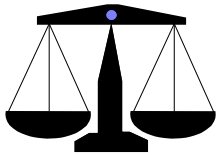


MINUTES  
KOOTENAI COUNTY HEARING EXAMINER  
PUBLIC HEARING

SEPTEMBER 8, 2022  
6:00 P.M.

HEARING EXAMINER  
JOAN WOODARD

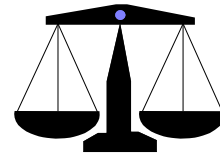
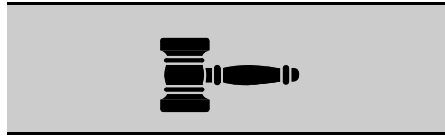
STAFF PRESENT  
VLAD FINKEL  
BEN TARBUTTON  
JENNIFER CONNER  
REBA GRYTNESS



MINUTES  
PREPARED BY:

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JENNIFER CONNER  
Recording Secretary



MINUTES  
REVIEWED BY:

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VLAD FINKEL  
Planner III

A handwritten signature in blue ink, reading "Joan C. Woodard".

JOAN WOODARD  
Hearing Examiner

The Official Record of Public Hearing is available on-line at  
[www.kcgov.us](http://www.kcgov.us)

**Joan Woodard called the meeting to order at 6:00 p.m.**

The Hearing Examiner explained that the purpose of the public hearing is to take testimony on the items that appear on the agenda.

The Hearing Examiner will review the testimony presented and make a written recommendation to the Board of County Commissioners, who will make the final decision.

**The hearing was adjourned at 8:45 p.m.**

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**CASE NO. CUP22-0004**

A request by Thomas Ingle, AT&T, and Smartlink for approval of a Conditional Use Permit (CUP) to construct a new Wireless Communication Facility (WCF) to provide the latest 5G and 4G LTE technology. This is the second public hearing with the Hearing Examiner due to a clerical error in the notification process associated with the first public hearing. The first public hearing was held on August 4, 2022.

**Ben Tarbutton Planning Manager-** Started by stating that individuals can forfeit their time for one (1) group speaker to speak on their behalf. A minimum of ten (1) individuals must forfeit their time to allow one (1) group speaker to represent their opposition on this project. Staff acknowledges and expects this to bring emotions, but the audience needs to show respect to each other as we are all a part of this community. The Board of County Commissioners will have a public hearing which will give the same opportunity for the public to speak and be heard. That hearing is scheduled for September 29<sup>th</sup>.

**Staff Presentation:** Vlad Finkel, Planner III, started by stating the actual property owner does not have to be present. The Land Use and Development Code does have a provision that grants an applicant the right to have a representative present the project on their behalf. A notarized authorization has been submitted as part of a complete application that grants AT&T the right to represent Thomas Ingle, the owner. Nonetheless, Mr. Ingle is present via zoom.

Mr. Finkel then introduced the case with a PowerPoint presentation. The subject property is atop Potlatch Hill and is surrounded by the City of Coeur d'Alene on all sides. Since this property is within the City of Coeur d'Alene ACI, the City requires staff solicits comments from the City of Coeur d'Alene City Engineer. Staff received an approval from Mr. Bosley, City engineer, who had no additional comments. This WCF is proposed to be located on a 7.13-acre parcel of land in the Agricultural Suburban zone and would be on the west side of the parcel. Some of the concerns from the previous hearing were regarding the timing and protocol that specifically addressed site disturbance and building permits, including geotechnical analysis. Since this parcel was recently subdivided, the County does have a geotechnical report that addresses the ability to construct a residential structure. However, since this is not a residential structure, a more comprehensive geotechnical analysis will be required at the time of building permit application. Some of the technical aspects are not required at this time, as staff is only focusing on the zoning, comprehensive plan, compatibility, and other aspects of the CUP request. The proposal will consist of a 150 ft. tower, which is the maximum height allowed per code, with a 5 ft. lightning rod installed at the top of the tower. The lightning rod is considered an appurtenance; therefore, does not count against the overall maximum allowed height. This tower is to provide 4G and 5G wireless service coverage. The tower will be painted a neutral color to blend in with the surrounding environment. There is limited wireless coverage east of the property. During the agency comment period, the key agencies were the Idaho Department of Transportation Division of Aeronautics, Kootenai County Airport and the FAA. The location does not present any concerns for these agencies. The other agencies are East Side Highway District, Kootenai County Fire for fire restrictions and Kootenai County Building Division which requires permits. During the first public hearing on August 4<sup>th</sup>, 2022, there were a total of 31 comments, one in favor, and 30 opposed. Some of the issues were; aesthetics, potential risk of fire, health concerns, light and noise pollution, negative impact on wildlife, limited escape routes, parcel ownership, existing Potlatch Hill Road conditions, increase in vehicular traffic, trespassing and vandalism. During 2<sup>nd</sup> hearing public comment period, Community Development received a total of 23 comments. One in support, one neutral, and 21 in opposition. The concerns were the same as the first public hearing.

Staff understands and acknowledges the concerns, but the analysis and recommendation has not changed. The aesthetics will be partially addressed by the surrounding existing vegetation. As it relates to the potential increase of fire risk, staff concurs with the analysis of Jeryl Archer, Kootenai County Fire & Rescue Division Chief/Fire Marshal. While the concerns outlined by the public are very real and valid, they have existed on Potlatch Hill for many years, and some are terrain and aspect related which will never change. As it relates to the potential health risks, the Telecommunications Act of 1996 prohibits State and local regulation of such facilities to deny an application on the basis of environmental effects of radio frequency emissions to the extent such facilities comply with FCC regulations. Staff has confirmed that Mr. Ingle is the sole owner of the subject property. Based on this, staff has no reason to recommend denial of the request.

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**Applicant Presentation:** Kim Allen with Wireless Policy Group & AT&T's Legal Counsel presented on behalf of the applicant. Debra Griffin from Smartlink and Randy Morrison, AT&T's Construction Manager were both present via zoom, and available for questions and comments. Ms. Allen submitted 2 exhibits, a disclosure and a paper copy of her PowerPoint. Both entered into the record.

Ms. Allen presented her PowerPoint presentation. There were multiple photo simulations as part of a visual study conducted showing the tower. Ms. Griffin spoke to the Balloon Testing photos that were done by Tim Bradley Imaging. The balloon is red, four feet in diameter, and raised to 150 feet with a 47 pound helium tank. This particular company has done this type of work for wireless companies since 1998.

The proposed new coverage and capacity is to expand wireless signal into an area that has no service or bad service. The height is the least required to meet the objectives. The coverage will increase to over 20 sq. miles. There were twelve alternative candidates that AT&T analyzed. Of those, AT&T was already on six (6). Of the remaining, the existing heights were not sufficient, outside the search ring, or would cause interference. This site will be providing FirstNet, which is federally mandated for public safety to allow first responders to communicate without concerns of wireless.

Citizen concerns-We heard what was said at the first public hearing. As far as fire hazards, we are installing a 5 foot lightning rod with a grounding system at the base of the tower. The KCFR approved the proposal with no conditions. Fire code does not regulate lightning for cell towers. With regard to visual impacts, the facility is designed as a lattice tower for structural reasons. It will be galvanized steel with anti-glare finish and can be painted any color the county requests. AT&T is aware there will need to be some extensive site disturbance to construct an on-site driveway to access the project area. Randy Morrison stated they will build per the County requirement. This will be a typical build for AT&T, and should take about 2 months. AT&T anticipates the start of the build would be in spring after the snow melts. This will be an RF Compliant site. The 5G being proposed here is low band, which is the same frequencies as TV, and are the same spectrum used for 3G and 4G. AT&T is not intending to use any other type of frequencies or exposure limits.

The Hearing Examiner requested clarification by asking whether any of the 12 towers were owned by AT&T? Ms. Allen responded by stating that of those that were analyzed, she is unsure if AT&T owns any of them. However, it is possible that they could rebuild one of those towers to make them work, but they would have to reanalyze them to make sure there wouldn't be complications or interference.

Furthermore, how did AT&T determine the "search ring" boundaries? It appears AT&T wishes to establish coverage to the south, and I-90, but why not move the search ring further south? Ms. Allen responded by stating that I-90 is not the main objective; however, it is also the offloading of the other tower to the north, so the search ring is in the middle to accomplish more goals. The search rings have gotten smaller, and require that they be closer to the users since introducing data as the main key to the tower output.

**Exhibit:** HE-2000 – Presentation by Vlad Finkel  
HE-2001 – Presentation by Kim Allen  
HE-2002 – AT&T Disclosure by Kim Allen  
HE-2003 – Photo Simulations by Virginia Tate

**Public Testimony:** Comment Sheets submitted: 34, Applicant – 0; In Favor – 0, Neutral – 1, Opposed – 33. Two people appeared via Zoom. The names and address of the individuals speaking or submitting comments are part of the record.

Dean Gienger-4230 E Potlatch Hill Rd.-Opposed- If the County approves the application, hopes they will attach stipulations to improve the road. Two 170 degree turns required to access this site, which are impossible to accomplish with larger construction vehicles.

Lauren Metcalf-962 N Armstrong Dr.-Opposed- 2012 lived in Orange Co. Learned from Cancer clinics that 5G frequencies contribute to cancer.

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Kevin Smart-KCSO-Opposed- Increased fire dangers, road dangers, homeless, criminal activity, juvenile parties, vandalism all are reasons the sheriff's office oppose this tower.

Anne Wilder-349 Primrose Lane-Opposed- FCC gave up their control over their internet. It would be a violation to use the extra energy to use the wireless internet, since the majority of the residence do not want it. I recommend wired internet. The decision on this will impact other rural areas in the county.

Reid Harlockar-5535 E Majestic-Opposed- The bedrock requires excavating for grounding of the site and this could be damaging to the water table.

Karin Wickham-3475 E Falcon Ridge Ct-Neutral- President of Falcon Ridge HOA. The radio frequencies will be all around us with our topography. We have a Consumer Protection Agency.

Jason Lambert-847 S. Bailey Ct.-Opposed- 3-5 minutes to get off hill if a fire. Grounding systems does not guarantee anything to stop fires.

Johnny Silva-907 N Armstrong Dr.-Opposed

Elizabeth Granier-932 N Armstrong Dr.-Opposed

Frank Granier-932 N Armstrong Dr.-Opposed

Don Tripp-3130 E Fernan Hill Rd-Opposed

Tanya Osterson-1909 N 9<sup>th</sup> St.-Opposed

Paul Anderson-Coeur d'Alene, ID-Opposed

Twee Hoand McCain-3702 E Sky Harbor Dr.-Opposed

Jerry Albrigo-3579 E Sky Harbor Dr.-Opposed

Janis Richardson-846 S Bailey Ct.-Opposed

Jared Pierson-959 N Rutledge Ct.-Opposed- Imaging this tower in your own back yard. Tower does violate Land Use Code. I question the validity of the proposed coverage.

Nick Thorpe-3605 E Sky Harbor Dr.-Opposed

Sandra Hall-3571+3572 Sky Harbor Dr.-Opposed

Trent Munn-3696 E Sky Harbor Dr.-Opposed

**Attended the First Hearing**

Izzet Motola-957 N Armstrong Dr.-Opposed- Reduce our property values. Contractor engineering drawings are misleading. Timeline wrong. Wants everyone to do their jobs.

Van Hargraves MD-820 N Centennial Ct.-Opposed- I submitted 3 articles, the most important being from University of Oklahoma regarding national strikes of lightning and I presented that to AT&T to have their environmental people

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look at it. Criminal that AT&T had not addressed anything regarding lightning strikes. If this is approved, I will write up a letter to the editor.

Question form HE- Assuming we can agree towers attract more lightning strikes, if those towers are more grounded and protected versus no tower and lightning hitting porous trees, what is the difference.

The tower still attracts the lightning, the rod just keeps the equipment from frying. The chance of strikes around the tower is increased according to the articles I submitted.

Elton John Bain-3706 E Sky Harbor Dr.-Opposed- Vice president of Armstrong Park HOA. Been working on an access fire road and have had no luck.

Tom Torgerson-4808 Fernan Hill Rd.-Opposed- Antennas can be positioned in any direction, and if they are trying to get it south, they should move this tower to the south. AT&T is proposing the lattice tower, which is the cheapest tower to build. They should use a monopole or tree type tower. A Conditional Use Permit is not a "right", the public should drive approval or denial.

Virginia Tate-4176 E Potlatch Hill Rd.-Opposed- Submitted 5 photo simulations of what the tower will actually look like. On the north side of Potlatch Hill Road is Fernan Trail managed by City of CDA who is there at least 3 times a day. There are drug deals, vandalism, fires, and trespassing. The property owner is absent, so this leaves his property open to crime, which will cause crime on my property as well.

Joel Bowlby-940 N Armstrong Dr.-Opposed- Over 100 homes, not including those on Potlatch Hill. That is roughly around 250 people trying to get off the hill if there is a fire. There was a lightning strike that started a fire near a tower in Beauty Bay, and we do not need that on Potlatch.

Alissa Desancic-965 N Armstrong Dr.-Opposed- We were asked to speak respectively, but I do not feel like we have been respected as a community. Who is liable? Reception was tested in the area and no gaps in coverage were found. The data presented by AT&T to reflect improvement in coverage from this tower actually show no improvement.

Shawna Lambert-847 S Bailey Ct.-Opposed- No studies done regarding 5G since 1996. You have the ability to require studies be done.

Wayne Longo-4599 Potlatch Hill-Opposed- Has an issue that KCFR does not require AT&T put in water along Potlatch Hill.

Todd Menier-3110 Fernan Hill Rd.-Opposed- Can we have an environmental Impact Report? Starlink will make this tower obsolete in the near future. Request full disclosure if AT&T has made any offers to the County or representative.

Shelley Croal-1223 N 11<sup>th</sup> St. #A-Opposed- Zoom

Marcus Johnson-952 Rutledge-Opposed- Land Use Attorney. Legitimate concerns, but you are bound by the code. The applicant had failed to meet the requirements of the code. No demonstration that sites 8 and 9 could be adjusted to accommodate, just jumping to build. Applicant needs to show that it is impractical to meet their needs by other means, which they haven't proved.

Heidi Boehm-2920 E Fernan Hill Rd.-Opposed

Sue Kuhne-2914 E Fernan Hill Rd.-Opposed- How does this proposal support Kootenai County? Verizon offers excellent service.

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**Zoom:**

Brent Lyles-4176 E Potlatch Hill Rd.- There is vandalism, Sheriff's office is understaffed. It is a great location, but this spot does not need a tower.

Ed Buckler-3595 Sky Harbor Dr.- Literature regarding cellphone towers and companies state cell phones will be replaced within the next 10 years.

Thomas Ingle-Owner/Applicant- If you really look at the geography of the area, there is not a better place to put a cell tower. No one's view will be impacted. This will not impact anyone's view so what are you complaining about?

**Applicant Rebuttal:** Kim Allen states AT&T will be including a turn around with the access driveway on the site plan. If we do not meet all the County standards, we will not be able to build, and we will build to whatever conditions imposed by the County. As for vandalism, or trespassing, AT&T will construct a perimeter fence, and can remove the lower pegs so the fence cannot be climbed, as well as install barbed wire around the top. There can also be security lighting added, if needed and approved by the property owner. There cannot be more than one tower per parcel per County code. There is a disclaimer that was submitted in reference to the online map. The site plan is very preliminary, and will be addressed in more detail at a later process. With regard to industry standards for lightning strikes, if more safety factors are required by the County or State, AT&T will comply. The lattice tower was chosen for the circumstances, not to save money. There has been nothing promised to the County by AT&T. An application was submitted and fees were paid just like any other project. The road approach design will not impact any adjacent properties ingress or egress. There is a legislative process for a code review and revision if the citizens feel the code needs to be changed.

Randy Morrison stated that during the construction process, the largest vehicle will be a 6 foot crane with a tight turn radius. The tower comes in pieces and is assembled at the site. There are different ways to get the tower to the site, if issues arise. The Applicant will not be blasting to construct footings, rather an excavator will be used. AT&T will install a gate at the lower part of the access driveway with a lock that will have a key code for extra security.

A cell tower cannot be made invisible; however, AT&T will construct it in the most compatible way. The County code does not require raw land site analysis. Debbie Griffin stated one other parcel was analyzed directly to the north; however, the coverage would not have been achieved to the south that was desired.

There being no further comments, testimony was closed on this item and the Hearing Examiner concluded the hearing at 8:45 pm.

Submitted by,

  
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Jennifer Conner, Recording Secretary