

March 1, 2022

Ada County Commissioners:

Attached is a partial transcript of the Ada County Commissioners hearing on January 30, 2019, in regard to a previous cell tower application in Ada County (#201801311-A), which site is located just 2.51 miles from the current CUP application site.

Please note some of former Commissioner Visser's comments:

Pg 3 lines 15 to 23:

"The U.S. Constitution protects Americans' property rights through the Fifth and Fourteenth Amendments. That's the due process clause. There's also the Fifth Amendment's taking clause. Since 1926 the United States Supreme Court has consistently treated one's property rights as a foundational, fundamental right. A 1926 case is Village of Euclid v. Ambler, and it's found at 272 U.S. 365."

Pg 3 line 24 to Pg 4 line 7:

"Article I, Section 1 of the Idaho Constitution declares our inalienable rights. It says, 'All men', they excluded women back then, but we're taking part with that. So I would paraphrase, 'All men and women, by nature free and equal to have certain inalienable rights, among which are enjoying and defending life and liberty' -- and I stress this next line -- 'acquiring, possessing, and protecting property.'"

Pg 4 line 16 to 24:

"Let's look at the Idaho code and LLUPA. The first stated purpose of LLUPA is that 'This Act shall be -- the purpose of it, it shall be to promote the health, safety, and general welfare of the people of the state of Idaho as follows.' It has an extensive list. The first item on that list is sentence A. And it says, 'To protect the property rights.' Cities and counties are also directed to follow LLUPA."

Pg 5 lines 4 to 12:

"Next let's consider the Ada County code, and specifically Title 8, which addresses Ada County zoning. In subsection 8-12 we have a purpose. And it states that 'Some of the relevant purposes are' -- I added 'some.' Some of the relevant purposes are, '(A), to carry out the intent and purposes of the land use, local Land Use Planning Act, LLUPA; (E), to ensure the most appropriate use of properties; and (F), to protect property rights and enhance property values.'"

Pg 5 line 16 to Pg 6 line 2:

"In addition, Section 8-1-9(a) addresses the preservation of property -- private property rights. 'This title shall be interpreted to equally protect citizens from undue encroachment' -- we heard

that term used tonight. I think we have an idea of what that means, even if it means something different to one another -- 'on their private property by their neighbor's use of their private property.' Let me repeat that because I broke it up. 'This title shall be interpreted to equally protect citizens from the undue encroachment on their private property by their neighbor's use of their private property.'"

Pg 6 lines 9 to 12:

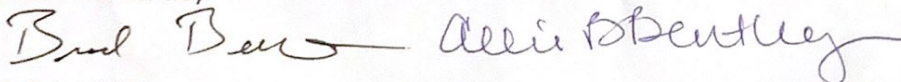
"I believe that the evidence from the testimony of the neighborhood residents shows that the tower would be an undue encroachment of their private property rights."

Pg 6 line 22 to 24 and Pg 7 line 3 to line 13:

"In Title 8 of the Ada County zoning, in Chapter 5 we have specific use standards. And Article B addresses conditional uses. Conditional use standards are covered in this section... Letter J states, 'The decision-making body may require additional conditions to mitigate impacts. The conditions may include, but are not limited to, any of the following. No. 4 on that list says that 'Other standards necessary to protect public health, safety, and welfare, and to mitigate adverse effects on surrounding property.' For emphasis, I'll repeat that: 'to mitigate adverse effects on surrounding property.' We don't have the word 'undue' there. We have a clear statement."

Commissioners, please note: In this hearing the Commissions overturned the Planning and Zoning Commission's decision and DENIED the conditional use permit for the cell tower. The matter was later heard by the courts. We would request that same consideration be afforded to us as was our neighbors. Please deny the CUP and, if necessary, let us have our day in court.

Thank you,  
Brad & Allie Bentley



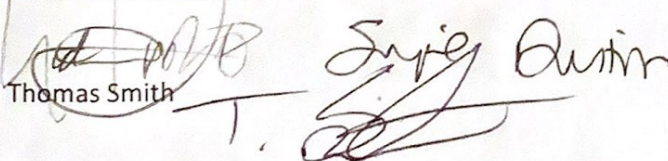
Krik & Jan Miller



Brian & Leslie Decker



Mike & Suzie Dustin



Jordan Miller

