

200 W. FRONT STREET, BOISE, IDAHO 83702-7300

<https://adacounty.id.gov/developmentservices>

PHONE (208) 287-7900

FAX (208) 287-7909

BUILDING • COMMUNITY PLANNING • ENGINEERING & SURVEYING • PERMITTING

July 12, 2022

Josh Leonard  
Clark Wardle LLP  
251 E. Front Street, Ste. 310  
Boise, ID 83702

## RE: PROJECT #202103048-A

Dear Mr. Leonard,

This is to notify you of the action taken by the Board of Ada County Commissioners on the application referenced above.

At their July 12, 2022, Open Business Meeting, the Board voted to reconsider the decision of the appeal, which overturned the original 202103048-CU application approval by the Planning & Zoning Commission. The reconsideration will be heard at the August 10, 2022 public hearing at 6 pm in the Ada County Commissioner's Public Hearing Room.

If you have any further questions, please feel free to contact me at (208) 287-7924 or via e-mail at [clindstrom@adacounty.id.gov](mailto:clindstrom@adacounty.id.gov)

Sincerely,

*Connor Lindstrom*  
Connor Lindstrom  
Associate Planner  
Ada County Development Services

Cc: William Lind  
12097 W. Rice Road  
Star, ID 83669

| PRIMOWNER   | ADDCONCAT                   | STATCONCAT              |
|---|-----------------------------|-------------------------|
| ABREU AARON T   | 12061 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| ADASKA WILLIAM W  | 11795 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| ALAND RICHARD SMITH                                     | 11792 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| ALEXANDER TANCY   | 1844 N CAN ADA RD           | STAR, ID 83669-0000     |
| AREY JASON LANE & TAMMY MAE REV LIVING TRUST 9-17-19    | 12086 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| AST WILLIAM TRUST 4/20/22                               | 11933 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| AVERY ANGELA F  | 12087 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| BALDRY WILLIAM JR                                       | 11909 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| BARLOW CHARLENE   | 11962 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| BARROW DOUGLAS L  | 11972 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| BOWERS PAULA M TRUST 08/22/2016                         | 12019 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| BOYCE RHONDA L  | 11899 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| BUNDY DAVID NORMAN                                      | 11900 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| BURGESS CHERYL A 2002 TRUST 10-29-2002                  | 1466 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| CAMPODONICA MARY JO                                     | 12142 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| CHAMBERS JOHN C   | 11918 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| CHURCH JEANA C  | 12027 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| CLEMENS RICHARD D                                       | 1525 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| CORKERY THOMAS  | 12191 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| CURRIE CATHY  | 11971 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| DAVIS BRUCE E   | 1550 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| DAVIS REID  | 12243 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| DE SCHRYVER PAUL AUGUST & LORI RAE JOINT LIVING TRUST   | 11776 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| DEEMS ELIZABETH   | 11955 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| DICKINSON JUANITA                                       | 11954 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| DOHSE LANNY   | 12005 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| DONALD & ROSE TOUSLEY TRUST 4/15/2020                   | 12010 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| DORRIS DANIEL   | 11941 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| DUSHO DENNIS  | 1360 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| EASTMAN PHILLIP M                                       | 1553 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| EMERSON STEVEN RAY                                      | 12035 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| EVANS FRED L  | 11836 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| FIEDLER FAMILY TRUST 11/13/1997                         | 12070 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| FIGILIETTI RICHARD A II                                 | 11987 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| FRALEY JUDITH   | 12217 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| GASPERSON STEVE & TAMMY REVOCABLE TRUST 7/16/2016       | 12116 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| GILMORE WALTER R  | 11915 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| GOUVEIA DANIEL LIVING TRUST                             | 12139 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| GRAY MICHELE E LIVING TRUST 05/25/2022                  | 11953 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| GULLETT JERRY L   | 11714 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| GUNDERSON MARY LYNN                                     | 12011 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| HEATON RONNIE L   | 12007 W FLOATING FEATHER RD | STAR, ID 83669-0000     |
| HENDRIX LIVING TRUST 01/06/2020                         | 11914 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| HIGGINS KEITH   | 11994 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| HOLTROP JOEL  | 11888 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| ISGRIGG FAMILY TRUST                                    | 11910 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| JEDRY JASON M   | 11863 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| KIM KEVIN   | 12003 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| KRAUSE ROGER J & BAKER MICHELE L REVOC LIV TRST 2/21/04 | 12069 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| KRUG FAMILY TRUST 5/26/22                               | 12016 W FLOATING FEATHER RD | STAR, ID 83669-0000     |
| LAKES AT PRISTINE MEADOWS HOA                           | PO BOX 1090                 | MERIDIAN, ID 83680-0000 |
| LAMPMAN DOUGLAS J                                       | 11759 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| LARSEN DEBORAH LYNN                                     | 1365 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| LEGACY AT LAKESHORE PARK HOA INC                        | 4418 N PRICE AVE            | MERIDIAN, ID 83646-0000 |
| LOGDE WILLIAM & KELLY FAMILY TRUST 03/02/2022           | 12101 W CIRCLE BAR LN       | STAR, ID 83669-0000     |
| LOFTHUS GROUP LLC                                       | 1675 S BLACKSMITH PL        | MERIDIAN, ID 83642-0000 |
| LONDON MARK A   | 11963 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| LONGFIELD EDWARD  | 12090 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| LYLES MARK A  | 2036 N FINSBURY WAY         | STAR, ID 83669-0000     |
| LYMAN BOB LIVING TRUST 02/08/2022                       | 11936 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| MARKHAM PROPERTIES LLC                                  | 937 N LUGE AVE              | EAGLE, ID 83616-0000    |
| MATTESON KEVIN JAMES                                    | 11845 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| MATTHEWS JEFFREY DONALD                                 | 12113 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| MAY-HILL TRACI K  | 12002 W STREAMVIEW DR       | STAR, ID 83669-0000     |

|  |                             |                         |
|--|-----------------------------|-------------------------|
| MCCOY JAMES B                                  | 11844 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| MCMANUS KEVIN                                  | 11925 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| MCPHERSON JAMES L                              | 11986 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| MILLER WALLACE A                               | 11917 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| MOE PAUL T                                     | 12054 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| MRS CC FAMILY TRUST 06-29-2020                 | 11731 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| NEWELL WESLEY JOSEPH                           | 11864 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| NEWLAND DEREK                                  | 12168 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| OLEARAIN JOHN W                                | 12269 W HIDDENLAKE ST       | STAR, ID 83669-0000     |
| OLIVER PATRICK S                               | 11941 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| ORR CAROLE                                     | 11810 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| PARANTEAU DAVID                                | 11828 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| PEREZ FAMILY TRUST 02/17/2005                  | 11856 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| PETERSON SHANE H                               | 11947 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| PRICE EMILY COWLING                            | 1469 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| PRISTINE SPRINGS HOA INC                       | PO BOX 1090                 | MERIDIAN, ID 83680-0000 |
| QUENZER DEBBIE ANN                             | 11824 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| RACEY JOEL L                                   | 12018 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| RAY JON C                                      | 11807 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| REA KALVIN W                                   | 1497 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| REESE MARK                                     | 11957 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| RENICKER TERESA                                | 1518 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| RIPLEY DANIEL T                                | 11862 W PRISTINEBROOK DR    | STAR, ID 83669-0000     |
| ROHDE RAYMOND A                                | 12038 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| ROSEN STEVEN                                   | 11995 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| SCHLAICH BRUCE & LINDA FAMILY TRUST 3/11/2009  | 1440 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| SCOTT JEAN A                                   | 1957 N BOWKNOT LAKE AVE     | STAR, ID 83669-0000     |
| SMITH RAWLEN D                                 | 1939 N BOWKNOT LAKE AVE     | STAR, ID 83669-0000     |
| SNELDERS SCOTT                                 | 11954 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| SNOW KAREN C                                   | 1441 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| STARCREEK SUBDIVISION HOA                      | 4418 N PRICE AVE            | MERIDIAN, ID 83646-0000 |
| STEADHAM ROLAND                                | 1492 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| STRAUBE PAUL EDWARD SR                         | 11743 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| STREBEL SCOTT & HOLLY FAMILY TRUST             | 11954 W MEADOWFALLS DR      | STAR, ID 83669-0000     |
| STRICKLAND ANGELSTRYCK TRUST 01/28/2020        | 11973 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| STUBBLEFIELD A H                               | 2258 BRADFORD AVE           | HIGHLAND, CA 92346-0000 |
| TEAGARDEN CHARLES R                            | 12037 W WETLAND PARK DR     | STAR, ID 83669-0000     |
| TILLERY MICHAEL                                | 11881 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| TOLL SOUTHWEST LLC                             | 3103 W SHERYL DR STE 100    | MERIDIAN, ID 83642-0000 |
| TOWNSEND JEFFREY                               | 2010 N FINSBURY WAY         | STAR, ID 83669-0000     |
| TRIBULAS FAMILY TRUST 06/19/2013               | 1975 N BOWKNOT LAKE AVE     | STAR, ID 83669-0000     |
| TURNER JOHN CHRIS                              | 11882 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| VAN DUSEN CHARLES H                            | PO BOX 1383                 | EAGLE, ID 83616-0000    |
| VANHOUTEN JAY DAVID                            | 11600 W FLOATING FEATHER RD | STAR, ID 83669-0000     |
| VORZIMER MICHAEL                               | 11970 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| WARNER TYSON H                                 | 1337 N BOWKNOT LAKE WAY     | STAR, ID 83669-0000     |
| WEST GARY W FAMILY TRUST 1/24/12               | 11843 W MEADOWFALLS DR      | STAR, ID 83669-5999     |
| WEST GLORIA M FAMILY TRUST 1/24/12             | 11843 W MEADOWFALLS DR      | STAR, ID 83669-5999     |
| WILLIAMS THOMAS D                              | 11979 W STREAMVIEW DR       | STAR, ID 83669-0000     |
| WINSLOW TRAVIS KEITH MURRAY                    | 11810 N CATAMARAN WAY       | STAR, ID 83669-0000     |
| YOUNG ROBERT & THERESA LIVING TRUST 06/29/2007 | 11748 W MEADOWFALLS DR      | STAR, ID 83669-0000     |

**ADA COUNTY DEVELOPMENT SERVICES  
200 W FRONT ST BOISE ID 83702**



Wednesday, July 13, 2022

Dear Property Owner:

LEGAL NOTICE IS HEREBY GIVEN THAT the Board of Ada County Commissioners will hold a public hearing on **August 10, 2022**, at 6:00 p.m. in the Commissioners Main Hearing Room #1235, on the first floor, 200 W. Front Street, Boise, ID, to hear the following:

**202103048-A-Reconsideration:** A Reconsideration of the Board of Ada County Commissioner's approved appeal, which overturned the Ada County Planning & Zoning Commission's approval of application 202103048-CU; a conditional use for a 100' cell tower for commercial use. The property is located at 12016 W Floating Feather Rd and contains 2.88 acres in the Rural Residential (RR) district; Section 6, T.4N, R.1W.

Contact CONNOR LINDSTROM, Associate Planner, at (208) 287-7924 or via email at [clindstrom@adacounty.id.gov](mailto:clindstrom@adacounty.id.gov) for more information.

Please be aware that Ada County Code regarding public comments has changed (see Section 8-7E-4 of the Ada County Code). **All comments must be submitted to Ada County Staff by August 4, 2022** in order to be included in the public record for the public hearing.

This is an Official Notice of Public Hearing regarding the use of a property near your own. You have been notified because records indicated that you own property near or within **1000'** of the applicant's project boundary. You are invited to attend the public hearing and offer your comments for consideration. If you are unable to attend, you may send comments to our office before the hearing date, and they will be entered in the public hearing record.

This application can be viewed [online](#) by completing the following:

- 1 Type [https://gis.adacounty.id.gov/apps/application\\_tracker/](https://gis.adacounty.id.gov/apps/application_tracker/)
- 2 Enter "202103048-A" and search application by file number.
- 3 Click on 'Decision Status/Supporting Documents' to review documents.
- 4 Review supporting documents by clicking on the individual documents.

Five (5) days prior to the hearing you can go <https://adacounty.id.gov/developmentservices/> to view the agenda or staff report.

**NOTES:**

- This item may not be heard at the scheduled time of 6:00 p.m. as multiple items may be considered during the hearing.
- Video, audio, PowerPoint, or other computer-generated visuals used to present testimony, must be provided to the Planner ½ hour prior to the start of the hearing: file format compatibility cannot be guaranteed.
- Auxiliary aids or services for persons with disabilities are available upon request. Please call 208-287-7900 three days prior to this public hearing to make arrangements.

**AERIAL PHOTO:**

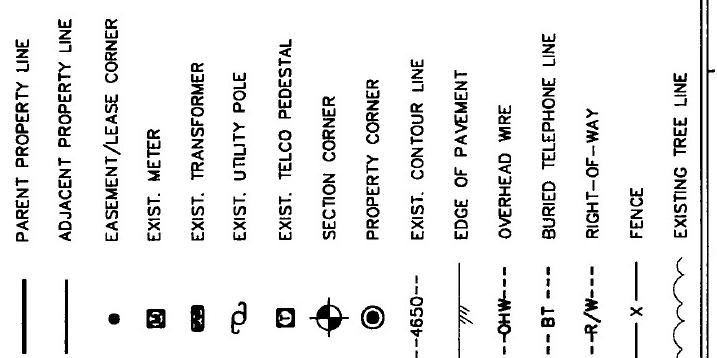


**SITE PLAN (Located on the Back Page)**

## TOWER 1-A COORDINATES

LATITUDE: N 45° 42' 24.90" (NAD '83)  
LONGITUDE: W 116° 30' 18.76" (NAD '83)  
GROUND ELEVATION: 2,459.0' ± (AMSL NAVD '88)

## LEGEND



## LOT 2 WAYPARING LANE SUBDIVISION

ZONED: RR

MIDDLETON CANAL

POND

VIRGINIA L. KRUG & DENNIS D. KRUG  
NO: S0407634700  
ZONED: RR

PROPOSED 100'-0" MONOPOLE  
TOWER BY VERTICAL BRIDGE.  
SEE ELEVATION ON SHEET Z-2.

PROPOSED 50'-0" x 50'-0" FENCED  
COMPOUND BY VERTICAL BRIDGE.  
SEE DETAILS ON SHEET Z-3.

PROPOSED 20'-0" WIDE ACCESS  
AND UTILITY EASEMENT BY  
VERTICAL BRIDGE.

- NOTES:**
- THE BEARINGS SHOWN HEREON ARE GRID, REFERENCED TO THE DUAL FREQUENCY GLOBAL POSITION SATELLITE RECEIVERS (NAD83/2011).
  - THE ELEVATIONS SHOWN ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM 1988, (NAD88, Geod1B).
  - ALL DISTANCES ARE 'GROUND' DISTANCES IN U.S. SURVEY FEET, UNLESS OTHERWISE NOTED.
  - PROPERTY LOCATED IN FLOOD ZONE "X", AREA DETERMINED TO BE OUTSIDE THE 0.2% CHANCE OF ANNUAL FLOOD BASED ON COMMUNITY-PANEL NO. 16001C0125J, EFFECTIVE DATE 09/19/2020.

## TOWER SETBACKS

PROPERTY LINE REQUIRED PROPOSED

NORTHWEST N/A 36'-3"±

EAST N/A 506'-1"±

SOUTH N/A 72'-8"±

Vertical

VERTICAL BRIDGE  
750 PARK OF COMMERCE DR. #200  
BOCA RATON, FL 33487  
OFFICE: (412) 525-0014

PLANS PREPARED FOR:

TOWER ENGINEERING PROFESSIONALS  
500 34TH AVE, SUITE C10  
THORNTON CO 80229  
OFFICE: (303) 565-5914  
www.teggroup.net

REFLIMINARY  
NOT USE FOR CONSTRUCTION

STAR CREEK SUBDIVISION  
PHASE 4 LOT 9, BLOCK 8  
(STAR JURISDICTION)

SEAL:

RONNIE L. HEATON PARCEL  
NO: S040712425  
ZONED: RUT  
(STAR JURISDICTION)

A.H. STUBBLEFIELD  
PARCEL NO: S040712560  
ZONED: RUT  
(STAR JURISDICTION)

EXTENDED  
SITE PLAN

SHEET TITLE:

EXTENDED SITE PLAN

Z-1

REVISION: 0

TEP #: 305954-594-43

SCALE: 1" = 100'  
SCALE IN FEET  
0 100 200

**From:** Connor Lindstrom  
**To:** Jean Schaffer; Street NameMail; Bryan Gilbert; Zach Kirk; mwallace@achdidaho.org; Brent Moore; Stacey Yarrington; mm\_mi@juno.com; Greg Timinsky; snickel@staridaho.org; bryce@sawtoothlaw.com; lbadigian@cdhd.idaho.gov; westerninfo@idwr.idaho.gov; Connor Lindstrom  
**Subject:** Ada County Application Transmittal Notice.  
**Date:** Wednesday, July 13, 2022 8:32:05 AM  
**Attachments:** image001.png

|   |                         |
|---|-------------------------|
| File Number: <a href="#">202103048-A</a>  | X-Reference: NONE       |
| Description: Reconsideration of an approved Appeal overturning the Ada County Planning & Zoning Commission's approval of a Conditional Use for a 100' cell tower for commercial use (202103048 CU). |                         |
| Reviewing Body: BOCC  | Hearing Date: 8/10/2022 |
| Applicant: CLARK WARDLE LLP   | P&Z Recommendation:     |
| Property: The property contains 2.880 acres and is located at 12016 W FLOATING FEATHER RD, Section 4N/1W/6.   |                         |

Ada County Development Services is requesting comments and recommendations on the application referenced above. To review detailed information about the request please either click on the file number identified above, or visit the Ada County Development Services Application Tracking System (ATS) web site at [https://gis.adacounty.id.gov/apps/application\\_tracker](https://gis.adacounty.id.gov/apps/application_tracker) and search by file number. Hover over the pushpin that appears on the map with your mouse and select “Additional Info” from the pop-up box. You will then be able to review individual documents, drawings and other information detailing the request.

We request that you submit your comments or recommendations by 7/28/2022. When responding, please reference the file number identified above. If responding by email, please send comments to [clindstrom@adacounty.id.gov](mailto:clindstrom@adacounty.id.gov).

To request a hard copy of materials associated with this

application, for additional information, or to provide comment on Ada County's Development Services ATS, please call me at the number listed below.

Sincerely,

CONNOR P LINDSTROM, ASSOCIATE PLANNER

200 W Front Street

Boise ID 83702

[clindstrom@adacounty.id.gov](mailto:clindstrom@adacounty.id.gov)

(208) 287-7924



**Connor Lindstrom, CFM**  
**Associate Planner**

**Ada County Development Services**

200 W. Front St., Boise, ID 83702

(208) 287-7924 *office*

(208) 287-7909 *fax*

**From:** [Jim McCoy](#)  
**To:** [Connor Lindstrom](#)  
**Subject:** [EXTERNAL] 202103048-A Proposed cell tower location  
**Date:** Monday, July 18, 2022 12:50:06 PM  
**Attachments:** [public hearing.pdf](#)

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Mr. Lindstrom,

I live at 11844 N Catamaran Way, Star Idaho close to the proposed cell tower that is up for reconsideration on August 10. I am very much opposed to this location and firmly believe that the Ada County Commissioners should disapprove this application again. In discussion with my real estate agent and my own informal research I believe that the close proximity of the proposed cell tower would decrease my property value. Some of my neighbors would have even more of a negative impact on their property values.

There must be other more appropriate locations away from major residential subdivisions. A location near Republic Storage on the east side of Star or near Star city's "River House" are two that comes immediately to mind.

I ask that you have my comments entered into the public record for the public hearing.

Thank you,

Jim McCoy



## Notice of Hearing

Published in Idaho Statesman on July 26, 2022

### Location

Ada County,

### Notice Text

#### LEGAL NOTICE OF PUBLIC HEARING

Legal notice is hereby given that the Board of Ada County Commissioners will hold a public hearing on Wednesday August 10, 2022 at 6:00 p.m. in the Commissioners Main Hearing Room #1235, on the first floor, 200 W. Front Street, Boise, ID, to hear a request for:

202201331-V-VAC, DAIGLE BRIAN: Variance to reduce required setbacks and a Vacation of a permanent public utilities and property drainage easement for the construction of a new pool. The property is located at 9680 W Sageberry Dr and contains 0.23 acres in the Medium Density Residential (R6) District; Section 35, T.3N, R.1E. Brent Danielson, Senior Planner, (208) 287-7913 or bdanielson@adacounty.id.gov.

201800902-MSP-TE, LOWE JIM: Board Level Time Extension for a Master Site Plan for an event center to conduct agri-tourism activities such as corn mazes, harvest festivals, and other seasonal events and activities. The property is located at 2600 S Eagle Rd and contains 176.8 acres in the Rural Residential (RR) District; Section 33, T.2N, R.1E. Corrie Brending, Associate Planner, (208) 287-7921 or cbrending@adacounty.id.gov.

202103048-A, CLARK WARDLE LLP: Reconsideration of an approved Appeal overturning the Ada County Planning & Zoning Commission's approval of project 202103048-CU, a Conditional Use for a 100' cell tower for commercial use. The property is located at 12016 W Floating Feather Rd and contains 2.88 acres in the Rural Residential (RR) District; Section 6, T.4N, R.1W. Connor Lindstrom, Associate Planner, (208) 287-7924 or clindstrom@adacounty.id.gov.

202201470-V, HUNT JULIE: Variance to setbacks for an existing detached barn. The property is located at 6032 W View Point Dr and consists of approximately 0.99 acres in the Estate Residential (R1) District; Section 16, T.3N, R.1W. Corrie Brending, Associate Planner, (208) 287-7921 or cbrending@adacounty.id.gov.

202201479-V-AC, ERICKSON NATOSHIA: Variance to setbacks for an existing detached accessory structure. The property is located at 6185 S Tarrega Ln and consists of approximately 2.06 acres in the Rural-Urban Transition (RUT) District; Section 31, T.3N, R.1E. Corrie Brending, Associate Planner, (208) 287-7921 or cbrending@adacounty.id.gov.

201900512-S-TE, HATCH DESIGN ARCHITECTURE: Board Level Time Extension for a Preliminary Plat and Master Site Plan. The property is located near the SW corner of Lake Hazel Rd and Five Mile Rd (parcels R3525240303, S1403110200, and S1403110300) and contains 7.99 acres in the Neighborhood Commercial (C1) District; Section 3, T.2N, R.1E. Diana Sanders, Associate Planner, (208) 287-7905 or dsanders@adacounty.id.gov.

Staff Reports Available On-Line 5 Days before Hearing Date adacounty.id.gov

Auxiliary aids or services for persons with disabilities are available upon request. Please call 287-7900 or 287-7979 (TDD) by 5:00 p.m. three days prior to this public hearing so that arrangements can be made.

BOARD OF ADA COUNTY COMMISSIONERS

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Leon Letson  
Community Planning Manager  
W00000000  
Publication Dates

Exhibit 10, Page 1 of 1  
202103048-A  
Reconsideration

**From:** [Carol Corkery](#)  
**To:** [Connor Lindstrom](#)  
**Subject:** [EXTERNAL] 100" cell tower on Floating Feather  
**Date:** Friday, July 29, 2022 3:34:48 PM

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Dear Mr. Lindstrom,

I live at 12191 W. Hiddenlake St. in Star. My backyard backs up to the canal by Circle Bar Ln. This tower will be directly in view from my backyard and my home is within 1000" of the project boundary. I am not comfortable with it being so close. It may also decrease our property value. As such, I am opposed to the construction and placement of his 100' tower in a rural residential district. Please enter my comment into the public hearing record.

Sincerely,  
Tom & Carol Corkery  
12191 W Hiddenlake St.  
Star, ID 83669  
[tccorkery@gmail.com](mailto:tccorkery@gmail.com)



# ADA COUNTY

Ada County  
200 W. Front Street  
Boise, ID 83702  
[www.adacounty.id.gov](http://www.adacounty.id.gov)

**FOR IMMEDIATE RELEASE**

August 1, 2022

**Contact:** Brianna Bustos  
208-287-7901  
[bbustos@adacounty.id.gov](mailto:bbustos@adacounty.id.gov)

## **PUBLIC SERVICE ANNOUNCEMENT**

(Media Outlets: The following announcement is intended to help notify Ada County residents of proposed development applications that will soon appear before the Planning and Zoning Commission or the Ada County Board of Commissioners. We appreciate any help you can provide in notifying your audience of these projects and public hearing dates.)

The Ada County Board of County Commissioners will hold a public hearing on August 10, 2022, at 6:00 p.m. in the Commissioners Main Hearing Room #1235, on the first floor, at 200 W. Front Street, Boise, ID to discuss **202103048 A: A Reconsideration of the Board of Ada County Commissioner's decision to approve the appeal 202103048 A**, which overturned the Ada County Planning & Zoning Commission's approval of application 202103048 -CU, a conditional use for a 100' cell tower for commercial use. The property is located at 12016 W Floating Feather Rd and contains 2.88 acres in the Rural Residential (RR) district; Section 6, T.4N, R.1W.

Auxiliary aids or services for persons with disabilities are available upon request. Please call 208-287-7900 by 5:00 p.m. prior to this public hearing so that arrangements can be made.

Planner assigned to project: CONNOR LINDSTROM (208) 287-7924.