



BEFORE THE ADA COUNTY PLANNING & ZONING COMMISSION

In re:

Application of Verizon Wireless

Project No. 201500547 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. 201500547 CU.

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 October 2, 2014.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on October 21, 2015.
3. Submission of Project #201500547 CU occurred on November 23, 2015 and Development Services scheduled it for public hearing before the Ada County Planning and Zoning Commission on February 11, 2016.
4. On December 9, 2015, 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.
5. On December 10, 2015, property owners within 1000 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 26, 2016. Notices of the public hearing will be posted on the

property by February 1, 2016 and a certification sign posting was submitted to the director by February 3, 2016.

C. As to the project description, the Commission finds based on the application materials found in the file for Project No. 201500547 CU the following:

- PROPOSED USES: Commercial Tower
- PROPOSED STRUCTURES: A conditional use for an 80 foot tall monopole cell tower, a 6 foot tall lightning rod, 12 panel antennas, 2 future microwave dishes, outdoor equipment cabinets and a generator.
- PROPOSED SITE IMPROVEMENTS: A six (6) foot tall chain link fence will be placed along the perimeter of the lease area for the cell tower. The ground cover will consist of 6" of ¾" clean crushed rock with no fines.

D. Based on the materials found in the file for Project No. 201500547 CU, the Commission finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: The parcel number is S0425325750 and the location of the property is 5220 N. Linder Road in Section 25, T.4N., R.1W.

2. OWNERSHIP: Donn Struckman

3. SITE CHARACTERISTICS

Property size: 2.214 acres

Existing structures: There is a 2,397 sq. ft. single-family dwelling with a 550 sq. ft. attached garage, a 3,906 sq. ft. barn, 838 and 1,309 sq. ft. accessory structures on the property.

Existing vegetation: The property consists of residential landscaping and bare ground.

Slope: The property is relatively flat.

Irrigation: Settlers Irrigation District.

Drainage: All drainage will be retained onsite.

Views: The site is generally visible from 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 currently zoned Rural Urban Transition (RUT) and is currently residential with bare ground.

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 property to the north is a school and is located in the R-8 District (City of Meridian).

South: The property to the south is commercial and is located in the C-G District (City of Meridian).

East: The property to the east is a school and is located in the R-8 District (City of Meridian).

West: The property to the west is single-family residence located in the R-4 District (City of Meridian).

G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201500547 CU, the Commission finds the following concerning services:

Access Street and Designation: Access to the tower is off of South Linder Road and is designated as a Minor Arterial road. There will be 12' access and utility easement from North Linder Road.

Fire Protection: Meridian Fire District.

Sewage Disposal: Individual Septic System

Water Service: Individual Well

Irrigation District: Settlers Irrigation District.

Drainage District: None.

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 **Article 8-5B of the Ada County Code** is applicable because the applicant has applied for a conditional use for an 80 foot tall commercial cell tower, antenna structure and a six foot lightning rod. The Commission finds that the application complies with **Article 8-5B of the Ada County Code**. Regarding Article 8-5B the Commission finds the following:

A. *The proposed use is not detrimental to the public health, safety, or welfare;*

The Commission finds that the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod, with outdoor equipment cabinets and a generator will not be a detriment to the public health, safety, or welfare. Adequate utilities and public services will be provided to the site. A Structural Analysis drawings stamped by a professional engineer was submitted with the application. The applicant and/or owner will need to obtain a building permit prior to commencing any development; whereby, the tower will be reviewed for compliance with the Ada County Building Code to ensure structural soundness.

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

The Commission finds that the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod and outdoor equipment cabinets and a generator as conditioned does not create undue adverse impacts on surrounding properties.

Although the cell 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 cell 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 Commission finds as evidenced in the record that the subject property is located within Meridian's Area of Impact; therefore, the Meridian Comprehensive Plan is applicable. The Commission finds that the area is designated as mixed use neighborhood on the Meridian Comprehensive Plan. The Commission finds that the cell tower is consistent with the applicable comprehensive plan as cellular phone service is a utility service that is utilized in populated areas and the cell tower will provide increased and improved coverage to the area and will offload cellular traffic from other towers. The City of Meridian commented on the application and stated that the tower is not necessarily incompatible within the mixed use neighborhood.

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 Commission finds that the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod and outdoor equipment cabinets and a generator complies with all applicable county ordinances. The cell tower complies with the purpose statement of the Rural Urban Transition (RUT) District because a cell tower does allow agriculture and rural residential uses to continue.

The Commission finds that the cell tower also complies with the specific use standards for a (Tower Or Antenna Structure, Commercial) Section 8-5-3-114 of this title. The Commission finds the following regarding compliance with the specific use standards in Section 8-5-3-114 of the Ada County Code.

- *General Standards For Commercial Tower Structures And Associated Equipment (8-5-3-114B):*

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

The Commission finds as conditioned that the facility shall comply with FCC standards regarding radio frequency (RF) emissions. As conditioned the Verizon Wireless engineer shall provide a letter stating that all FCC standards and requirements are met including compliance with the FCC's regulations regarding human exposure to radio frequency emissions and transmit levels.

- *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 that the Federal Aviation Administration and the Chief of the Idaho Bureau of Aeronautics reviewed the site and will not require an

obstruction evaluation because it does not exceed the maximum height or minimum distance from the nearest public use airport.

- *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 aviation easement.*

The Commission finds as conditioned, that the facility shall have approval from the Boise Airport Director prior to operation. The Boise Airport was notified of this project through the application's transmittal.

- *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 conditioned, that the applicant and/or owner shall be required to obtain all necessary and applicable permits, as may be required under federal, state, or local statutes, regulations, or ordinances including, but not limited to, building permits.

- *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 conditioned, that the facility shall be maintained in compliance with all federal, state, and local regulations and construction standards.

- *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 conditioned, that the owners of the facility shall have a continuous obligation to ensure the maintenance and upkeep of the facility and to prevent the creation of a public nuisance.

- *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 that the proposed facility meets the standards for outdoor storage areas in Section 8-5-3-78 as the equipment associated with the tower will be within a six foot vinyl fence with seven (7) ten (10') foot tall arborvitae trees along the north and western property line of the leased area.

- *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 (or lease boundary lines, if applicable) of the proposed site.*

The Commission finds that the director has notified all property owners within a minimum of 1,000 feet from the property boundary.

- *Removal: The tower and associated facilities shall be removed within sixty (60) days of cessation of use.*

The Commission finds as conditioned that the tower and associated facilities shall be removed within sixty (60) after cessation of use.

- *Tower Construction, Setback, And Fall Zone Standards:*
 - *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 Commission finds that the applicant submitted documentation from their engineer that the tower will be constructed to (TIA/EIA) 222 revision F standard entitled “Structural Standards For Steel Antenna Supporting Structures”.

- *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 as evidenced on the Ada County Zoning Map that the tower is not located within the Boise Air Terminal Airport Influence Areas Overlay District.

- *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 as evidenced in the record that the tower will be 80 feet in height, which is over twenty (20) feet in height and as such the tower has been designed to allow for future arrangements of antennas upon the tower. The applicant has submitted a letter of intent agreeing to future collocation on the tower.

- *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 as evidenced in the record that the tower exceeds the applicable height limits of the RUT base district. The setback requirements for the RUT district is 30 feet for any property line on an arterial or collector street; 25 feet for interior side and rear property lines,

which is greater than the 8 foot setback required by the tower height (1' for every 10' of tower height). As evidenced on the site plan the tower meet the required setback from the nearest property line.

- *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.

The Commission as evidenced on the site plan that the tower meets the fall zone requirements.

(2) If the fall zone does not lie completely within the subject property, the applicant must obtain a nonevocable 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 as evidenced by the site plan that the fall zone lies completely within the subject property.

- *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 Commission finds that the tower is architecturally and visually compatible with existing structures and vegetation while still being able to meet the structural needs of a cell tower. The property that the tower is located on has a residence and three accessory structures on the property, where the tower is to be located. The property to the north and east is a school site and the property to the south is a self-storage facility. Since the area is generally open and there are only a few trees nearby the applicant is not proposing any camouflage techniques as that would likely make the tower more noticeable than a tower with a normal gray metallic color.

- *Application Requirements (8-5-3-114C): The application materials shall include the following written documentation:*
 - *Suitability Analysis Of The Proposed Site:*

- *Description of the surrounding area within one mile of the subject site including topography;*

The Commission finds that the applicant has provided a written description of the surrounding area within one mile of the subject site including topography in his detailed letter. The applicant states in the detailed letter that the surrounding area within one mile of the subject site is mainly rural with residential housing.

- *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.*

The Commission finds that the applicant has provided propagation charts showing existing and proposed transmission coverage at the subject site and includes an area that is large enough to provide an understanding of why the facility needs to be placed at the chosen location. In addition, the applicant provides the rationale for the tower in his detailed letter. The rationale is that this tower location is designed to offload signals from three (3) other towers within a two (2) mile radius of the proposed site.

- *Signed Lease Agreement: If applicable, relevant portions of a signed lease agreement that requires the applicant to remove the tower and/or associated facilities upon cessation of use.*

The Commission finds that a lease agreement has been finalized and the applicant has committed to removal of the structure per Ada County Code.

- *Additional Application Requirements For Facilities That Require A Conditional Use Approval (8-5-3-114D):*

- *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 that preliminary drawings have been submitted and that the applicant has submitted a letter of intent to allow co-location on the tower. The applicant is conditioned to submit the stamped structural engineering document with the building permit. Future equipment co-location will also require a building permit and structural engineering documents stamped by a professional engineer.

- *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 colocated 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 that preliminary drawings have been submitted and the applicant is conditioned to submit the stamped structural engineering document with the building permit. The Ada County Engineer commented on the application and is requiring a record of survey and legal description of the lease parcel and legal description of the access and utility easement per I.C. 54-1202-11-ii-3.

- *A letter of intent committing that 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 that the applicant, in the detailed letter, states that they highly encourage other carriers to collocate on their facility. Verizon Wireless will allow the shared use of the facility with other carriers.

- *Written analysis demonstrating that the facility cannot be accommodated on an existing or approved tower within:*
 - *A two (2) mile radius for towers with a height over one hundred ten feet (110');*
 - *A one mile radius for towers with a height over eighty feet (80'), but not more than one hundred ten feet (110');*
 - *A one-half (1/2) mile radius for towers with a height over fifty feet (50'), but not more than eighty feet (80'); or*
 - *A one-fourth (1/4) mile radius for towers with a height of fifty feet (50') or less.*

The Commission finds that the applicant has stated in his detailed letter that there were no existing towers or structures within a two (2) mile radius that would allow collocation.

- *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 required 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 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 that the applicant has stated in his detailed letter that the facility cannot be accommodated on an approved tower or structure within the required search area. There are no other towers within the two-mile radius in which the applicant could collocate.

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

The Commission finds as conditioned that the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod, with outdoor equipment cabinets and a generator complies with all applicable county ordinances. In particular, the Ada County Building Official shall approve the construction of the cell tower and any accessory structures without building permits.

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

The Commission finds as conditioned that the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod, with outdoor equipment cabinets and a generator shall comply with all applicable state and federal regulations. As conditioned the applicant shall submit a record of survey by a Professional Land Surveyor to establish the boundary of the leased area, the utility easement and access.

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

The Commission finds that there has been no evidence of record submitted at this time to indicate that the 80 foot tall commercial cell tower and antenna structure, a six

foot lightning rod, with outdoor equipment cabinets and a generator will impede the normal development of surrounding properties.

- 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 Commission finds that adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the 80 foot tall commercial cell tower and antenna structure, a six foot lightning rod, with outdoor equipment cabinets and a generator since the property is already served by utilities and the property has roadway frontage onto a public road.

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. 201500547 CU complies with Article 8-5B of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Commission approves Project #201500547 CU, subject to the Conditions of Approval attached as Exhibit A.

DATED this _____ day of _____, 20____.

By: _____

Teri Murrison, Chairperson
Ada County Planning and Zoning Commission

ATTEST:

Mark Perfect, Secretary

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF PROJECT #201500547 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) A signed avigation easement with the Boise Airport Commission.
 - b) The Verizon Wireless engineer shall provide a letter stating that Verizon Wireless will ensure that all FCC standards and requirements are met including compliance with the FCC's regulations regarding human exposure to radio frequency emissions and transmit levels.
 - c) The Verizon Wireless engineer will submit documentation that the tower will be constructed to (TIA/EIA) 222 revision F standard entitled "Structural Standards For Steel Antenna Supporting Structures".
 - d) The applicant shall submit a record of survey by a Professional Land Surveyor to establish the boundary of the leased area, the utility easement and access.
2. 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 for the tower and the structure on the southeast corner of the property prior to commencing any development. Please contact the County Building Official at 287-7900 for fee and application information.
3. 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.

4. 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

EXHIBIT A

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.

5. The Director must approve any modification and/or expansion to the site plan.
6. 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.
7. Future equipment co-location will require building permits and structural engineering reports stamped by a professional engineer.
8. 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.
9. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
10. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
11. Any outdoor storage on the site shall comply with Section 8-5-3-78 of the Ada County Code.
12. Upon the sale or transfer of an approved conditional use, and if the approved use requires a license to operate, the subsequent property owner or operator must provide evidence of proper licensing to the director.
13. The tower and associated facilities shall comply with FCC standards regarding radio frequency (RF) emissions.
14. The facility shall be maintained in compliance with all federal, state, and local regulations and construction standards.
15. The facility shall be removed within sixty (60) days after cessation of use.