

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

On September 15, 2008 the Hailey Planning and Zoning Commission considered an application submitted by Blaine County for Wireless Permit approval for a freestanding public safety communications tower, located at 1650 Aviation Drive. 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 Wood River Journal and mailed to property owners within 300 feet on August 27, 2008.

Application

Blaine County has submitted an application for a Wireless Permit. The applicant proposes a 75 foot two-way radio communications tower, with 11 antennas and two (2) six (6) foot in diameter microwave dishes on a freestanding monopole, to be located next to the Public Safety Facility. PWSF's and WCF's mounted on a freestanding tower are conditional uses in the Service Commercial Industrial (SCI) district.

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:

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 proposal is for a freestanding tower. The applicant has concurrently submitted an application for a conditional use permit.

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

- 1. Lattice towers larger than two (2) feet by two (2) feet;**

The proposal is for a monopole, not a lattice tower.

- 2. WCFs and PWSFs that interfere with City and public safety communication systems and/or area television or radio broadcast.**

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 support wires will be associated with the proposed antenna.

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;**
- 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;**
 - 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.

The tower would be located adjacent to the public safety facility and communication center's building.

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;
- 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.

The location of the public safety tower in a secure environment is a requirement for accreditation of the communication center by the Commission on Accreditation for Law Enforcement Agencies as a standard for Public Safety Communication Agencies.

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.

It is a condition of approval that the above standard be met.

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.**

Pursuant to the zoning district requirements in SCI-I, the proposed tower requires a conditional use permit; therefore, the Commission reviewed the radio tower proposal.

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

A Master Development Plan has been submitted and shall be reviewed by the Planning Administrator.

- 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.**

The applicant has concurrently applied for a conditional use permit, which was reviewed by the Commission at the September 15, 2008 hearing.

- 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 tower would not be placed within the public right-of-way or located on City owned property.

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.**
- 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.**

- 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.**

A Master Development Plan has been submitted and shall be reviewed by the Planning Administrator, concurrently with wireless permit application.

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 the permit renewal requirements and information required for the annual report.

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 proposal is for a 75 foot tower. The distance from the base to the top of the monopole is 74 feet. The distance from grade to the top of the foundation is one (1) foot, for a total of 75 feet.

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;
- 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;

- 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;**
- 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 height of the proposed tower is 75 feet. Proposed setbacks from the tower are - front: approximately 230.5 feet; side: 200 feet (south-side), 300 feet (north-side); rear: 76 feet.

- 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;**

The proposal meets this standard; equipment will be enclosed inside the building.

- 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.**

The proposal meets this standard. The proposed location of the tower is behind the Facility, to the rear of the property, which is adjacent to the airport.

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 applicant proposes to enclose all radio equipment within the public safety facility building. The Federal Aviation Administration does not require 75 foot high towers to employ lights or be marked in some way, which would increase the tower's visibility. Combiners would be used, which reduce the number of visible antennas.

- 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.

The applicant proposes to enclose all radio equipment within the public safety facility building.

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;**

No support structures are proposed. All equipment, accessory to the tower, is enclosed within the Public Safety Facility. No landscape screening is proposed. There is no existing landscaping nearby the structure, other than turf grass. The tower's base would be screened by a cement block fence. In addition to screening the tower's base with a proposed fence, the location of the tower's base is behind the Public Safety Facility adjacent to the airport.

- 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.**

This standard is not applicable; no equipment enclosures are proposed.

- 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.**
- 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.**

No support structures are proposed. All equipment, accessory to the tower, is enclosed within the Public Safety Facility. The Public Safety Facility received design review approval on March 5, 2007. At the time of design review approval, trees and drought tolerant shrubs were required. Currently, no mature landscaping exists on the site. No trees or significant landscaping exist or are proposed near the tower.

There are numerous surrounding vertical structures. On site, there are numerous parking lot light posts. To the north of the proposed tower, is the Verizon tower, which is 30 feet higher than the proposed radio tower. To the east, there are multiple antennas mounted on top of the airport control

tower. To the west is the communication tower located on Della Mountain.

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

The proposed tower is 75 feet tall, which extends beyond any nearby vegetation. The monopole would be constructed of non-reflective galvanized steel. The Omni-directional antennas are constructed of copper alloy with a white fiberglass exterior. The yagi antennas are constructed of aluminum with stainless steel hardware. It is a condition of approval that the yagi antennas be constructed of a non-reflective material. The microwave dishes are constructed of steel and are white in color. It is a condition of approval that the microwave dishes be six (6) feet in diameter or less and be grey in color, not white.

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.**

The tower would not incorporate any lighting. As proposed the un-lit tower meets FAA 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.**

Four (4) public safety signs would be installed near the radio tower, measuring 12 inches by 18 inches. Pursuant to Hailey's sign regulations, signs measuring four (4) square feet or less do not require a sign permit. Signs displaying the proposed warning and public safety information are

considered informational signs and are not regulation, even if they are larger than four (4) square feet. The applicant is hereby notified, if the size of the proposed signs exceeds four (4) square feet and the content changes, a separate permit for the sign(s) may be required and shall approved by the City prior to the display of the sign(s).

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

No lighting is proposed.

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 radio tower is fully automated. Design review approval required the Facility to provide 39 parking spaces pursuant to the City's parking standards. Seventy-one (71) spaces were proposed and approved in the design review Findings of Fact, Conclusion of Law and Decision. Because additional parking spaces were approved, beyond what is required by Hailey's Zoning Ordinance, an additional parking space for maintenance of the tower is not needed.

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.**

The tower would be placed in an area dedicated to its use. It would not interfere with vehicular 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.**

The tower would be located in a gated and patrolled area that is not accessible by the general public. The Public Safety Facility received design review approval on March 5, 2007. At that time, emergency vehicular access requirements were reviewed and met.

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 tower would be located west of the airport, in Service Commercial Industrial district and would

not be located within an open area. The base of the tower would not be visible from public roads, recreational areas, or residential development; however, the upper portion of the tower, as shown in the photo simulations, would be visible such places.

- 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.**

The Hailey Comprehensive Plan designates Broadford Road as a scenic route; however, the tower's proposed location is 800 feet from the road.

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.**

The tower's proposed location is not within the floodway, floodplain, or wetlands.

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

The tower would not be located in a riparian setback.

- 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.**

The tower would not be located within an avalanche prone area.

- 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.**

Design review approval of the Public Safety Facility allowed for a 440 gallon diesel generator to provide back-up power to the facility as well as to the proposed radio equipment.

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

The addition of the proposed tower will not affect the storm water run-off and drainage plan that was approved at design review.

- 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.

- 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.**

All radio equipment will be located within the facility's building. No noise is anticipated.

- 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.**

All radio equipment will be located within the facility's building. No noise is anticipated.

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

Not applicable, no noise is anticipated.

8A.7.9 Street Pole and Facade Attached Standards.

This section is not applicable; the application 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.**

Pursuant to Section 8A.5.1, b, 2, the location of the tower is a preferred location. Pursuant to section 8A.5.2, h, the applicant has provided clear and convincing evidence that co-location, instead of the applicant's proposal, would preclude the public safety radio tower from receiving accreditation. Other design alternatives and options have been evaluated by the County's radio frequency engineering consultant. According to the applicant's consultant, alternatives such as roof or facade mounted antennas do not meet the communication needs of the public safety facility for adequate emergency communications. In addition, reducing the height of the tower would not allow for direct two way radio coverage to mobile units in the field or microwave link to Picabo Mountain, which are both critical to emergency communications according to the consultant.

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.

It is condition of approval that the tower's design and operation comply with all current and future federal requirements.

- 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 the tower incorporates an anti-climbing device, which shall constitute removing the latter rungs from the lower 12 feet of the tower, and the construction of the tower shall comply with all applicable building codes.

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 the maintenance requirements.

8A.10 Modification of PWSFs or WCFs

- a. **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 modification standards. Any future modifications to the tower shall require the issuance of a new wireless permit

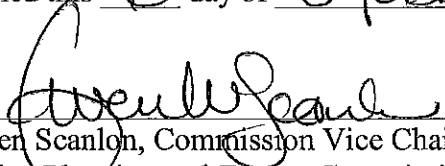
CONCLUSIONS OF LAW, AND DECISION

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.
 - b) All exterior lighting shall comply with the Outdoor Lighting Ordinance.
 - c) The applicant shall provide a written statement to the City stating 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.
 - d) The yagi antennas shall be constructed of a non-reflective material.
 - e) The tower's design and operation shall comply with all current and future federal requirements.
 - f) The tower shall incorporate an anti-climbing device, which shall consist of eliminating the lower 12 feet of latter rungs, measured from ground level.

- g) The construction of the tower shall comply with all applicable building codes.
- h) The Wireless Permit approval is contingent upon the approval of the Conditional Use Permit and Design Review.
- i) Any future modifications to the tower shall require a new Wireless Permit and Conditional Use Permit.
- j) 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.
- k) The two (2) microwave dishes shall be grey in color and shall be as small in diameter, as feasible; the maximum diameter allowed is six (6) feet.

Signed this 6 day of OCTOBER, 2008.


Owen Scanlon, Commission Vice Chair
Hailey Planning and Zoning Commission

Attest:


Becky Mead, Administrative Assistant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 17th day of October, 2008, I served a true and correct filed copy of the within and foregoing document upon the parties named below, in the manner noted:

<input checked="" type="checkbox"/>	U.S. Mail	Michael McNee
<input type="checkbox"/>	Via Electronic Mail	Blaine County
<input type="checkbox"/>	Via Facsimile	206 First Avenue South, #300
<input type="checkbox"/>	Hand Delivered	Hailey, ID 83333

<input type="checkbox"/>	U.S. Mail	Deborah Vignes
<input checked="" type="checkbox"/>	Via Electronic Mail	deborah@pioneerlanduseconsulting.com
<input type="checkbox"/>	Via Facsimile	
<input type="checkbox"/>	Hand Delivered	

CITY OF HAILEY

By Becky Mead
Becky Mead, Administrative Assistant