

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On March 16, 2009 the Hailey Planning and Zoning Commission considered an application submitted by the Idaho Army National Guard for Wireless Permit, Design Review, and Conditional Use Permit approvals for dual freestanding wireless towers, located at 311 Cedar Street East. The Commission, having been presented with all information and testimony in favor and in opposition to the proposal, hereby makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT

Notice

Notice for the application was published in the Idaho Mountain Express and mailed to property owners within 300 feet and public agencies and area media on February 25, 2009; and notice was posted on all external boundaries of the property on March 9, 2009.

Application

Idaho Army National Guard has submitted an application for a Wireless Permit, to be located at 311 Cedar Street. The applicant proposes freestanding, dual 35 foot wireless towers, connected with a ½ inch diameter cable, forming an array for the transmission and reception of digital signals. The applicant has concurrently submitted a zone change application to change the zoning from General Residential (GR) to Limited Business (LB). Freestanding wireless towers are conditional uses in the Limited Business (LB) district.

Procedural History

The applicant currently operates a wireless facility that was installed in the 1960s or 1970s. This application proposes no technical changes to the radio frequencies or operational powers; it only changes the supporting structure, from a building attached wireless facility, to a freestanding wireless facility.

The applicant recently received approval for the vacation of Cedar Street right-of-way, conditioned upon receipt of an access, utility and parking easement being granted to the City. In addition, the applicant received design review approval on December 5, 2008, to remodel the Armory Building's exterior. On February 27, 2009, the applicant submitted a Vacation Application for the alley right-of-way between Lots 8-12 and 20-24, Block 125. The applicant contemplates granting the City a sewer easement once the alley vacation is complete.

Standards of Evaluation

Section 8A of the Hailey Zoning Ordinance establishes the criteria for applications for Wireless Permits. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

Wireless Permit Application

Standards of Evaluation

8A.4 Zoning District Regulations, General Prohibitions and Restrictions.

- a. **The placement, use or modification of any wireless communication facility at any location within the City of Hailey is subject to the provisions of this Article.**

- b. **Limited Business District, Business District, Light Industrial District, Technological Industry District, Service Commercial Industrial District, and the Airport District.**
 - 1. **PWSFs or WCFs attached to street poles shall be a permitted use in the aforementioned zoning districts upon issuance of a Wireless Permit in accordance with the provisions of this Article.**
 - 2. **All other PWSFs or WCFs, excluding freestanding towers, shall be permitted as an accessory use in the aforementioned zoning districts of Hailey upon issuance of a Wireless Permit in accordance with the provisions of this Article.**
 - 3. **Freestanding towers and monopoles, excluding lattice towers, shall be a conditional use within these zoning districts of Hailey upon issuance of a Wireless Permit and a Conditional Use Permit in accordance with this Article and Hailey Zoning Ordinance Article XI.**

The applicant has concurrently applied for a rezone from General Residential (GR) to Limited Business (LB) to allow for a freestanding WCF tower. Freestanding towers are not permissible in the GR, but are allowed as a Conditional Use in the LB District. These Findings of Fact, Conclusions of Law and Decision, will also address the Conditional Use Permit review criteria. Approval of the Wireless Permit is contingent on the applicant receiving approval from the City Council on the proposed rezone and on receiving approval from the Commission for a Conditional Use Permit.

The applicant would prefer a lattice tower design, but has submitted an alternative monopole design as well. Pursuant to this standard, it is a condition of approval that the monopole design be installed and not the lattice tower design. Freestanding lattice towers are prohibited in the LB district.

- c. **Recreational Green Belt District, Limited Residential District, General Residential District, and Transitional District.**
 - 1. **PWSFs or WCFs shall be permitted only as a conditional use in the aforementioned zoning districts of Hailey upon issuance of both a Wireless Permit in accordance with this Article and Conditional Use Permit in accordance with this Article and Hailey Zoning Ordinance Article XI.**

2. Freestanding towers and monopoles shall be prohibited in these zoning districts of Hailey.

The current zoning is GR; however the applicant has concurrently applied for a rezone. Standard 8A.4.b.3, addresses the proposed tower design in the proposed LB district. The requested approval for a Wireless Permit and Conditional Use Permit for the proposed design is contingent on the City Council's final approval of the rezone.

d. Prohibitions. The following are prohibited within the City:

- 1. Lattice towers larger than two (2) feet by two (2) feet;**
- 2. WCFs and PWSFs that interfere with City and public safety communication systems and/or area television or radio broadcast.**

The applicant has submitted both a design for a lattice tower and a monopole tower. It is a recommended condition of approval that the monopole design be approved because lattice towers are prohibited with LB district and if a lattice tower were installed, it may increase the visual impacts felt by the adjacent residences.

- e. Restrictions. In all zoning districts within Hailey, no guy wire or other support wires shall be used in connection with antenna, antenna array or its support structure except when used to anchor the antenna, antenna array or support structure to an existing building to which such antenna, antenna array or support structure is attached.**

No guy wire or other support wires are used in connection with the antenna. However, there is a ½ inch diameter cable connecting the two towers, forming an array for transmission and reception of digital signals. This is not considered to be guy wire or a support wire, but rather a wire needed as an integral function of the wireless system.

8A.5 Location and Facility Type Standards and Priorities.

8A.5.1 Location Selection Criteria.

- a. PWSFs or WCFs shall be located on a Master Development Plan as set forth in Section 8A.6.2 of this Article;**

A Master Development Plan is not required for this application, based on Section 8A.6.2.b below.

- b. Applications shall be considered based on preferred siting criteria as set forth below in order of priority:**

- 1. City owned property due to the City's ability to control and monitor Ordinance compliance;**

The property is held under joint ownership with the City of Hailey and the State of Idaho.

- 2. Public Safety Communication Center;**
- 3. Co-location on existing buildings, structures, and towers in the zoning**

districts set forth in Section 8A.4.b above. In presenting another site, the applicant shall have the burden of proving that there are no such feasible existing structures upon which to locate;

- 4. Street poles;**
- 5. Existing buildings and structures, excluding freestanding towers and monopoles, located on residentially zoned land, as set forth in Section 8A.4.c above;**
- 6. In areas where the existing topography, vegetation, buildings and other structures provide the greatest amount of screening;**
- 7. Other locations consistent with the provisions of this Ordinance;**
- 8. Location of PWSFs or WCFs within floodplain areas, wetlands, hillside areas above twenty five percent (25%) slope, avalanche prone areas, areas where the FAA requires lighting on the facility, and areas for which the FCC requires an Environmental Assessment under the National Environmental Policy Act (NEPA) are to be avoided.**

8A.5.2 Co-Location Requirement. Co-location is considered to be the least intrusive and visually unobtrusive installation method because the equipment is attached to an existing structure. No new tower shall be permitted unless the applicant demonstrates a good faith effort to co-locate on an existing facility including good faith efforts to negotiate lease rights, and there is no reasonable alternative location, site, or design. The applicant shall submit clear and convincing evidence that:

- a. No suitable existing towers or structures are located within the City or immediate geographic area;**

The applicant has stated that high frequency antennas must be located within 200 feet of the transmitters in order to prevent line loss below the allowable level. The antenna must also be physically connected to the transmitter using a coaxial cable. Given these requirements, the applicant has stated that no suitable existing towers or structures are available.

- b. Existing towers or structures are not sufficiently designed to meet the applicant's master development plan;**
- c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment;**
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna;**
- e. The fees, costs, or contractual provisions required by the owner of the**

proposed co-location site in order to share an existing tower or structure or to adapt an existing tower or structure for share are prohibitive;

- f. Costs exceeding new tower development and construction are presumed (rebuttably) to be prohibitive;**
- g. No other reasonable alternative exists to the applicant's proposed PWSF or WCF;**
- h. In the case of Public Safety Communication Equipment, existing towers or structures do not satisfy requirements for public safety communication accreditation.**

In addition, no new tower shall be permitted unless the applicant provides a written statement to the City that the applicant shall make a good faith effort to allow other wireless carriers to co-locate antennas on the proposed tower where technically and economically feasible. This provision shall not apply to lattice towers.

The Planning Department has not received a written statement to the City from the applicant. Receipt of this statement by the Planning Administrator is a condition of approval.

8A.6 Application and Hearing Procedures.

8A.6.1 Permit Granting Authority.

- a. The Hailey Planning Administrator shall be the granting authority for Wireless Permits not requiring a Conditional Use Permit, subject to final approval or denial by the Planning and Zoning Commission on its consent agenda. Such approval or denial shall specify the ordinance and standards used in evaluating the application; the reasons for the approval or denial; and the actions, if any, that the applicant could take to obtain a permit. An applicant who is denied or aggrieved by a decision may appeal such decision as set forth in Section 8A.15.1 of this Article. The Planning Administrator may attach reasonable conditions to the approval of an application including, but not limited to, those that will minimize adverse impact on adjacent properties or public ways, and/or assure the PWSF or WCF is constructed and/or maintained in accordance with this Article and the Hailey Zoning Ordinance.**

The applicant has concurrently applied for a rezone from GR to LB. LB requires a Conditional Use Permit for all Wireless Permits. Therefore, a full hearing the Planning and Zoning Commission is required.

- b. The Planning Administrator shall also have the authority to approve or deny all PWSF or WCF Master Development Plans.**

The applicant has submitted written statement that no network of WFCs is required by the State of Idaho and the Idaho Military Division, and as such, they have requested a waiver of application for a Master Development Plan. See Section 8A.6.2.b below.

- c. The Commission shall have the authority to approve or deny all Conditional Use Permit applications for PWSFs or WCFs, which shall be jointly processed with Wireless Permit applications in accordance with the procedures for Conditional Use Permits set forth in the Hailey Zoning Ordinance Article XI.**

An application for a Conditional Use Permit has been received and is on file and was concurrently reviewed by the Commission with the Wireless Permit.

- d. **Prior to issuance of any Wireless Permit for a facility to be located on a street pole, or otherwise within the public right-of-way, an encroachment permit or right-of-way use agreement must be obtained by the applicant for the PWSF or WCF from the City and/or, where applicable, the Idaho Transportation Department (ITD). Any PWSF or WCF to be otherwise located on City owned property shall also enter into a lease agreement with the City subject to authorization by the City Council.**

The facility will not be located in a public right-of-way. The facility will be located on property held in joint ownership between the City of Hailey and the State of Idaho; therefore, no lease agreement is required.

8A.6.2 Master Development Plan.

- a. **An applicant for a Wireless Permit must obtain approval of a Master Development Plan by the Hailey Planning Administrator and pursuant to this Article prior to or concurrently with the processing of any Wireless Permit application. A Master Development Plan shall be submitted by each company seeking placement of a PWSF or WCF within the City.**

A Master Development Plan is not required for this application, based on Section 8A.6.2.b below.

- b. **The Planning Administrator may waive the processing of a Master Development Plan if the applicant demonstrates by clear and convincing evidence that a network of PWSFs or WCFs will not be required of the owner/operator of the proposed PWSF or WCF.**

The applicant has submitted written statement, conceding that a network will not be required.

- c. **The Master Development Plan shall illustrate a carrier's expected network of PWSFs or WCFs within and adjacent to the City. It shall forecast five years in advance the approximate locations of future facilities and the areas of service, but is not required to detail the specific siting or type of facility (e.g., pole, roof, building attached). Future amendments to each company's Master Development Plan shall be submitted and reviewed by the Planning Administrator prior to approval of additional PWSF or WCF facility locations.**
- d. **If a PWSF or WCF is placed without a Master Development Plan, the applicant shall file for and receive approval of a Plan prior to the filing of an application for another PWSF or WCF.**

The applicant has hereby been notified of this requirement.

Any future additions or changes may require a Master Development Plan to be filed with the City.

8A.6.5 Permit Form, Annual Reports, and Renewal.

- a. **Upon approval, the City shall issue the applicant a Wireless Permit in written form stating the exact PWSF or WCF approved and the conditions, if any, of said permit.**
- b. **As a condition of each Wireless Permit, the applicant shall file with the City on each anniversary date of the issuance of the permit an Annual Report containing the following information:**

1. **Name of permittee, landowner;**
 2. **Any co-location added to the site or removed from the site within the preceding year;**
 3. **Any modifications to the site in the preceding year, including change of ownership;**
 4. **Updated list of hazardous substances as set forth in Section 8A.6.3.3.o.5 of this Article together with a plan of the site showing the exact location of each such substance and means of access in case of an emergency;**
 5. **Date of the last physical inspection of the site by the permittee and any carrier on the site;**
 6. **The name and telephone number of contact person in case of emergency at the site and for any required maintenance of the site.**
 7. **Annual renewal fee as set by City Ordinance.**
- c. **The permit shall be automatically renewed annually upon the filing of an annual report and renewal fee as set by City Ordinance. Failure to file an Annual Report shall result in the expiration of the Wireless Permit. Expiration occurs one year after the due date of the Annual Report. A new application, together with all applicable fees, shall be required to reinstate the permit.**
- d. **Where an application is also required as set forth in this Article, the City shall issue the applicant a Conditional Use Permit in written form stating the exact PWSF or WCF and the conditions of said permit. Such permit shall be subject to the terms and conditions set forth in Hailey Zoning Ordinance Article XI, as well as any supplementary conditions set forth in this Article.**

The applicant is hereby notified of this requirement.

8A.7 Standards and Criteria.

8A.7.1 Applicability.

The standards identified in the subsections below shall apply to all Wireless Permits and all PWSFs or WCFs constructed or located in the City, unless otherwise herein specified. Such standards shall also be considered in the issuance of a Conditional Use Permit pursuant to this Article and Hailey Zoning Ordinance Article XI. The applicant for a Wireless Permit has the burden of demonstrating compliance with these standards.

8A.7.2 Height.

PWSFs or WCFs shall not exceed forty (40) feet AGL or the maximum permissible height of the zoning district where it is sited, whichever is lower, with the exception of facade and roof-attached PWSFs or WCFs or Public Safety Communication Equipment as described below:

- a. **Roof attached PWSFs or WCFs shall not exceed five (5) feet above the highest portion of the roof membrane, or continuous parapet wall. The antenna and support system for whip antennas shall not exceed ten (10) feet above the highest portion of that roof, including parapet walls.**
- b. **Facade attached PWSFs or WCFs shall not exceed five (5) feet above the facade to which it is attached.**
- c. **If the height of the building is in excess of the maximum height allowed within the zone and was legally established, then the combined height of the building and antenna shall not exceed the maximum height allowed by such approval, unless**

determined to be suitably camouflaged.

- d. Street pole attached PWSFs or WCFs may only extend six (6) feet above the existing street pole. A maximum extension of ten (10) feet from the top of the street pole, may be permitted pursuant to standards provided in Section 8A.7.9 of this Ordinance, if a utility disturbance can be clearly demonstrated.**
- e. Public Safety Communication Equipment located on the same property as a Public Safety Communication Center the height of the support structure may be allowed a maximum of seventy five feet (75') AGL.**

The applicant proposes a freestanding tower; therefore, standards a) – e) are not applicable. The property resides within the Townsite Overlay District. The maximum building height in the Townsite Overlay district for GR is 30 feet and LB is 35 feet. The proposed tower measures 35 feet. Since the property is currently zoned GR, it is a condition of approval that the concurrently submitted rezone application receive approval by the City Council.

8A.7.3 Setbacks.

All PWSFs or WCFs, except those mounted on street poles, shall comply with the building setback provisions of the zoning district in which the PWSF or WCF is located or the requirements of this subsection, whichever is greater. At a minimum, the following setbacks shall be observed:

- a. Street Pole Attached. No setback when constructed within the public right-of-way and under the provisions of Section 8A.7.9 of this Article;**

Not applicable.

- b. Facade Attached. The maximum projection shall be eighteen (18) inches. The location of a PWSF or WCF on the wall of a legal non-conforming structure is permitted. However, the PWSF or WCF shall not be located on an exterior wall in a manner that will increase the degree of nonconformity. Additional standards for antennas attached to the facade of structures are listed in Section 8A.7.9 of this Article;**

Not applicable.

- c. Roof attached PWSFs or WCFs shall be set back from the edge of the building a distance equal to the height of the antenna and support system as measured from the roof membrane;**

Not applicable.

- d. Freestanding Tower. Setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall be set back from all property lines one hundred percent (100%) of the height of the tower as measured from the base of the tower to the highest point of the tower including antennas;**

The freestanding tower measures 35 feet in height. The north side yard setback, measured from the tower north of the Armory building, has a setback of 39 feet. The property line to the south of the Armory parcels, was recently extended when the Council approval the vacation of Cedar Street, on February 9, 2009. The north half of vacated Cedar Street was recently deeded to the City and the State of Idaho, who hold joint ownership in the subject property. Taking this recent decision into consideration, the tower on the south side of the Armory building has a 100 foot south side setback to the center line of vacated

Cedar Street. Without the vacation of Cedar Street, the south side setback would be 23 feet, which would not meet the minimum setback requirements set forth by this standard.

- e. Equipment enclosure. Underground vaults or above ground structures shall comply with all setback and other requirements of the underlying zoning district in which the real property is located;**

All equipment, related to the wireless system, will be housed within the building. There are equipment enclosures shown on-site; however, these were approved at the time the Armory received Design Review for the remodel of the building by the Hearing Examiner, on December 5, 2008, and are not part of the wireless system.

- f. No freestanding PWSFs or WCFs or equipment enclosures shall be located between the face of a structure and a public street, bikeway, park or residential development, except for approved facade-attached PWSFs or WCFs located on existing or new permitted structures in accordance with this Article.**

All equipment, related to the wireless system, will be housed within the building. There are equipment enclosures shown on-site; however, these were approved at the time the Armory received Design Review for the remodel of the building by the Hearing Examiner, on December 5, 2008, and are not part of the wireless system.

8A.7.4 Design Standards.

The following design criteria shall be met by each application for Wireless Permit approval.

- a. Architectural Compatibility.**

- 1. All facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening and camouflage to be compatible with existing architectural elements and building materials and other site characteristics. The applicant shall use the smallest and least visible antennas possible, as well as the smallest possible equipment enclosure.**

The southernmost tower is located to the southwest of the Armory building. This would potentially screen the lower portion of this tower from the adjacent properties to the west, which is a residential area. This southernmost tower is not enclosed or screened from the south or the west side views. The properties adjacent to the south and west are primarily non-residential uses. South of the property is Roberta McKercher Park and to the west are the Blaine County Senior Center and the Silver Creek Alternative School. The northernmost tower is enclosed by an existing chain link fence; however, the property adjacent to the north of the northernmost tower is residential.

- 2. Equipment enclosures of PWSFs or WCFs shall be placed in underground vaults or within buildings where possible. All other equipment enclosures shall be designed consistent with the requirements of this Article. The equipment enclosure shall be constructed so as to minimize its visual impact. Landscape planting shall be installed and maintained to completely obscure the visibility of the equipment enclosure from the developed street and adjacent properties. Sight distance clearance shall be maintained for the equipment enclosure and associated landscape pursuant to the requirements of this Article and other applicable Ordinances and standards of the City. Any above ground equipment enclosure greater than 90 cubic feet in size shall be subject to Design Review pursuant to Article VI-A of**

this Ordinance.

All equipment, related to the wireless system, will be housed within the building. There are equipment enclosures shown on-site; however, these were approved at the time the Armory received Design Review for the remodel of the building by the Hearing Examiner, on December 5, 2008, and are not part of the wireless system.

b. Landscaping or Screening Standards.

- 1. Support structures and equipment enclosures shall be installed so as to maintain and blend with existing landscaping on-site, including trees, foliage and shrubs, whether or not utilized for screening;**
- 2. Additional landscaping and screening shall be installed to visually screen the above ground equipment enclosures. Landscaping and screening shall consist of a combination of trees, foliage and shrubs of dense spacing in one of the following designs:**
 - (i) A screening wall or fence and a five (5) foot wide landscape planter located in front of the wall or fence;**
 - (ii) A ten (10) foot wide landscape planter; or**
 - (iii) Any combination of existing vegetation, topography, decorative walls/fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping described above.**

All equipment, related to the wireless system, will be housed within the building. There are equipment enclosures shown on-site; however, these were approved at the time the Armory received Design Review for the remodel of the building by the Hearing Examiner, on December 5, 2008, and are not part of the wireless system.

- 3. No PWSF or WCF shall be at a height greater than ten (10) feet above the average height of the existing, mature trees located on site.**

There are no existing mature trees on the subject property. There are numerous trees, some of which are in excess of 35 feet in height located on adjacent properties to the north and south of the Armory. The trees on the property to the north of the Armory, on the Inn at Ellsworth Estate, are significantly taller than those on the property to the south of the Armory, in Roberta McKercher Park, thereby potentially providing greater screening on the north end of the Armory than the south end.

- 4. Where mature trees or landscaping does not exist, the appropriateness of siting support structures and equipment enclosures shall be determined by considering the context of the surrounding topography, buildings or other vertical structures.**

There are no existing mature trees on the subject property. There are numerous trees, some of which are in excess of 35 feet in height located on adjacent properties to the north and south of the Armory. The trees on the property to the north of the Armory, on the Inn at Ellsworth Estate, are significantly taller than those on the property to the south of the Armory, in Roberta McKercher Park, thereby potentially providing greater screening on the north end of the Armory than the south end.

There are numerous power poles adjacent to the site, a flag pole on-site, and a tall (in some places 6-10 feet or more) vertical chain link fence located on site, that may help lessen the perceived impact, when taken into context. The Inn at Ellsworth Estate has a high chain link fence directly adjacent to the north side of the Armory, which encloses its tennis court.

5. **Upon completion, the permittee(s) of the facility shall be jointly and severally responsible for the continued maintenance and replacement of all required landscaping and screening materials.**

c. Color and Materials Standards.

1. **PWSFs or WCFs located on buildings, walls, or roofs, or structures shall be painted or constructed of materials to match the color of the structure directly behind them to reduce the visibility of the PWSF or WCF.**

Not applicable; the application proposes a freestanding tower.

2. **To the extent any PWSFs or WCFs extend above the height of the vegetation immediately surrounding it, they shall be painted in a nonreflective light gray, light blue or other hue, which blends with the skyline and horizon.**

Meeting this requirement is a condition of approval.

d. Facility Lighting and Signage Standards.

1. **Facility lighting shall be designed so as to meet but not exceed minimum requirements for security, safety and/or FAA regulations. Lighting of antennas or support structures shall be prohibited unless required by the FAA and no other alternatives are available. In all instances, the lighting shall be designed so as to avoid glare and minimize illumination on adjacent properties. No strobe or flashing lights shall be permitted unless no other lighting can meet FAA regulations and the applicant provides written confirmation from the FAA that the specific WCF under review cannot meet its regulations by the use of any other alternative other than such lighting. Lighting shall also comply with any applicable City lighting standards.**

No lighting is proposed at this time. Lighting shall be prohibited unless, required by the FAA and no other alternatives are available. If lighting is allowed by these exceptions, all lighting must comply with the above requirements.

2. **Signs shall be limited to those needed to identify the telephone number(s) to contact in an emergency, public safety warnings, certifications or other required seals. These signs shall also comply with the requirements of the City's sign regulations.**

It is a condition of approval that warning signs shall be displayed to protect public safety, if required by the Fire Chief. The quantity, size, placement, and content shall be approved by the Fire Chief.

3. **All facility lighting shall comply with the standards as set forth in Article VIII B of this Ordinance.**

No lighting is proposed; however, if the FAA requires lighting, meeting this requirement is a condition of approval.

8A.7.5 Parking Standards.

- a. **If the freestanding PWSF or WCF is fully automated, one off-street parking space shall be provided for maintenance workers.**

- b. Non-automated PWSFs or WCFs shall provide documentation regarding the provision of adequate off-street parking. Parking will be sufficient to accommodate the maximum number of employees at any one time.**

The tower is fully automated. The Hailey Readiness Center (Armory), received Design Review approval on, December 5, 2008, for a remodel to the exterior of the existing building. At this time, the parking area(s) were revised from its previous parking configuration. The applicant received approval for 13 off-street parking spaces; only nine (9) were required. Therefore, one of the four (4) additional parking spaces may provide for the required one (1) maintenance worker space.

8A.7.6 Access Standards.

In addition to ingress and egress requirements of the International Building Code and the International Fire Code, access to and from PWSFs or WCFs, and equipment shall be regulated as follows:

- a. No PWSF or WCF or equipment shall be located in a required parking, maneuvering or vehicle/pedestrian circulation area such that it interferes with, or in any way impairs, the intent or functionality of the original design.**

No equipment, related to the towers, is located within the parking or pedestrian circulation areas.

- b. The PWSF or WCF shall be secured from access by the general public but access for emergency services must be ensured. Access roads shall comply with Fire Department and other City standards for emergency vehicular access.**

Vacated Cedar Street, was approved with a 26 foot-wide access easement, which was determined at the time of the Vacation, to be sufficient for emergency access and complies with the IFC. The north tower is enclosed within an existing chain link fence. The south tower is not enclosed. The south tower shall be secured from access by the general public, but access for emergency services must be ensured. Meeting this requirement is a condition of approval.

8A.7.7 Scenic Landscapes and Vistas Standards.

- a. Freestanding PWSFs or WCFs shall not be located within open areas that are visible from public roads, recreational areas, or residential development. As specified in Subsection 8A.7.4.a.1 above, PWSFs or WCFs shall be installed to blend with existing landscaping and structures.**

The Armory building is 22 feet in height. The proposed tower would extend beyond the building's height by 13 feet. The properties to the north and east of the Armory are residential. The properties to the west are zoned LB and GR, but are more commercial in nature. Roberta McKercher Park is located directly to the south of the subject property. The Inn at Ellsworth Estate is located directly to the north of the subject property. It is anticipated that the towers and antenna would be visible from 3rd Street and 4th Street. Cedar Street was recently vacated, with the inclusion of an access easement; therefore, it is no longer a public street.

- b. Any PWSF or WCF that is located within three hundred (300) feet of a scenic vista, scenic landscape or scenic road as designated by the City, in addition to height regulations specified in Section 8A.7.2 above, shall not exceed the height of vegetation at the proposed location. If the facility is located further than three hundred (300) feet from the scenic vista, scenic landscape, or scenic road, said Section 8A.7.2 shall apply exclusively.**

There are no known scenic landscapes, roads, or vistas designated by the City, which the Armory falls within 300 feet of. Broadford Road, Carbonate Mountain, and Della View Mountain are known scenic

areas and none of them fall within 300 feet of the proposed towers.

8A.7.8 Environmental Standards.

- a. PWSFs or WCFs shall not be located in floodways and wetlands. PWSFs or WCFs shall also be avoided whenever possible in floodplains and disturbance to floodplain areas shall be minimized.**

Not applicable. The location of the proposed facility is not located near a wetland or within the floodplain.

- b. PWSFs or WCFs shall not be located in riparian setbacks along watercourses.**

Not applicable. The location of the proposed facility is not near a riparian area or the Big Wood River.

- c. PWSFs or WCFs shall avoid locating in avalanche prone areas, as determined by site-specific studies on a case-by-case basis as part of the PWSF or WCF approval process. Evidence shall be submitted to demonstrate that no location outside an avalanche prone area can accommodate the applicant's proposed antenna as specified in the co-location requirement section above, Section 8A.5.2. PWSFs or WCFs located within avalanche prone areas shall provide proof of FCC acceptance of the proposed location.**

Not applicable. The location of the proposed facility is not within the Hillside Overlay District.

- d. No hazardous waste shall be discharged on the site of any PWSF or WCF. If any hazardous materials are to be used on-site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten per cent (110%) of the volume of the hazardous materials stored or used on-site.**

The applicant has submitted a list of hazardous materials stored on-site, which include the following:

1. 5 gallons of gasoline
2. 5 quarts of motor oil
3. 5 gallons of bleach
4. 5 gallons of Natural Orange Cleaner
5. 5 gallons of Johnson Floor Finish

The applicant has stated that none of the items listed are on the 2007 ATSDR or 2007 CERCLA priority list of hazardous substances.

Meeting the requirements stated above, in d., is a condition of approval.

- e. Storm water run-off shall be contained on-site.**

The City Engineer shall verify that storm water run-off shall be contained on-site. Meeting this requirement is a condition of approval.

- f. PWSFs or WCFs locating within the floodplain shall comply with the additional placement standards set forth in the Hailey Floodplain Ordinance and provide written proof of FCC acceptance of the proposed location.**

Not applicable. The proposed location of the facility is not located near or within the floodplain.

- g. Above ground equipment for PWSFs or WCFs, exclusive of roof and facade attached PWSFs or WCFs, shall not generate noise in excess of fifty (50) decibels (db) at the property line.**

No noise will be generated by the tower or antenna.

- h. Roof or facade attached equipment for PWSFs or WCFs shall not generate noise in excess of fifty (50) db at ground level at the base of the structure closest to the antenna.**

Not applicable.

- i. The noise standards of this Article require measurements by a qualified acoustical engineer.**

If the facility is found to generate noise, after its installment, only an acoustical engineer shall identify and measure whether the tower meets the requirements of the above standard, f. If f. is not met, the Wireless Permit maybe subject to revocation.

8A.7.9 Street Pole and Facade Attached Standards.

Section 8A.7.9, is not applicable; the proposal is for a freestanding tower.

8A.7.10 Review of Alternatives.

- a. In reviewing the alternatives submitted with regard to an application under Section 8A.6.3.3.o.11 of this Article, the City shall compare the PWSF or WCF proposed in the application with the alternatives submitted. Comparisons shall be made between (a) the location selection criteria set forth in Section 8A.5.1, (b) the co-location requirement set forth in Section 8A.5.2, and (c) the standards and criteria set forth in Section 8A.7, in order to determine which best meets those standards, criteria and priorities and which is the least intrusive on the values set forth in the intent and purpose set forth in this Article.**

Section 8A.5.1: The applicant proposes to place the facility on the highest priority of preferred siting locations – City property.

Section 8A.5.2: The applicant has stated that high frequency antennas must be located within 200 feet of the transmitters in order to prevent line loss below the allowable level. The antenna must also be physically connected to the transmitter using a coaxial cable. Given these requirements, the applicant has stated that no suitable existing towers or structures are available.

Section 8A.7: addresses Standards and Criteria in detail.

The Commission reviewed these Sections in order to determine which is the least intrusive on the values set forth in the intent and purpose of this Wireless Permit Ordinance, which are as follows:

8A.1 Purpose and Intent.

- a. The unique character, landscapes, and scenic vistas of Hailey are among its most valuable assets. Preserving and promoting those assets are essential to the long-range social and economic well being of the City and its inhabitants. Protecting these assets requires sensitive placement and design of wireless communication facilities so that these facilities remain in scale and harmony with the existing character of the community.*
- b. This Ordinance is intended to provide reasonable standards and procedures for the development of PWSFs and WCFs that will serve citizens, the traveling public, and others within the City in order to:*
 - 1. Preserve the character, viability and property values of areas which are in close proximity to PWSFs or WCFs by minimizing the adverse impacts of such facilities and protecting the public safety through careful location, siting, design*

- and screening thereof;*
2. *Protect the health, safety and welfare of persons living or working in the area surrounding such PWSFs or WCFs from possible adverse impacts (within the confines of the Federal Telecommunications Act of 1996) relating to the placement, construction or modification of such facilities;*
 3. *Provide development that is compatible in appearance with allowed uses of the underlying zoning district in which such facilities are placed;*
 4. *Promote the public welfare by facilitating the City's permitting process to encourage fair and meaningful competition among providers of wireless facilities and, to the greatest extent possible, extend to all Hailey citizens high quality wireless communication services at reasonable costs;*
 5. *Encourage the use of existing structures for PWSFs or WCFs where appropriate;*
 6. *Encourage PWSFs or WCFs that have the least impact on, and the greatest compatibility with, the character of the community, surrounding land uses and the general public health, safety and welfare;*
 7. *Encourage the joint use and clustering of antenna sites and structures, when practical, to help reduce the number of such facilities which may be required in the future to service the needs of customers, thereby averting the unnecessary proliferation of facilities on private and public property;*
 8. *Provide necessary public safety radio communication infrastructure to ensure the health, safety and general welfare of the public.*

8A.8 Safety Requirements.

- b. Federal Requirements. All PWSFs or WCFs shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the owners of the PWSFs or WCFs governed by this Article shall bring such PWSFs or WCFs into compliance with the revised standards and regulations. Failure to bring PWSFs or WCFs into compliance with such revised standards and regulations shall constitute grounds for revocation of the Wireless Permit and removal of the PWSF or WCF at the owners' expense.**

The applicant is hereby notified of this requirement and it has been incorporated as conditions of approval. The FCC Office of Engineering and Technology indicates that no hazard exists for stations in the frequency band of 3-20 MHz with 225w or less of effective radiated power. The applicant has stated that the proposed tower will operate within these parameters.

- c. Antenna Support Structure Safety. The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas shall not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with anti-climbing devices, as approved by the manufacturers.**

It is a condition of approval that all climbing devices shall be removed up to 12 feet, measured at the ground. The tower is subject to building permit review and shall comply with the requirements for radio towers under Section 3180 of the 2006 IBC. In addition, all structural drawings shall be stamped by a structural engineer licensed in the state of Idaho.

8A.9 Maintenance Requirements.

- a. Each permittee shall maintain its PWSF or WCF in a good and safe condition, preserving the original appearance and concealment, disguise or screening elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state and local requirements. Such maintenance shall include, but not be limited to, such items as painting, repair of equipment and maintenance of landscaping. If the permittee fails to maintain the facility, the City may undertake the maintenance at the expense of the permittee or terminate the permit, at its sole option.**
- b. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the EIA, as amended from time to time. If, upon inspection, the City concludes that the tower fails to comply with such codes or standards and constitutes a danger to person or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days constitutes grounds for revocation of the Wireless Permit and removal of the PWSF or WCF at the owner's expense.**

The applicant is hereby notified of these requirements and they have been incorporated as a condition of approval.

8A.10 Modification of PWSFs or WCFs

- b. New Permit. Any proposed change or addition to any PWSF or WCF shall require the issuance of a new Wireless Permit, pursuant to the requirements of this Ordinance. This provision shall not apply to routine maintenance of a PWSF or WCF, to the replacement of any portion of the PWSF or WCF with identical equipment, or to a change in ownership.**
- b. Facility Upgrade. At the time of modification or upgrade of facilities, existing equipment shall be replaced with equipment of equal or greater technical capacity and reduced in size so as to reduce visual impact.**
- c. Existing Uses. Any PWSF or WCF lawfully existing on the effective date of this Article shall be allowed to continue operation as it presently exists, subject to Section 8A.3.2 of this Article. Routine maintenance and repair shall be permitted. However, any construction involving the replacement of support structure apparatus, antennas or any exterior alteration of the PWSF or WCF, or any component thereof, shall comply with all the requirements of this Ordinance. Emergency service PWSFs or WCFs may obtain a waiver from the Commission in order to preserve the public health and safety. In order to receive a waiver, the Commission must determine that the modifications cannot comply with this Article without an extreme burden to the citizens of Hailey. The waiver shall be noticed by the Commission under the public hearing notice requirements identified in Section 8A.6.4.d of this Article.**

The applicant is hereby notified of these requirements. Any future change or upgrade would

require a new Wireless Permit and at that time, would require existing equipment to be replaced with equipment of equal or greater technical capacity and reduced in size so as to reduce visual impact.

CONCLUSIONS OF LAW, AND DECISION

Based upon the above Findings of Fact, the Commission makes the following Conclusions of Law and Decision:

1. That adequate notice, pursuant to Zoning Ordinance No. 532, Section 8A.6, was given.
2. That the project is in accordance with the Hailey Comprehensive Plan.
3. That the project does not jeopardize the health, safety, or welfare of the public.
4. That upon compliance with the conditions set forth, the project conforms to the required specifications outlined in the Design Standards adopted by the City of Hailey.
5. That the Planning & Zoning Administrator has the authority to approve minor modifications to this project prior to, and for the duration of a valid Building Permit.
6. That the project shall receive Wireless Permit approval subject to the following conditions:
 - a) All Fire Department and Building Department requirements shall be met. Items to be completed at the applicant's sole expense include, but will not be limited to, the following requirements and improvements:
 1. If required by the Fire Chief, warning signs shall be displayed to protect public safety, and the quantity, size, placement, and content shall be approved by the Fire Chief.
 2. The tower shall comply with requirements for radio towers under Section 3108 of the 2006 International IBC.
 3. All structural drawings shall be stamped by an Idaho licensed structural engineer.
 4. The applicant shall ensure that the towers are maintained in compliance with standards contained in applicable City building codes and the applicable standards for towers that are published by the EIA, as amended from time to time.
 - b) Lighting shall be prohibited unless required by the FAA and no other alternatives are available. If lighting is allowed by these exceptions, all exterior lighting shall comply with the Outdoor Lighting Ordinance.
 - c) Any future additions or changes may require a Master Development Plan to be filed with the City.
 - d) The City Engineer shall verify that storm water run-off shall be contained on-site.
 - e) The applicant shall install the monopole tower. Freestanding lattice towers are prohibited in the Limited Business District.
 - f) The applicant shall maintain its WCF in a good and safe condition, preserving the original

appearance and concealment, disguise or screening elements incorporated into the design at the time of approval and in a manner which complies with all applicable federal, state and local requirements.

- g) The Wireless Facility shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the applicant shall bring such WCFs into compliance with the revised standards and regulations. Failure to bring WCFs into compliance with such revised standards and regulations shall constitute grounds for revocation of the Wireless Permit and removal of the WCF at the owners' expense.
- h) No hazardous waste shall be discharged on the site. If any hazardous materials are to be used on-site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least one hundred ten per cent (110%) of the volume of the hazardous materials stored or used on-site.
- i) The south tower shall be secured from access by the general public, while still allowing access for emergency services, to be determined by the Fire Chief.
- j) Any additional WCFs or PWSFs will require a Master Development Plan to be filed with and approved by Planning and Zoning Administrator.
- k) The concurrently submitted Rezone, Design Review, and Conditional Use Permit Applications shall receive approval, prior to the issuance of a building permit.
- l) An anti-climbing device shall be installed on both proposed towers, and shall include removing all climbing devices up to 12 feet, measured at the ground.
- m) The tower and antenna shall be painted and remain painted, in a non-reflective light gray, light blue or other hue, which blends with the skyline and horizon.
- n) Written statement shall be received by the City, at or before the issuance of a Building Permit, which states that the applicant shall make a good faith effort to allow other wireless carriers to co-locate antennas on the proposed tower where technically and economically feasible.
- o) The Planning & Zoning Administrator has the authority to approve minor modifications to this project prior to, and for the duration of a valid Building Permit.

CONDITIONAL USE PERMIT

Standard of Evaluation

Section 11.4 of the Hailey Zoning Ordinance establishes the standards for proposed conditional uses. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

a) Will, in fact, constitute a conditional use as established for the zoning district involved;

The applicant has concurrently applied for a rezone from GR to LB. Section 4.5.3.i. of the Hailey Zoning Ordinance states the following:

Conditional uses in the LB District are limited to the following:

- a. *Gasoline Stations and Automotive Repair and Maintenance.*
- b. *Restaurants.*
- c. *Wholesale distributors.*
- d. *Convenience Stores.*
- e. *Public Service, Public Use and Public Utility Facilities.*
- f. *Medical and personal care stores.*
- g. *Finance and insurance firms.*
- h. *Construction contractors' offices with no exterior storage.*
- i. *PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.)*
- j. *Above ground flammable liquid tanks utilized by a public use.*
- k. *Temporary Structures.*

b) Will be harmonious with and in accordance with the general objectives or any specific objective of the Comprehensive Plan and requirements of this Ordinance;

The Commission considered the following Sections of the Comprehensive plan and determined that the Conditional Use Application is in accordance with the objectives of the Comprehensive Plan:

1.0 Natural Resources:

1.5 Physical Environment

Goal: Protect and enhance the physical environment of Hailey.

3. Policy: Recognize the value of and preserve, enhance or restore natural resources such as: water resources, scenic areas, view corridors, wildlife habitats, and ecosystems.

e. Identify, establish and protect view planes from identified special places.

f. Establish a Scenic Highway Corridor Overlay District to preserve the views at the entrances to the community.

2.6 Hazard Response Readiness

Goal: The Goal of this section is to ensure City readiness to respond to emergencies caused by natural or man-made hazards.

3.0 Special Sites, Area, and Features:

3.2 Cultural and Scenic Amenities

I. Goal: The goal of this section is to retain and protect features of special interest to the community, and to protect the scenic value of the Wood River Valley.

- c) Will be designed, constructed, operated, and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;**

The Hailey Readiness Center (Armory) has occupied this lot for many years as a nonconforming use. If the rezone is approved, the use will continue to be nonconforming, without an additional Conditional Use Permit, as required in the LB district. There are residential areas to the east and north of the property, which the Commission considered when reviewing this application. The wireless towers were not deemed to change the essential character of the area, given that the Armory has been operating at this location since 1973. In a separate application for the rezone, the Commission recommended that the rezone be approved, pursuant to a Development Agreement, which would revert the property back to General Residential, if the Armory were to ever cease operations at this location.

- d) Will not be hazardous or disturbing to existing or future neighboring uses;**

The tower does not operate within a hazardous frequency range and no noise would be generated. The Commission considered the visual disturbances that may impact neighboring uses, particularly the residences to the east and north of the Armory. They determined that there would be no substantial impact. In addition, the Commission approved the Wireless Permit Application, with the condition that the Hailey Fire Department shall determine if removing the lower 12 feet of latter rungs is sufficient to protect the public, and if not, additional measures shall be taken to ensure the access by the public is prohibited at the southernmost tower.

- e) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, and drainage structure. Agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;**

It is anticipated that essential public facilities and services will be able to be adequately provided.

- f) Will not create excessive additional requirements at public cost for public facilities and services;**

It is not anticipated that the proposed conditional use would create excessive additional requirement at public cost for public facilities and services.

- g) Will not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water or air pollution, or safety hazards;**

The applicant states that the proposed tower will not generate any noise and that the antenna's capacity is 3-30 MHz and 100w of effective radiated power. The average radio frequency used would be approximately 4 MHz; however, in a state of emergency the radio would transmit more

frequently. The FCC claims that no hazard exists for stations that operate within the frequency band of 3-30 MHz and up to 225w of effective radiated power.

- h) Will have vehicular approaches to the property, which shall be designed so as not to create an interference with traffic on surrounding public thoroughfares;**

There are currently vehicular approaches to the property via an access easement for Vacated Cedar Street. It is not anticipated that the proposed conditional use will generate additional traffic.

- i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature.**

It is not anticipated that the proposed tower will result in the loss, damage, or destruction of any natural or historic features. The scenic vistas or view sheds may be affected. The Commission referred to the photo simulations to better understand the scenic impacts when considering this criterion.

CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Commission makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Section 11.3 of the Hailey Zoning Ordinance and Idaho Code Section 67-6512, was given for the public hearing.
2. The application is in accordance with the Comprehensive Plan.
3. Upon compliance with the conditions stated below, the application substantially meets all criteria (a) through (i) set forth in Section 11.4 of Zoning Ordinance No. 532.
4. The applicant shall receive a Conditional Use Permit, subject to the following conditions:
 - a) All Fire Department and Building Department requirements shall be met.

All Conditional Use Permits are subject to review and revocation pursuant to Section 11.9 of the Hailey Zoning Ordinance.

DESIGN REVIEW

Standards of Evaluation

Articles IV and VIA of the Hailey Zoning Ordinance establish the criteria for applications for Zoning and Design Review. For each applicable standard (in bold print), the Commission makes the following Findings of Fact:

4.13.6 Bulk requirements:

Maximum height in the General Residential and Townsite Overlay District is 30 feet.

Proposed height is 35 feet.

Height of Building is defined as: The greatest vertical distance measured from the lowest

point of record grade within any portion of the building footprint to the highest point of the roof surface thereof, exclusive of cupolas, chimneys up to ten (10) feet above the highest point of the roof surface, steeples, and spires.

The applicant is hereby advised that height of building or tower as this case may be, is from record (natural) grade, not from finished grade or finished floor.

Minimum Setbacks in LR, GR, TN, and LB Districts:

Setback from any street right-of-way – twelve (12) feet. The following exceptions apply:

- a. **Unenclosed features of a residence (e.g. front porches, stoops, and decks without walls) shall be no closer than five (5) feet to the lot line. Such features do not include carports.**
- b. **No garage door shall be within twenty (20) feet of any street right-of-way, as measured from the garage door to the street providing access to the garage.**

Proposed setback is 100 feet from the southern tower to the southern front lot line and 39 feet from the northern tower to the northern side lot line.

Setback from any alley right-of-way – six (6) feet.

Not applicable, the proposed alley is currently platted; however, a portion of the Block 125 alley right-of-way runs through the center of the subject property and is not being utilized as an alley right-of-way. The applicant has recently submitted an application to vacate the alley and is scheduled for a hearing on April 13, 2009.

Setback from any Idaho Transportation Department/Wood River Trail right-of-way – five (5) feet.

Setback from property lines abutting other private property --

- a. **Base setback – fifteen percent (15%) of lot width, or 10 feet, whichever is less.**

However, no such setback shall be less than six (6) feet.

The property is only adjacent to private property lines along the north side, which has a setback of 39 feet. This setback is acceptable based on Section 8A of the Zoning Ordinance, which governs Wireless Permits and requires a setback of 100%. The proposed tower is 35 feet, which meets this requirement.

Maximum Lot Coverage:

The proposed tower will consume an insignificant amount of lot coverage and there are no proposed equipment enclosures related to the Wireless Permit; therefore, this standard is not applicable. Lot coverage of the building and proposed equipment enclosures, not related to the Wireless Permit, has recently been addressed when the building received Design Review approval on December 5, 2008, for an exterior remodel.

4.13.7 Non-Conforming Buildings

Where an existing building is non-conforming with respect to setbacks, expansion of said building within the plane of the furthest intrusion shall be permitted, provided that the non-conformity with respect to the distance of the setback is not further increased. Such expansion shall not be considered to be increasing the degree of non-conformity pursuant to Section 13.6 of this Ordinance.

This section is not applicable to the Design Review of the proposed towers and antenna since this standard was addressed when the building and proposed equipment enclosures received Design Review approval on December 5, 2008, for an exterior remodel.

4.13.8. Lot Line Vacations

If a parcel in single ownership consists of two (2) or more Original Townsite lots, or a combination of lot(s) and portions of lot(s), the internal Original Townsite lot lines underneath or located within a required setback of proposed and existing buildings shall be vacated prior to the issuance of a Building Permit for any new building.

This section is not applicable to the Design Review of the proposed towers and antenna since this standard was addressed when the building and proposed equipment enclosures received Design Review approval on December 5, 2008, for an exterior remodel. At that time it was determined that since the remodel was not increasing the building's footprint, it would not be required to vacate the underlying lot lines.

6A.7.2.4. Design Review for Residential and Non-residential Buildings in the Townsite Overlay District (TO)

C. Specific Guidelines

The following Guidelines are not applicable to this project because they address architectural details and building form and this design review is specific to the design of the two wireless towers and antenna:

2. Bulk Requirements (addressed above in Section 4.13.6 of Hailey's Zoning Ordinance)
3. Architectural Character (addresses architectural details and building form, which is not applicable in this application)
4. Circulation and Parking (will not create a need for additional parking and circulation requirements)
5. Alleys (this application does not involve the use of an alley)
7. Snow Storage (this application does not create a need for additional snow storage)

1. Site Planning

Guideline: The pattern created by the Old Hailey town grid should be respected in all site planning decisions.

- **A rectangular lot shape is preferred to a square one, as the rectangular lot pattern is more in keeping with Old Hailey, and most often results in more useable and visible open spaces.**

This standard is not applicable since this Design Review is specific to the towers and antenna.

Guideline: Site planning for new development and redevelopment shall address the following:

- **scale and massing of new buildings consistent with the surrounding neighborhood;**
- **building orientation that respects the established grid pattern of Old Hailey;**
- **clearly visible front entrances;**
- **use of alleys as the preferred access for secondary uses and automobile access;**
- **adequate storage for recreational vehicles;**
- **yards and open spaces;**

- **solar access on the site and on adjacent properties where feasible, and where such decisions do not conflict with other Design Guidelines;**
- **snow storage appropriate for the property;**
- **underground utilities for new dwelling units.**

This section is not applicable to the Design Review of the proposed towers and antenna since this standard was addressed when the building and proposed equipment enclosures received Design Review approval on December 5, 2008, for an exterior remodel.

Guideline: The use of energy-conserving designs that are compatible with the character of Old Hailey are encouraged. The visual impacts of passive and active solar designs should be balanced with other visual concerns outlined in these Design Guidelines.

- **Glass areas should reflect the composition, layout and window-to-wall ratio of windows seen traditionally in Old Hailey versus large continuous surfaces of glass.**
- **Solar energy collection devices should be integrated into the overall building design.**
- **Designers should be aware of the solar exposures of neighboring properties, and should, where possible, avoid blocking these exposures with buildings or solar collectors.**
- **Roof-mounted solar collection panels shall not extend above the ridge line of the roof. They should be integrated into the structure, and as close to the roof angle as feasible.**
- **Free-standing solar collection panels should be subordinate in size and placement to the structure they serve, and should generally not be located in areas visible from the street.**

The wireless proposal does not include any solar collection panels. These guidelines were addressed when the building and proposed equipment enclosures received Design Review approval on December 5, 2008, for an exterior remodel.

6. Accessory Structures

Guideline: Accessory buildings shall appear subordinate to the main building on the property in terms of size, location and function.

- **There may be specific instances where accessory structures may have a larger floor area than the primary structure, such as in the case of an existing small primary structure that has historic significance, and which is proposed to be preserved.**

There are two enclosed accessory structures; however, they are not accessory to the Wireless Application.

Guideline: In general, accessory structures shall be located to the rear of the lot and off of the alley unless found to be impractical.

There are two enclosed accessory structures; however, they are not an accessory to the Wireless Application. The placement of the accessory structures was approved during Design Review for the remodel of the Armory.

8. Existing Mature Trees and Landscaping

Guideline: Existing mature trees shall be shown on the site plan, with notations regarding

retention, removal or relocation. Unless shown to be infeasible, a site shall be carefully planned to incorporate existing mature trees on private property into the final design plan. There are no existing mature trees on-site.

Guideline: Attention shall be given to other significant landscape features which may be present on the site. Mature shrubs, flower beds and other significant landscape features shall be shown on the site plan and be incorporated into the site plan where feasible.

- **Mature shrubs such as lilacs should not be overlooked in site planning.**
- **The use of plant materials that are appropriate for the Hailey climate and growing season are encouraged.**
- **Drought-resistant lawn areas that resemble the traditional lawns of Old Hailey are encouraged.**
- **Xeriscape plantings in other yard areas are good alternatives for retaining landscaping while lowering water use.**
- **Berms in front yards are generally discouraged.**

There are no existing mature trees on the site that will be impacted and no landscaping is proposed.

Guideline: Noxious weeds shall be controlled according to State Law.

Meeting this requirement is a standard condition of approval.

9. Fences and Walls

Guideline: Fences and walls that abut public streets and sidewalks should be designed to include fence types that provide some transparency, lower heights and clearly marked gates.

- **Fence heights are regulated by Hailey Zoning Ordinance Number 532, Section 8.1.**

There is an existing chain link fence. The Commission considered whether to require landscaping to help soften the existing fence. In addition, it has been listed as a condition of Wireless Permit approval that the southernmost tower be enclosed in a manner that prohibits the general public's access to the tower, but allows for emergency access. The Commission did not feel like additional landscaping or screening was required to soften the chain-link fence or screen the southernmost tower.

Guideline: Retaining walls shall be in scale to the streetscape.

- **Streetside retaining walls should be lower in height, or broken up to avoid the look of a large wall.**

Not applicable; there are no retaining walls on-site.

10. Non-residential and Multi-family Uses

Guideline: Non-residential uses in Old Hailey should be designed with a residential, human scale in mind.

The Commission considered whether the siting of the wireless facility was appropriate. It took into consideration the intended purpose of the towers and antenna, the zoning, the neighboring properties and associated uses, and ways in which conflict between the neighboring uses and the properties and the proposed wireless facility could be minimized.

Guideline: Parking for non-residential uses shall be carefully planned to avoid pedestrian conflicts, and to be subordinate to other design elements on the site.

A parking plan, with 13 spaces was approved during the recently submitted design review application on December 5, 2008.

Guideline: Utilities for non-residential and multifamily structures shall be integrated into the site design. Utilities should, in most cases, be fully screened from view.

- Exhaust hoods, rooftop vents and air conditioner units should be screened from view, either with a parapet wall or by integrating these items into interior roof elements.
- Transformers, gas meters and other site infrastructure should be located in a manner to avoid being seen from entrances, public streets and pedestrian areas. If they cannot be hidden, they should be screened with landscaping, fencing or building walls.

The towers and antenna are considered to be site infrastructure or other utilities.

The Department of Defense's Unified Facilities Criteria (UFC) Anti-terrorism/Force-Protection Design Guidelines, Section UFC 4-010-01, Unobstructed Space for Non-Controlled Perimeter, states that space within 10 meters of an inhabited building shall not allow for concealment from observation of explosive devices 6 inches or greater in height. The towers are proposed to be placed directly adjacent to the building, within the 10 meters (33 feet) specified by the federal guidelines. The applicant has requested an exemption from complying with the screening requirements, based on the federal guidelines.

To improve the aesthetics of the site and to lessen the visual impact that may be felt by neighboring property owners, the Commission considered requiring some landscaping in areas where it would not violate the federal guidelines (there are areas of fencing that are 33 feet from the building or more, where landscaping could be planted to soften the look of the building, wireless facility, and chain link fence. The Commission determined this should not be a condition of approval.

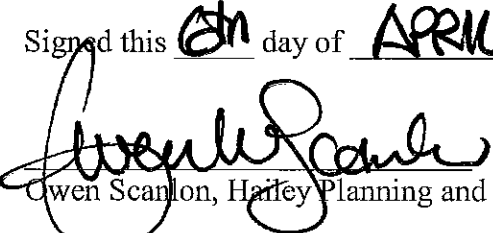
CONCLUSIONS OF LAW AND DECISION

Based upon the above Findings of Fact, the Commission makes the following Conclusions of Law and Decision:

1. Adequate notice, pursuant to Zoning Ordinance No. 532, Section 6A.5, was given.
2. The project is in general conformance with the Hailey Comprehensive Plan.
3. The project does not jeopardize the health, safety, or welfare of the public.
4. Upon compliance with the conditions set forth, the project conforms to the applicable specifications outlined in the Design Review Guidelines, as set forth herein, applicable requirements of the Zoning Ordinance and City Standards.
5. This Design Review approval is for plans dated _____, 2009
6. This Design Review approval shall expire one (1) year from the approval of these Findings of Fact, unless a building permit application has been submitted to the Building Department.
7. The project shall receive Design Review approval subject to the following conditions:

- a) All Fire Department and Building Department requirements shall be met.
- b) Any change in use or occupancy type from that approved at time of issuance of Building Permit may require additional improvements and/or approvals.
- c) All City infrastructure requirements shall be met. Detailed plans for all infrastructure to be installed or improved at or adjacent to the site shall be submitted for Department Head approval and shall meet City Standards where required.
- d) No auxiliary apparatus (e.g. utility meters, fire suppression equipment) may extend into any public right-of-way.
- e) The project shall be constructed in accordance with the application or as modified by these Findings of Fact, Conclusions of Law and Decision.
- f) All exterior lighting shall comply with the Outdoor Lighting Ordinance. Any existing lighting on the subject property shall also be brought into compliance.
- g) Noxious weeds shall be controlled according to state law.
- h) Except as otherwise provided, all the required improvements shall be constructed and completed, or sufficient security provided as approved by the City Attorney, before a Certificate of Occupancy can be issued.
- i) This Design Review approval is for plans dated February 5, 2009. The Planning & Zoning Administrator has the authority to approve minor modifications to this project prior to, and for the duration of a valid Building Permit.
- j) This project is subject to Development Impact Fees pursuant to Municipal Code Chapter 15.16. Check with Building Department staff for estimated fee amount.

Signed this 21st day of APRIL, 2009.


Owen Scanlon, Hailey Planning and Zoning Commission Chair

Attest:


Becky Mead, Deputy Clerk

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of April, 2009, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

Via Electronic Mail:	Eugene Gussenhoven	<u>eugene.gussenhoven@id.ngb.army.mil</u>
	Dean Hagerman	<u>dean.hagerman@us.army.mil</u>
	Doug Werner	<u>douglas.werner@us.army.mil</u>
	Martin Powell	<u>martin@zga.com</u>

CITY OF HAILEY

By Becky Mead
Becky Mead, Deputy Clerk