

Planning & Zoning Commission Minutes
November 16, 2022

This is a regular meeting of the Park County Planning & Zoning Commission held at 1:00pm in the EOC Room of the County Courthouse at 1002 Sheridan Ave., Cody, WY.

- Commission Members Present (quorum):**
- Kimberly Brandon-Wintermote, Chairman
- Duncan Bonine, Vice Chairman
- Richard Jones

- Commission Members Absent:**
- Eugene Spiering
- Bob Ferguson

- Staff Present:**
- Joy Hill, Planning Director
- Jenny Cramer, Planner I
- Jolene Brakke, Office Assistant III
- Brian Edwards, County Engineer
- Ben McDonald, Public Works
- Mary McKinney, Weed and Pest

Chairman Brandon-Wintermote opened the meeting at 1:02pm.

APPROVAL OF MINUTES

Chairman Brandon-Wintermote asked the Commission for comments or changes to the October 19, 2022, meeting minutes. A MOTION was made by Commissioner Jones to approve the minutes; the motion was SECONDED by Commissioner Bonine to approve the minutes as presented. All in favor. Motion carried.

REGULAR AGENDA

PUBLIC HEARING – Horizon Green Creek Tower SUP-244: Horizon Tower, LLC., represented by Sarah Neace, requests approval of the Special Use Permit (SUP) Application for the Horizon Green Creek Tower SUP-244. The applicant proposes a Major Utility use for a 195’ monopole communications tower (unmanned, wireless facility), to accommodate four (4) subtenants/carriers, within an approximately 3,600-square foot lease area. The use is proposed within a 30-acre parcel owned by Tamara Young located approximately 18 miles west of Cody, on the south side of State Highway 14-16-20, with an address of 2944 North Fork Highway, Cody. The parcel is described as part of Section 22, T52N, R105W of the 6th P.M., Park County, Wyoming. The property is in a General Rural 5-Acre (GR-5) zoning district.

Chairman Brandon-Wintermote reviewed the rules of a public hearing, mentioned that there will be a presentation from the applicant’s team as well as a presentation from Brian Clarkson who submitted a request to the Chairman on November 1, 2022, asking for the opportunity to share a 20-minute presentation. Chairman Brandon-Wintermote opened the public hearing at 1:06pm.

There being no comments from Commission members, the Planning Director made a statement regarding the report that a Planning and Zoning Commission member was potentially making public statements in opposition to this particular application. Staff investigated and no evidence was found to identify any member making such comments.

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55 Jennifer Cramer, Planner I, presented the Staff Report. Additional public comments and a petition
56 in opposition were received since the staff report packet was created and have been shared with
57 the Planning and Zoning Commission and the applicant.
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59 Chairman Brandon-Wintermote asked if any Commission members had questions for Staff.

- 60 • Ben McDonald, Public Works, said they have no additional comments.
- 61 • Mary McKinney, Weed and Pest, said there are known infestations of leafy spurge directly
62 across from this proposed site. She also didn't see any comments regarding weed control
63 after construction. Bare ground control and revegetation is warranted.
- 64 • Commissioner Jones asked if a Long-Term Noxious Weed Management Plan would be
65 required if approved. Mary said it will.
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67 Chairman Brandon-Wintermote welcomed the applicant to present on their application.

- 68 • Shelly Neace, Horizon Tower, LLC. introduced her team. She has over 30 years of
69 experience with telecommunication tower facility siting. Steve Kennedy has 33 years of
70 experience with radio frequency engineer in the telecommunications industry. Josh
71 Leonard is legal counsel for Horizon Tower, LLC. He is available to address questions
72 about the 1996 Telecommunications Act which does not allow for public health to be
73 considered in a public hearing. (PO Box 639, Boise, ID 83701). He is not here to provide
74 legal advice. Sarah Neace, partner on the team. She has about 15 years of experience,
75 but the permitting process she has about 7-8 years of experience.
- 76 • Shelly Neace provided some background about Horizon Tower, LLC. Horizon is a builder
77 of towers, while the wireless carriers provide the services. The client in this case is Verizon
78 Wireless, based out of the Rocky Mountain Region. This project is managed out of the
79 Idaho market.
- 80 • Sarah Neace provided a summary of the project plan, including specifications of the
81 planned tower, site map, and plan drawing. The leased area is 60'x60', but they reduced
82 the footprint to a 40'x40' fenced area which will allow for the cabinets the providers need.
83 They may need the additional space within the 60'x60' space. She acknowledged that
84 expanding to the 60'x60' would require additional permitting. They backed up from the
85 highway a bit and looked to place the tower near some trees (screening from view). Shelly
86 Neace added that Tamara (landowner) mentioned there is an existing microwave facility
87 nearby and some dumpsters that would be consistent with this use. Maximum capacity
88 would be up to four (4) antenna sectors. Not all of them have 4 antennas per sector. She
89 showed a drawing of what the tower would look like at full capacity.
- 90 • Shelly Neace provided a photo simulation showing the color of the facility. It is rare for
91 carriers to come with antennas at full capacity. They are not opposed to painting the tower.
92 They are happy to meet the noxious weed control plan to mitigate.
- 93 • Sarah Neace said the tower will not have a beacon or lighting. They go out of their way to
94 go below 200 feet. They don't want to have lights in a community at night.
- 95 • Steve Kennedy addressed why the tower is needed and why this location was chosen.
96 There are two reasons why carriers build sites: capacity and coverage. Capacity is
97 providing bandwidth to serve many people at one time. Coverage sites, which this is,
98 provide coverage in areas with no or poor service. The objective is to provide better
99 bandwidth. 96% of Americans own a cell phone, most of which rely solely on cell phones.
100 A large number of 9-1-1 calls come from wireless means. Why this location? As you go
101 west, coverage decreases.
 - 102 ○ He addressed RF and health and safety. Ionizing vs. non-ionizing electromagnetic
103 energy. Ionizing – can affect human DNA, because photons pass through your
104 body. Non-ionizing – car radios, baby monitors, Bluetooth headsets, etc. does not

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- 105 affect human DNA. Creates radio wave and heat (the only side effect). It is
106 proximity based – if you put a phone directly against your ear, you get the most
107 effect. As you move away, the effect decreases. The further you move from the
108 tower, the more the effects decrease.
- 109 ○ He addressed general public and occupational limits – FCC isolated 2 groups
110 relative to access around wireless antennas: Occupational and General Public. A
111 study is done on every site constructed. It has to be safe, a limit that is very, very
112 small. The FCC determines a safe value for exposure limits. It is proximity based
113 – the amount of power at the base of the antenna compared to the main beam of
114 the antenna (190 feet higher) is significantly lower.
 - 115 ○ He showed distance between the nearest tower and the proposed site. He
116 addressed mobile reporting quality and how there is a lack of data points in the
117 Wapiti area. There are clearly more data points near Cody.
 - 118 ○ He showed service tests that were conducted – “Verizon Cell mapper” drive test.
119 Mobiles are reporting services are not great in this area. He showed a map of
120 current coverage (RSRP) as well as a proposed coverage map. He also showed
121 an AT&T quality map and cell mapper (drive test). This area is significantly lacking
122 in service for Verizon but also for AT&T and T-Mobile, as well.
- 123 ● Shelly Neace emphasized “why here?” There is an initiative from the federal government
124 to get more cell service and to serve the population equally. There is a shift to rural areas
125 along major highways which have been poorly served. The carriers are being mandated
126 to provide the coverage in rural areas.
 - 127 ● Sarah Neace explained how the location was chosen. They did look at where each carrier
128 needs service – where is their nearest service. Where is it zonable/allowable/possible?
129 Can we access it, is there power nearby? Then they drill down to who is interested in
130 leasing a space to them. They look for parcels that are large enough. She showed a search
131 ring – Wapiti south of the highway. Shelly Neace added that she was involved in the initial
132 search and locating a particular landowner, she indicated that most everyone [in the room]
133 is aware of that situation; however, when they found it was prohibited by CC&Rs, they
134 ruled it out.
 - 135 ● Sarah Neace said they looked for the nearest cell towers to see if there is somewhere else
136 that could work; an existing tower that Verizon could be co-located on. The closest towers
137 are 16.52 and 21 miles away from the proposed site, so that was not feasible. From a
138 coverage standpoint, this property makes the most sense. She showed a map of locations
139 explored as possibilities. The only property they could find to be viable is the current one.
140 With the traffic and poor residential coverage, they know service is needed.
 - 141 ● Shelly Neace said there is a significant gap in coverage and the proposed site is the least
142 intrusive. This is consistent with the land use in that there is a need for telephone coverage
143 here. There is not adequate cell phone coverage. Someone mentioned why can’t we just
144 use satellites. Steve Kennedy talked about how satellite service is very expensive and
145 provides much less capacity and throughput. There is a significant amount of latency.
146 Also, there was mention of T-Mobile and Starlink working together– it will take years to
147 make that work. In the amount of capacity, coverage will be limited indoors.
 - 148 ● Josh Leonard addressed property value concerns. He does a lot of these hearings, and
149 he sees this concern at most if not all of the hearings. In 2018, a firm conducted
150 comprehensive studies in major markets to determine what impact, if any, cell towers had
151 on property values. The study concluded that cell towers have negligible to no effect on
152 home sale values within the quarter-mile radius. He referenced another example where a
153 county appraiser found that the overall effect in the market is minimal. He also referenced
154 a Wall Street Journal article that concluded it increases home values. Shelly Neace added
155 that people wanting to work from home would not purchase a property without cell phone

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156 coverage. There are no objective peer-reviewed studies that suggest property values are
157 decreased.

- 158 • Josh Leonard closed with statements on the Federal Telecom Act of 1996 preserves
159 County and City land use authority, but significantly limits it. In U.S. Code, no state or local
160 government may regulate the placement of a wireless service facility; it cannot be denied
161 based upon claimed effects of environmental RF emissions. Also, state, or local
162 government shall not prohibit or have the effect of prohibiting the provision of personal
163 wireless services. 47 US Code 332 (c)(7)(B)(i)(II).

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165 Chairman Brandon-Wintermote asked if any Commission members had questions for the
166 applicant.

- 167 • Commissioner Jones asked if these facilities are line-of-sight transmission. He said the
168 topography would still result in dropouts anyway. Steve said trees absorb RF if you are in
169 a house. The site is good because it is close to the highway and close to the people. He
170 likened siting of towers to having a bathroom close by in a home rather than far away.
171 There is fun terrain in this case. Will it provide perfect coverage for everyone within 30
172 miles – no. But it will significantly enhance and provide service along the highway.
- 173 • Commissioner Bonine asked about the height of the tower. The only reason he heard is
174 why it is not 200' tall, but no consideration of why a shorter or less intrusive (to aesthetics)
175 tower was shared. Steve said they have to look at the top and bottom sets of antennas.
176 Because of the terrain, we like to be able to see things (line of sight).
- 177 • Shelly Neace said they are trying to mitigate the number of towers to be brought into the
178 area. Like in Boise, ID, they are looking at towers closer together that are shorter. Here
179 they are trying to provide highway coverage with towers much further apart.
- 180 • Commissioner Jones asked about connectivity/capacity and 400-500 connections. This is
181 probably approximately what you would have by residents or does it take into account
182 traffic or transient user interactions. Steve said it takes into account any user, stationary
183 or traveling. Phoenix has higher capacity, so you'll see larger towers with smaller ones in
184 between along the way to handle the number of users. They want to cover as many users
185 as possible, as far as possible.
- 186 • Commissioner Jones asked if the 400-500 users were just for Verizon. Steve said yes. If
187 other carriers/providers join in, more people could be served. Shelly Neace added that T-
188 Mobile is interested in using this site and AT&T may be looking as well.

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190 Chairman Brandon-Wintermote opened the floor to Brian Clarkson for his presentation.

- 191 • Brian is a licensed surveyor and shared his education and professional background. He
192 is a resident of 7 Hallingdal Ln. He is opposed to this tower proposal.
 - 193 ○ He addressed the approval standards for a Special Use Permit in the 2015
194 Development Standards and Regulations of Park County (regulations):
195 Compatibility and Impacts – he defined compatible, harmony, impact, and
196 neighborhood (definitions from Webster's dictionary). He addressed the proposed
197 specifications of the tower.
 - 198 ○ He said it will be like essentially hanging two school busses from the top of the
199 tower. The tallest building in Wyoming is only 140+ feet. The nearby Smith
200 mansion is approximately 75 feet tall. This tower will be nearly 3 times taller.
 - 201 ○ He defined the "Wapiti Valley" and showed a map of the area. There are
202 approximately 840 parcels in the area which is bisected by the North Fork
203 Highway. It is the east gate of Yellowstone. It is considered the 50 most beautiful
204 miles in America. This is not Phoenix this is the Wapiti value. We all bought our
205 house without cell coverage.

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- He summarized facts about the property proposed for the tower use. It is surrounded by subdivisions, and he identified the subdivisions adjacent to the Tamara Young parcel to define the neighborhood. Green Creek, Cody's Country, and Copperleaf. He addressed GR-5 zoning as it is defined by the regulations. He mentioned a nearby location that was first considered for the tower which was abandoned due to covenants. He referenced sections of the covenants for the nearby subdivisions that reflected the wants of other properties in the neighborhood which are not reflective of support of a utility use.
 - He talked about how his wife and him came to live in the Wapiti Valley, having even designed their wedding bands based upon the skyline. He thought the views of the valley would be timeless.
 - He talked about wildlife. They are in crucial mule deer habitat. There have been a lot of deer in the neighborhood for years, along with many other species. He addressed wetlands and bird migration. The tower site is surrounded by wetlands in all directions. It is right in the center of the riparian bird migration.
 - He talked about harmony and showed some video visualizations that he created using Sketch Up and Google Earth. He overlaid photos with schematics from the applicant's application. Is this tower in harmony with the neighborhood.
 - As for property values, he said there are opinions on both sides of the aisle. It is hard to understand property values. Based on a website he shared, he generated a property value map which suggests that the properties in the Wapiti Valley could see a total assessed value loss of \$6.3 million.
 - There was a tower for a 150-foot tall TCT tower. He compared that tower to this tower and showed the value of properties within a buffer of the TCT tower vs. the value of properties within a buffer of the tower, as well as showing how many parcels were impacted (7 near the TCT tower vs. 72 near the proposed one). The property values within the buffer of the TCT tower are \$311,168 vs. \$2.2 million dollars in property values near the proposed tower. He indicated the proposed tower would be approximately 10 feet from the road and 1200 feet from the 50 most beautiful miles in America.
 - He showed a Verizon coverage map that shows coverage in the area.
 - He addressed errors and inconsistencies on the Horizon Tower website vs. the application. Fenced area, fence height, tower type, number of sets of antennas and size of the site. Are the inconsistencies going to carry through the project?
 - So far Horizon has built two towers in Wyoming. Is a 195-foot tower in Wapiti going to survive the wind? The sign at Red Barn lasted maybe days after it was first constructed.
 - He addressed alternatives – Starlink. Latency used to be a big deal. Now it has been reduced due to closer satellites. When T-Mobile and Starlink team up, which was announced in August, it should bring cell phone connectivity everywhere for T-Mobile users. It will start with texting abilities and lead to voice capabilities. Why put a tower in now when this is on the cusp of happening?
 - He shared a suitability analysis, similar to work he does for siting airports. He showed viewshed and line-of-sight. Depending on where you put a tower, you will get more or less coverage. He realizes there will be differing elevations for the antennas, but we went up to the 195'. The viewshed covers 61% of the area. There are 842 parcels, plus some public lands. He found the maximum elevation in all of those parcels. Then he looked at how many of those points would cover a bigger viewshed. There are 346 parcels that, if the tower was placed there, would give better coverage. He looked at 1,100 points within a grid system. 710 locations had a viewshed of greater than 5,552 acres.

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- 257 ○ He considered subdivisions as a prohibitive layer. He also added wetlands with a
258 250-foot buffer as a prohibitive layer, taking into consideration wildlife. Even if you
259 shrink the tower to 100', you are left with 207 locations. He did the same for a 75'
260 tower. There would be 150 properties. At 50' of height, they are left with 107 tower
261 locations. There are also State of Wyoming and BLM properties that could be
262 considered.
- 263 ○ So, what if Horizon built a monopine tower? He's not trying to run them out of the
264 valley, just up the hill.
- 265 ○ There is a potential for lights being required in the future. The FAA likes to change
266 their rules. We all appreciate our dark skies.
- 267 ○ 35 parcels are within 984' of the tower.
- 268 ○ 6 parcels fall within 195' of the tower – what if the tower were to fall? He is
269 concerned about the winds in the valley.
- 270 ○ He feels the proposed tower is not in compatibility and harmony with the
271 neighborhood and therefore does not meet the standard for approval.
- 272 ○ He referenced a survey where respondents said the presence of a cell tower near
273 their home would have deterred them from buying the home.

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275 Chairman Brandon-Wintermote asked Commission members if they had any questions for Brian
276 Clarkson.

- 277 • Commissioner Jones sought clarification on a few items. He said Brian spent a lot of time
278 on wetlands, wildlife, and birds. Does he have any information about that? Where did he
279 get his information? How is wildlife impacted? Brian said a bird migration could be
280 impacted. As far as a wetland, Brian said where is the wildlife going to congregate? They
281 are going to seek out water. In thinking of ways to protect wildlife, he thinks of that.
282 Commissioner Jones said he still doesn't understand how a tower would impact the
283 wildlife. He asked Brian if his house is in the critical wildlife area. Brian said it was.
- 284 • The Planning Director added that she was in a meeting with Game & Fish yesterday and
285 they inquired about this application as they had not yet responded; however, she does
286 anticipate a response from them.
- 287 • Commissioner Jones said lights shouldn't be an issue since none are proposed. We can't
288 speculate if they would be required in the future.
- 289 • Commissioner Jones said the property value information is difficult. In his experience, all
290 of his guests want to know what kind of quality cell service is available. Brian said there
291 are so many arguments on both sides.
- 292 • Commissioner Jones asked Brian if he is a structural engineer – not qualified to determine
293 structural strength, wind, etc.
- 294 • Commissioner Jones asked about the definition of the Wapiti Valley, which he agreed with.
295 He mentioned the power poles in the valley. Brian agreed and added that they are not
296 195' tall.
- 297 • Commissioner Jones said he understands Brian's concerns about the view from his
298 property. He said that people from other locations, further away, different directions, will
299 not have the same view or impact. Commissioner Jones said the videos do not show other
300 depictions and the red color was very dramatic.
- 301 • Brian said that as a surveyor who makes visuals, he uses bold colors to highlight the space
302 being occupied.
- 303 • Commissioner Jones asked about the density of the area. It is probably the most densely
304 developed part of the North Fork. This particular proposal is right in the center of this
305 development complex. Within another couple of years, there will be another 100 or so

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- 306 houses built out. He considers this the least rural area of the valley. He thinks his
307 comparison of oil drilling to the tower is false for many reasons.
- 308 • Commissioner Jones said he also has Starlink and that it is being scaled back. As they
309 increase and roll out and do something with T-Mobile, Starlink will continue to slow down.
310 As an option for good phone service, he doesn't think it is viable. Brian Clarkson said the
311 latest on Starlink is a capacity issue. A lot of those issues are in areas where people don't
312 need Starlink, there is fiber available. In an area like Wapiti, they may not see that because
313 they don't have the capacity that other areas see. Commissioner Jones said he has seen
314 changes in his service.
 - 315 • Brian said one of his goals was to really look at what the qualifications of a Special Use
316 Permit are. When he talks about wildlife, he's not trying to compare oil rigs to a tower. He's
317 trying to show what the area looks like and what makes up the neighborhood – that's the
318 wildlife. There is a big contrast between an industrial 195' cell tower and wildlife. He is not
319 a wildlife expert. He is just trying to paint a picture of the neighborhood.

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Chairman Brandon-Wintermote asked the applicant if she wished to respond.

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- Shelly Neace said they are heavily regulated by the federal and state government in reference to wildlife and habitat. They have to get approvals from the National Environmental Protection Agency, State Historic Preservation Office, and the local Indian tribes. They have to show, during a 5-month process, how they may impact wildlife, birds, wetlands and how they would mitigate. They have to do Phase I related to soil contamination. There is not a carrier in existence that did not pass the requirements of the federal and state government. Perhaps we should have spoken more about that in the application. They are in the process of those approvals at this time including with Game and Fish. She did a quick search of towers in the area that are 195' tall, there are at least eight within 150 miles of this site. She said she has worked in the industry for over 30 years, and they have been involved in building over 1,000 facilities. Regarding the CC&Rs, they are irrelevant because they do not apply to this property. She added that Mr. Clarkson said his view would be timeless. The only way to keep the mountains unchanged is if people would leave the valley. People could buy a viewshed. Tamara has property rights that need to be protected. She addressed the towers that have been built in the migratory paths of birds – it has to go to the FCC. They have to review the historical, ecological, and environmental viability of a site.
- Sarah Neace added that they are sensitive to the concerns. To alleviate some of the concerns, if there is an issue with the migratory bird path, they have to comply with federal regulations. This is the first stage of the permitting process for them. After this they do a geotechnical soils report and take into consideration the soils and what is subsurface. They engineer the foundation to hold and support the tower. They do it in preparation to get a building permit. They turn the plans into construction drawings with more details. They overengineer the tower to hold 10x the weight. They want it to be as safe as possible.
- Shelly Neace said the carriers do not want to be at a site with liability. We overdesign and self-regulate above and beyond the requirements.
- Chairman Brandon-Wintermote asked what the actual distance is from the County Road. Sarah Neace said she thinks it is 40', but they can provide more clarity.
- Chairman Brandon-Wintermote asked if standards change to impact the tower lighting. Tamara has already said that her terms require that the tower will not be lit – per their agreement. The cost of the tower is upwards of a half million dollars.
- Commissioner Jones said he understands that these cell towers have a life expectancy of 40-50 years. Sarah Neace said longer. Every time they add or modify, they run a structural report to prove there is structural integrity. Shelly Neace said they would have to get an

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- 356 additional permit to add more clients on the tower. Shelly said they can condition approval
357 upon a breakpoint in the tower in case it would collapse.
- 358 • Commissioner Jones said it seems the towers are now being built to be pretty permanent.
359 Shelly Neace agreed. She mentioned that they are happy to comply with the request to
360 have a structural engineer review the plans/permit.
 - 361 • Commissioner Bonine asked if they want to address the inconsistencies between the
362 application and the website. Sarah Neace said that some items are in the planning stages
363 but are now more final. We build what we are permitted to build. They have finalized where
364 the antenna will be placed (191'). Some of those items change by a small degree. In
365 reference to the lease area, they secured rights to a 60'x60' area. They know if they get
366 more tenants, they will need to expand the area. At this time, they will only fence the
367 40'x40' area. T-Mobile was initially looking at this site and Verizon came alone. They
368 wanted a rad center at 191'. If approved, we will provide provisions for any conditions
369 imposed upon them to show the final construction drawings.
 - 370 • Commissioner Jones said they addressed the fence discrepancy – 6 feet tall with 2 feet
371 of wire.
 - 372 • Commissioner Bonine said he is looking at the website and it shows a lattice tower. Sarah
373 Neace said it is a mistake. Shelly Neace said they were originally going to build a lattice
374 tower, but she changed it because she thought it would be less intrusive to have a
375 monopole.
 - 376 • Chairman Brandon-Wintermote mentioned the option of monopines. Shelly Neace said in
377 her opinion a 195' tree pole where there are no other trees, sticks out like a sore thumb.
378 A smaller thinner array or tower that is thinner that is not as wide is less visually intrusive.
379 The tallest tree pole they have done is 150'. A 195-foot monopine she would have to look
380 into – it would have a wider berth.

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382 Chairman Brandon-Wintermote asked other members of the public if they had any comments:

- 383 • Karl Dembik said that at the end of the day, the technology, all this stuff that was said...he
384 pointed at everyone that doesn't live there, will not see it. He thinks it is an eyesore. He
385 built his home and positioned it for the view. He doesn't want a pole to look at. These
386 people will build it and leave. They won't be looking at it. We had the same problem with
387 billboards down the highway. We don't need it. This is a beautiful valley. We have limited
388 cell service – we know it. We deal with it.
- 389 • Erik Kinkade is the director of the Wapiti Valley Preservation Group. His grandparents
390 were some of the first full-time residents on the Green Creek. He bought the last part of
391 their land recently. He has been building his home on the land and if the tower is built, it
392 will be directly in his view. The FCC gives few reasons to deny a cell tower, only one of
393 which needs to be mentioned. He gave two reasons they can use: there is a petition by
394 the residents of the community that feel the cell tower will negatively impact their property
395 values. He asked if a cell tower went in next to your property, do you think it will reduce
396 the value. He mentioned the petition signed by over 180 property owners that have signed,
397 declaring their property values will be decreased. He will not repeat what Brian Clarkson
398 already said, but with millions of people traveling through the valley, a 19-story cell tower
399 would dominate the scene. The second reason to deny is the blighting of the scenery by
400 construction of the tower. Most people who take photos would have the tower in their
401 photos. There's no doubt in his mind that people would exclaim in disgust how the County
402 could ever allow a tower to be constructed there. He urges the County to deny the
403 application based upon decreased property values and blighting of the scenery.
- 404 • Commissioner Jones asked about the petition. He read it in detail. He was curious as he
405 talked about all the people within the view, many of the signers did not even live in the

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- 406 valley and some live way out. Erik said they only took signatures of property owners.
407 Commissioner Jones said some of the people were from further away.
- 408 • Guy Cameron said he bought in Wapiti Valley ten years ago right next to where the tower
409 is going to be. He gets up in the morning – he didn't buy the property for cell service, he
410 bought it for the view. Now from his kitchen window, he will see the tower. What hasn't
411 been said is that when the wind blows, these towers howl. The stronger the wind, the
412 louder they howl. He spent 22 years in military communications. You can put these things
413 anywhere. He is 900 feet from the tower, with nothing in between.
 - 414 • Kurt Countryman asked why can't some other locations be evaluated before this one is
415 actually picked? BLM and State lands are nearby that could be used. He is opposed to it.
 - 416 • Michael Miketa said he has no cell service, has Verizon with barely a bar. He has ten
417 friends in the room he can call over Wi-Fi. There is no proof that there is a need. These
418 people bought for one reason – it is the Wapiti Valley. It is probably one of the worst
419 locations on earth to build a 195-foot cell tower.
 - 420 • Shirley Sinclair said this has been a big controversy ever since it was talked about in the
421 other location as far as eye sore and why we all bought property. The landowners that live
422 here, not the people that live out of state in big metropolitan cities. She has been here for
423 35 years. She remembered a billboard that was proposed – declined. A car wash –
424 declined. Commercial, commercial, commercial. How much will the landowner benefit. We
425 try to respect our neighbors. When you get commercial, it is frustrating to the landowners
426 that want the views and the wildlife. Cell phones are improving; hopefully, the road to
427 Yellowstone National Park will not be ruined for better service. If commercialism is
428 allowed, she doesn't care what the reason is. What she has been hearing is the lack of
429 service. Everybody has service. She hasn't heard anyone that doesn't have service at
430 home. It has been hard for her to watch that. In her 30 years here, they have always been
431 able to communicate. Hopefully the County commissioners will think about the long-term
432 effects of our valley.
 - 433 • Commissioner Jones asked for a reminder of the rules of a hearing. Respect all speakers,
434 no outbursts, no clapping; the rules are posted on the wall behind the Commission.
 - 435 • Robert Nelson said please vote no. He bought his house on 8 Murray Ln on July 8th. Had
436 he known that tower was going in or the possibility, he would likely have not bought it. If
437 he had bought it, he would have negotiated a lower price. He has a degree in accounting
438 and has worked on appraisal projects. He has read a lot of appraisal reports. Real estate
439 is personal. You have to find like properties to determine the valuation. So national studies
440 are irrelevant. My property is personal, and this eyesore affects me. He believes it will
441 impact his property value. He addressed the distance of the tower being about 450' from
442 his property. He read an article about a cell tower proposal in a California location that
443 sought a variance to place a tower less than the 1000-foot requirement. They were denied.
444 He is within the 600-feet, and he feels it will impact his property value. The applicants
445 remarked that speculated health effects were not a subject of this hearing, then they went
446 forward to share that there are no effects. FCC's ruling on that is based on research done
447 in the 1980s and 1990s. In that time, cell technology has changed dramatically. To base
448 safety considerations on old research seems like fair game for discussion. Governor
449 Gordon sent a letter to the FCC, which he provided with his written comments before the
450 hearing. He asked if the variance is granted, what kind of precedent is being set? He does
451 not want an industrial park near his house. Also, at the very least, if the applicant wants to
452 be less intrusive, at least move it to a less intrusive part of the property that affects fewer
453 residents.
 - 454 • Colleen Monahan lives next door to Tamara to the South. Her view is currently of the blue
455 dish. The tower will be her view, plus the blue dish. She chose to live in the valley because
456 of the views, the environment, and the animals. She knew she was going to have to haul

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457 water and pay more for utilities and that was okay. She understood because living in Wapiti
458 is a wonderful place. Seems we have the tail wagging the dog. So many people say they
459 don't care if they have reduced service. We live in a beautiful place. But we have someone
460 coming in saying we want to put in a tower. Shouldn't the people who live in Wapiti get to
461 decide because they actually live there? We have all accommodated with Wi-Fi
462 technology, which will only get better over time. We have lived in Wapiti because of the
463 way it is. We are okay with what we have. She is a neighbor, right next to it and she is
464 against it.

465 • Mary Sauve lives in Wapiti. She bought in Wapiti because of the beautiful, beautiful views.
466 The person they bought from went to great expense to have the utilities run underground
467 so the beautiful views would not be destroyed. She does not want this. It is going to destroy
468 a lot of peoples' property values. She is an ex-realtor. She has seen it. She knows it
469 happens. She appreciates the opportunity to talk. Wapiti is one of the most beautiful places
470 on earth. It is God's country. Please don't destroy it.

471 • Richard Sauve – he didn't like how the Act was brought up – it felt like a threat. Everyone
472 who drives up the highway every day towards the forest, which he does and enjoys the
473 beautiful scenery, people don't want to see a nasty 195-foot cell tower sitting there. He
474 finds it interesting that they moved it up the mountain to avoid the 200' number. He makes
475 phone calls on his way up to Yellowstone and he has good cell service. In addition, it's not
476 like Starlink is finished. Elon Musk wants free cell phone coverage for everyone in the
477 world. When we moved here, we didn't have cell phone coverage and it didn't make any
478 difference. I can send texts with a Garmin. Now the iPhone 14 is coming out – reaching
479 global satellites. Let's not assume technology has stopped. It's just getting started. It's
480 going to be satellite based.

481 • Wendy Niederriter – against it.

482 • Jim Zumbo said he and his wife built their cabin at the very top of Green Creek Road, 3.5
483 miles from the highway. For years they didn't have cell service. They would drive down
484 the road to the dumpsters to get service. More recently, they started to get service –
485 wireless magic. They drive up and down the highway all the time. The only time we lose
486 service is by the Sheriff's house all the way to the Wapiti school. So why do we need a
487 tower? In his opinion it is ugly and an eyesore.

488 • Taylor Gimmeson said she did a quick Google search and found that Horizon had to pay
489 fines from a fire where they misled investigators. Sometimes these things do set on fire –
490 there are lists of examples. To put the fire out they have to disconnect the power first. It
491 could be burning for hours and hours before they can even fight the fire. She has a kid
492 who has severe and rare form of epilepsy. She spent 5 years poring over boring research
493 papers. Because epilepsy is magnetically triggered. She had to search out the only doctor
494 in America, a neurologist. Her kid was being life flighted 3-4 times per year. They are at a
495 place now in Wapiti where he doesn't have problems because the electromagnetic load is
496 reduced. Once these things go in, if people do have health problems, you have no rights.
497 People could be having neurological disorders and there isn't a thing you can do about it.

498 • Tim McCreary said he lives on Green Creek, and he is pretty certain that tower is going to
499 be in his view. He shares the comments of others. What is interesting is the landowner,
500 Tamara Young, picked the location and she picked the location where she has no view of
501 it, but she doesn't give a damn if it is in everyone else's view. The location where the
502 satellite dish is located, that is where people used to go to get service. He used to sit there
503 to get service. We don't need more service there. He pointed out that Mr. Jones lives two
504 miles from the site and asked if he has good cell service. He said it appears he is very
505 much in favor of this tower. He thinks he should recuse himself from this decision. Lastly,
506 he doesn't think anyone in Wapiti wants this cell tower. Anyone from outside the area
507 shouldn't be telling us what we need.

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- 508 • Commissioner Jones responded that the commission is fact-based. They are advisors to
509 the Board of Commissioners. He bases his decision on facts. When people put out
510 information that is misleading, he calls it out. He won't let speculation stand without it being
511 defended. Facts trump opinions. Over the years, they have the public's best interests in
512 mind. They are advisory to the commissioners, and they try to give them their best opinion.
513 They also do their own research and bring their own expertise from different backgrounds.
514 He said his opinions are speculative. He has no opinions at this time.
- 515 • Laurie McCreary said does one property owner have the right of ruining the view of all the
516 people in the valley. She opposes the cell tower.
- 517 • Katherine Clarkson is extremely opposed to the cell tower. It is not in harmony. You can
518 drive around Wapiti, and you will not find a fence with barbed wire on top. They did not
519 take the time to research how to say Wapiti, what else is he looking over. She is the other
520 half of the wedding ring. Her love is strong for the valley.
- 521 • Eric Lopez lives in the valley. He agrees that Commissioner Jones should recuse himself
522 for being bias. Living in the valley is tough, he hauls water. We still function even without
523 good service. You talk about what the company wants, but what about what we want? We
524 live there. They have not made any point that anybody here would want to be on their
525 side. You can see, we don't want it. It seems the cards are stacked against us (pointed to
526 Commissioner Jones) especially with you.
- 527 • Commissioner Jones said as a commissioner their decisions are fact-based. We have
528 policies and rules and regulations to guide the decisions and they take them seriously. He
529 categorically condemns that comment. If we didn't have public hearings, it would be
530 different. We publicize and are extremely transparent. People are given a chance to
531 convince them (the commission) of how to decide. He will defend the integrity of the
532 commission.
- 533 • Kierson Crume spoke as a private citizen, property owner within 660 feet. He asked the
534 commission to consider denying the application based on decreased property values,
535 visual impacts and please consider that within their search/negotiation radius, they only
536 found agreement with one landowner. He was near the center pin, and he doesn't
537 remember being approached.
- 538 • Tom Rullman said he highly endorsed what Brian Clarkson presented with some
539 exceptions. He is an aeronautical/astronautical engineer. He is not so sure that this has
540 been investigated enough. Our troops use much smaller antennas and get better service.
541 He's not sure that they have said they identified a need if they asked the residents about
542 the need. He doesn't remember being contacted by Verizon or anyone to ask how their
543 service is. He and his wife have cell phones and they work (Verizon and AT&T). They
544 talked about data points – which could include tourists who do not live in Wapiti. And
545 neither do the folks that present this. This is not compatible to the scenic by-way of the
546 Northfork Highway. They said it is the least intrusive site, but it is intrusive. So right back
547 to compatibility, it proves it doesn't meet compatibility. He takes issue with Commissioner
548 Jones' comments express that many views are looking up, but he looks down and will
549 have to go by it every single day. It is an obstruction. The tourists come here because they
550 don't want that kind of view and the residents certainly do not want that kind of view. He
551 is adamantly against it.
- 552 • Linda Putney agrees with everything everyone has says. She doesn't feel that Horizon
553 has met the criteria that it is compatible. Where does it stop? Nobody asked us. They
554 should have asked us before. There was a tower that was supposed to go in near the
555 school – nobody wanted it then, nobody wants it now. People live here to be rural. Just
556 because there is a federal mandate to put these in rural areas, doesn't mean they fit in
557 every rural area. I want this denied.

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- Janet Kempner is on Ptarmigan View Drive. She will see the tower from her kitchen window though she will not be as close as others. She agrees with others. What are we talking about? The Wapiti Valley – the gateway to Yellowstone. She appreciates the maps defining what the valley is. After the tunnels and the reservoir, it is heaven on earth. Those are views are like nowhere else. The residents are a hardy bunch. We live there because there is less input from the rest of the world. She doesn't have cell service, but she does have Wi-Fi calling. It is inconvenient at times, but it is worth it for what they see. Horizon mentions the customers out there – the customers are us. We don't want it. We don't need it. She thinks Mr. Jones spoke about his job as doing what is best for the community and she feels what is best for the community is to deny. She doesn't feel it meets the needs. She is a licensed real estate agent, and she feels wholeheartedly it will impact property values. The people who want it search for homes in Cody – who may not be as hardy. In talking about the tower being lit and Horizon stated that Tamara could have them dismantle the tower if needed. She is saying yes to the tower, so she finds it hard to believe that any property owner in the valley that is entertaining a tower would go to those lengths. Is it just the leaseholder that could have it dismantled, or would other property owners have a say? There's no going back. The valley is a pristine place on the earth. She implores the commission to deny the application.
 - Steve Haberland at 72 Green Creek. He bought the property because of the beautiful view, and he is within about 500 yards of this, and he doesn't want to see it. He said years ago they were going to put a cell tower at the school, but he heard the project was scrapped due to health concerns of the students.

581 Chairman Brandon-Wintermote asked if the applicant did a survey of the applicants in the area to decide if they needed or wanted service. Commissioner Jones added that they are the builders of the tower. Their customer is Verizon, T-Mobile or other. Their job is to provide towers. Verizon provided lots of data for why they want a tower, data points, etc. Their determination is lack of service. Did anyone determine that because there is a lack of service, is there a demand for service? You're a tower-builder.

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- Shelly Neace responded that a lot of the comments are directed at Horizon when the carrier is who wants the tower. She does feel the need to defend the tower on their behalf. It is not a requirement to knock on doors to ask people if they want the service. It is a requirement for the service providers, when they seek a license, that they give fair coverage to all people in the US, including these remote areas and the people traversing through the area. In regard to AT&T, who is not a client yet, their initiative is e9-1-1 and were given a substantial amount of money to provide services for emergency response. They have to be fair in providing services. The common theme is that people want a tower, but don't want a tower in their backyard. They have to comply with the government requirements. There is a need and they established there is one. People can say they have service, but she knows for certain that is a lie. She knows for a fact that Horizon is not in a lawsuit for a fire and doesn't have any towers that caught on fire. She said she is not aware of any that have, this is not a fire hazard, there are fire suppression systems built in. The cell sites that have burned down were in forest fires. Also, they do offer not only fire and sheriff communication, but any emergency services communication at no cost. She thinks they have addressed the engineering issues, the need for the site, compliance with FCC and no one is imposing a threat to health, it is the law. People are fearful of the unknown, which is why the act was put into effect. The law states that. It is just a fact.
 - Commissioner Jones asked for clarity on the original question the chairman asked. They said they provided the need for [the tower]. Did they survey their customers as expressing a need for better service? He said the service isn't great, but they survive it and get along.

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- 609 Quality of service is one thing. The applicant didn't answer if they asked the residents.
610 People in Wyoming are not impressed with what the federal government has to say.
- 611 • Steve Kennedy said in regard to who reports, someone had made the comment that they
612 didn't receive a letter asking if they needed better service, however, you send a letter
613 every time you use your phone. The network watches those phones, terabytes of statistics
614 and data on a daily basis. If you want to know who reported the problems, the phones did.
615 Once they got to a certain level, the RF engineers paid attention.
 - 616 • Commissioner Jones asked if people were contacted. Shelly Neace said it is not a
617 requirement of the code, but she can say that in the past, they have sent text messages
618 out to every consumer (we didn't have time to do that here). In Idaho, they received a vast
619 majority of responses in favor of a tower. Shelly said they get complaints every day. They
620 don't spend millions of dollars for no reason. Yes, there is a need, and we can clearly
621 demonstrate the need.
 - 622 • Josh Leonard said they can certainly send a text. It will be interesting to see the number
623 of responses we get. The closest tower is miles away. Phones do report – and the way
624 cell companies figure out where they will place towers is due to the connection reports. It
625 is also based on complaint reports. He's not saying that is the case in this area. One of
626 the things he wanted to point out is that in Mr. Clarkson's presentation and other
627 comments, much was said about compatibility. He identified words in code that are
628 important, but he missed the word "use" – it is the "use" that must be harmonious. With
629 surrounding uses. What he means is that the uses are residential, agricultural, tourism,
630 transportation (with road) and the cell tower use is very harmonious with these uses. The
631 way the code reads, it does not have specific approval standards that apply to cell towers,
632 it has general approval standards for a special use. Almost all uses that come along can
633 have adverse impact. One person mentioned that their parents or grandparents were
634 some of the first to live in the valley. He argues that the roads and homes are also
635 adversely impacting the view. A cell tower is a tall, thin structure that does not blight a
636 view. As much as a pine tree would in terms of breadth and width. The code says not just
637 an adverse impact, you would have to find that it has a substantial adverse impact on
638 adjacent properties. Every use had an impact and potentially an adverse impact. The jump
639 from adverse to substantially adverse is big. The code does not mention protection of the
640 view. The cell tower does not affect the use of the other people's properties. He
641 understands how people say they don't care much about the decisions of the federal
642 government. He said in this case the landowner offered to unpopularity lease her property
643 for this use. That is her freedom of choice to utilize her property. The goal here is to make
644 sure that the others around can still use their property. And not just use their property but
645 use it more safely. Wi-Fi calling doesn't work when the power is out. It does not provide a
646 back-up. The new iPhone does not automatically send a distress signal unless it has
647 cellular coverage.
 - 648 • Chairman Brandon-Wintermote asked how long it would take them to send a text survey.
649 Shelly Neace said they could have it done before the next hearing. Shelly said it would
650 encompass this area and those travelling through. In the past, the response has been
651 overwhelming.

652
653 Chairman Brandon-Wintermote provided an opportunity for final comments from the public.

- 654 • Erik Kinkade reiterated that we have covered two different ways to deny this application –
655 property values which don't have to be proven per FCC – just have to have landowners
656 believe their values will be decreased. The other is a blighting of a scenic area.
- 657 • Brian Clarkson displayed a petition map. He said he believes in the integrity of the
658 commission, and he appreciates the challenges of his integrity. He appreciates their desire
659 for the facts. In talking about the petition, he compiled all the petitions (from paper and

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- 660 digital). What he identified is that there were 178 unique signatures, 127 of which were
661 unique addresses, 115 of which fall within the map. Gathering signatures was a lot of hard
662 work.
- 663 • Chairman Brandon-Wintermote asked how we know if the people voted for or against. It
664 is not clear how they voted.
 - 665 • Erik Kinkade said you cannot get that generated without seeing the declaration that was
666 on all of them. Brian Clarkson showed what the online petition showed. Erik said there
667 was a declaration on the front page of each petition.
 - 668 • Brian Clarkson said something was mentioned about code not covering protecting
669 scenery, but it is mentioned in the GR-5 description; to promote the scenic areas. Brian
670 said there was a question about communication towers at the recent public meeting in
671 Wapiti – one question was do you want the county to be limited, moderately involved, or
672 proactive in the regulation of cell towers. The result was 78% of people wanting to be
673 proactive. He agrees that a 200-foot pine tree would be obnoxious. If it was a choice
674 between a slender tower and pine tree, he would pick the pole. The opportunity he does
675 see it the option of other places where a shorter tower could work and could be a pine
676 tree.
 - 677 • Janet Kempner spoke to the comment about no one wanting it in their backyard. No one
678 wants it. If it is going to be a text message, it needs to be clear. It needs to go to everyone
679 – she is an AT&T customer and won't receive that text. If you just say, "do you want
680 improved service?" Of course, you would say yes. But if they said it would require a huge
681 cell tower that would impact the view, they would say no. You can go back where you
682 came from.
 - 683 • Richard Sauve said we have a GIS man who is skilled enough to send a letter to all the
684 landowners and have the responses sent to you, the commission.
 - 685 • Sylvan Gimmeson asked why these people get to say what we do and do not need when
686 we are sitting here saying we don't need it?
 - 687 • Tom Rullman reiterated the question that was asked was not answered. They have not
688 contacted the residents. He has a phone that doesn't do text. Why? Because he is a Wapiti
689 resident. He came here to look at the view. This is our community. It doesn't belong to
690 Verizon or Horizon. If they want to use data points of tourists and travelers, the residents
691 should be #1. This boils down to respect. That is not what is happening here. This is about
692 law and data. The human beings here have already signed a petition that says no we don't
693 want it. We can hand that petition to Verizon to give them the data (point) that they need
694 to see that we don't need it. You don't need to send me a text. We don't want it.
- 695
- 696 Chairman Brandon-Wintermote asked if the Commission members had additional questions.
- 697 • Commissioner Jones asked for discussion. Horizon has done a thorough presentation with
698 a lot of technical answers. He thinks some issues have been brought up and the public
699 has had a lot of consistent comments. He still thinks he is not clear on where to go with
700 this in terms of the difference between lack of service and the need of the populace for
701 the service. He thinks it is a legitimate choice. He doesn't know how to resolve it. Maybe
702 Verizon needs to go back to the drawing board. The question is, is there a need that is
703 compatible?
 - 704 • Chairman Brandon-Wintermote said she doesn't know for sure about the FCC denial
705 allowances. She would like to have more information and have their ducks in a row before
706 they continue the discussion. We need some time to process it.
 - 707 • Commissioner Jones said we are also missing two commissioners.
 - 708 • Chairman Brandon-Wintermote said those commissioners would need to listen to the
709 recordings in order to vote.

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- 710
- 711 • Commissioner Bonine entertained a poll. He said there may be a way to address Verizon's
712 suggestion of a need for service, but by using towers that are higher up in the valley, lower
713 height. We have heard that there are ways to have better communication with lower
714 towers. There wasn't a good answer as to whether a shorter tower was contemplated,
715 other than the higher the tower, the better the coverage. Shorter towers in less obvious
716 places could potentially achieve broader coverage and maybe be more in harmony than
717 this location and this height.
 - 718 • Chairman Brandon-Wintermote said they saw one of those up the South Fork. There was
719 a 75-foot tower that ended up being moved to a more harmonious location – it ended up
720 being 35 feet tall and not requiring a special use permit.
 - 721 • Commissioner Jones said they have had other discussions with utilities. They mention the
722 cost factor – there may be other locations, but they may cost more. More costly – that's
723 business. Primarily the cost of bringing electricity, maybe a road, to bring it to a place that
724 is more compatible. It's a business decision on their part.
 - 725 • Commissioner Jones said it may be helpful to keep the public hearing open.
726 Commissioner Bonine said he wondered what additional information are we needing?
727 Chairman Brandon-Wintermote said she would like to look further into some of the claims
728 that were made. One of her questions is how many people want this, if it is just the location
729 that is a problem. Have other locations been considered? She has a lot of questions to
730 wrap her head around. Commissioner Jones said if it were to be denied, the door would
731 not be closed. Chairman Brandon-Wintermote added that if it were denied, it would still go
732 forward to the Board of County Commissioners.

733 Commissioner Jones made a MOTION to CLOSE the public hearing at 4:41pm; SECONDED by
734 Commissioner Bonine. All in favor. Motion carried.

- 735
- 736 • Commissioner Bonine said he doesn't feel like the application has demonstrated harmony
737 and compatibility with the neighborhood. He found it interesting that there was mention of
738 uses needing to be in harmony with the surrounding uses, but the regulation also said it
739 needs to be in harmony with and compatible with the neighborhood and not have an
740 adverse impact. Based on the comments we have heard and the petition that we received
741 [the impact] is, by all accounts, substantial.
 - 742 • Commissioner Jones said that is the immediate neighborhood. We are not talking about
743 people going up and down the valley.

744

745 Commissioner Bonine made a MOTION to recommend denial for the Horizon Green Creek Tower
746 SUP-244 by Resolution 2022-46 based on the findings presented and for the reason of a lack of
747 harmony and compatibility with the neighborhood and the substantial adverse impact on the
748 adjacent properties.

749

750 The motion was SECONDED by Commissioner Jones. All in favor. Motion carried. See Resolution
751 2022-46 attached hereto and incorporated herein.

752

753 Shelly Neace indicated that they intend to move forward to the Board of County Commissioners.

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755 Chairman Brandon-Wintermote delivered the Chair's report.

756

757 The Planning Director delivered a report for the Planning and Zoning Department.

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759 There being no other business, a MOTION was made by Commissioner Bonine to adjourn the
760 meeting at 5:32pm. The motion was seconded by Commissioner Jones. All in favor. Motion
761 carried.

762
763 Respectfully submitted,



Jolene Brakke, Secretary

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766

**RESOLUTION 2022 - 46
PARK COUNTY PLANNING & ZONING COMMISSION**

**TITLE: RECOMMENDATION TO DENY THE HORIZON GREEN CREEK TOWER
SUP-244 PERMIT APPLICATION**

WHEREAS, Horizon Tower, LLC (“applicant”), submitted a Special Use Permit Application and supplementary materials to the Park County, Wyoming, Planning and Zoning Department, seeking approval to construct a 195-foot-tall monopole tower as part of a wireless facility;

WHEREAS, the project site is located in the North Fork Planning Area, in a General Rural 5-Acre Zoning District on a property approximately 18 miles west of the City of Cody with a physical address of 2942 North Fork Highway, Cody;

WHEREAS, the proposed use is classified as a major utility use in the *Park County, Wyoming 2015 Development Standards and Regulations*, adopted September 15, 2015;

WHEREAS, a major utility use is defined as electric transmission lines, power plants, substations of electrical utilities, solid waste disposal facilities, wastewater treatment plants, water treatment plants, water storage tanks, *communication towers over 35 feet in height*, commercial wind projects, private wind turbines over 35 feet in height, pipelines and storage areas of utilities providing natural gas or other petroleum derivatives, amateur radio antennas over 35 feet in height, and more than 2 microwave dishes in one location;

WHEREAS, establishing a major utility use is allowed in the GR-5 zoning district upon approval of a Special Use Permit;

WHEREAS, the Special Use Permit review process requires review and recommendation of the Park County Planning and Zoning Commission (“Commission”) in a public hearing, prior to the review of the application and final decision by the Park County Board of Commissioners;

WHEREAS, the Planning & Zoning Commission shall approve a Special Use Permit only if it is found that:

- A. Compatibility and Impacts: The use is in harmony and compatible with surrounding land uses and with the neighborhood and will not create a substantial adverse impact on adjacent properties;
- B. Services and Infrastructure: Adequate services and infrastructure are available to serve the use, or the applicant has agreed to provide services and infrastructure in sufficient time to serve the proposed use.
- C. Specific Criteria: The use complies with all specific criteria stated in these regulations for the use; and

- D. Overlay Districts: The use complies with additional requirements of overlay districts, if applicable.

WHEREAS, the Commission held a duly noticed public hearing on November 16, 2022 to consider the applicant's Special Use Permit Application, review the project plans and hear testimony from Planning and Zoning Department staff and members of the public, and made findings as follows:

1. A Special Use Permit Application, including payment, plan-view drawings, site survey, alternative site analysis and additional materials, was received from Horizon Tower, LLC. on October 17, 2022;
2. Tamara Young, as landowner, has given written authorization to Horizon Tower, LLC. to file a special use permit application;
3. The proposed use is the construction and operation of a 195' tall monopole tower as part of a wireless facility to accommodate up to four wireless carriers;
4. Applicable regulations are the *Park County, Wyoming 2015 Development Standards and Regulations*, adopted September 15, 2015;
5. This communication tower is classified as a major utility use;
6. The proposed use is in the GR-5 zoning district;
7. Major utility use is allowed in the GR-5 zoning district with an approved SUP;
8. Ownership is affirmed by a Warranty Deed dated June 17, 2004 (Doc. #2005-666) to Tamara A. Young, a married woman;
9. The parcel upon which the proposed development will occur is described as: A 29.94-acre parcel in the S/2NE/4SW/4, NE/4NE/4SW/4 of Section 22, Township 52 North, Range 105 West, 6th P.M., Park County, Wyoming;
10. The property's physical address is 2942 North Fork Hwy, Cody, which is located approximately 18 miles west of Cody, on the south side of State Highway 14-16-20 (Longitude: -109.488361, Latitude: 44.458961);
11. The tower site is approximately 1,275 feet south of the highway;
12. According to the County Assessor's records, surrounding land uses to the west and south are primarily residential and residential vacant lands; all are platted lots within the Green Creek Subdivision and Cody's Country Subdivision. On the northwest corner and adjacent to the proposed tower, is a .19-acre Mountain States Telephone parcel with an approximately 15-20' tower, dish and utility building. Residential and agricultural uses border the north, along with the Homestead Campground and two small exempt parcels owned by the Transportation Commission of Wyoming. The Red Barn gas station and convenience store is situated on the southwest corner of Highway 14 and Road 6DU Residential and residential vacant lands border the east side of this parcel;

13. The tower will be constructed on a parcel that slopes from south to north with approximately 75 feet of elevation gain from the highway to the proposed tower site;
14. Green Creek flows across the property approximately 150 feet north of the proposed tower location;
15. There is an existing residence and outbuildings approximately 500 feet to the northeast of the proposed facility site;
16. Notice requirements have been met;
17. Relevant agencies were notified on October 18, 2022;
18. Park County Fire District #2 stated they have no comment regarding the proposed tower;
19. Wyoming DEQ provided agency contact information for permitting associated with various construction activities;
20. The Park County Treasurer stated all property taxes are paid in full;
21. Park County Public Works confirmed legal access is from Green Creek Road and applicant will need to obtain a ROW permit from their office;
22. Park County Road 6DU (Green Creek Road) is County-maintained and the road is suitable for the proposed use. The Right of Way is dedicated for both public travel and public utility;
23. Distance of the structure from the County Right of Way appears to be approximately 40' based on plan scale;
24. Public Works recommends the structure be designed by a Wyoming licensed professional engineer while considering all appropriate loadings, including but not limited to, seismic and wind loads;
25. Public Works will not require an address or a road name of the access road, but is able to, should the applicant request an address or access road name;
26. The access road will need to be permitted with Public Works and be constructed in accordance with Park County Road and Bridge Standards;
27. A formal drainage/erosion control plan is not required based on the small footprint and planned area of disturbance. However, Public Works will require that the site plan include proposed drainage features (e.g. culverts, ditches etc.) intended to be implemented for the long term operation and maintenance of the facility;
28. Based on the proposed structure location, height and site elevation, the proposed facility does not exceed the FAA Notice Criteria;
29. According to the FCC TOWAIR online tool and based on the proposed structure location, type, height and site elevation, the proposed facility does not require registration;
30. Wyoming Game & Fish has not provided comment;
31. Park County Weed & Pest has not provided comment;

32. Rocky Mountain Power has not provided comment;
33. Numerous written public comments have been received in opposition to the proposed tower;
34. The applicant provided a statement on how compatibility will be achieved;
35. The tower does not require lighting, does not need to be guyed, does not emit radiation, and does not emit any waste, odors, perceptible noise or vibration;
36. The tower will be constructed in a 40' x 40' fenced compound;
37. There will be no additional noise created by this tower, beyond construction;
38. The facility will not produce radioactivity nor water pollution;
39. The applicant proposes mitigating visual impacts by separating the tower from homes in the area and having trees between the site and the nearest homes;
40. The applicant will use a non-glare paint for the tower;
41. Following construction activities, maintenance crew will visit the site quarterly;
42. It appears but has not been confirmed by the applicant that the proposed tower will not be within 20 feet of a County road right-of-way;
43. No covenants are proposed or existing;
44. No lighting is proposed;
45. This property has no known nonconformities;
46. No nuisances on the property have been reported;
47. Public Works recommends a geotechnical review prepared under the direction of a Wyoming licensed professional engineer;
48. The applicant has stated they intend to obtain a geotechnical review, prior to tower construction and upon approval of the special use permit;
49. Access exists from County Road 6DU (Green Creek Road);
50. Domestic water is not proposed for this use;
51. The parcel is not located within an irrigation district;
52. Parking standards are not applicable;
53. A septic system is not required for this use;
54. No signs are proposed;
55. Solid waste will not be generated by this use;
56. No specific criteria are identified for this use;
57. The parcel is not located in an overlay district;
58. Site Plan Review is not required.
59. Several residents of the Wapiti Valley area spoke in opposition of the proposed use and voiced their concerns, including, but not limited to:

negative impacts to property values, aesthetics/scenery/views, and harmony in the neighborhood, as well as their opinions that there is not a need for the use as adequate cell service and communication means already exist;

- 60. It is unclear whether a shorter tower and/or an alternate site for the cell tower in a more harmonious location was contemplated by the applicant;
- 61. The application does not adequately demonstrate harmony and compatibility with the neighborhood; and
- 62. Based on public comments and a public petition in opposition to the proposed use, the adverse impact on the neighborhood appears to be substantial;

WHEREAS the Commission considered the approval standards for granting a Special Use Permit and found the applicant's proposal does not meet all of the applicable approval standards due to the following:

- 1. The use is not in harmony and compatible with surrounding land uses and with the neighborhood; and
- 2. The use will create a substantial adverse impact on adjacent properties;

NOW, THEREFORE, BE IT RESOLVED based on the foregoing, the Planning & Zoning Commission hereby recommends DENIAL of the application for the Horizon Green Creek Tower SUP-244 Permit.

**PLANNING AND ZONING COMMISSION
PARK COUNTY, WYOMING**

ATTEST:



Kimberly Brandon-Wintermote, Chairman



Jolee Brakke, Secretary



Park County Planning & Zoning Department

1002 Sheridan Avenue, Suite #109

Cody, Wyoming

(307) 527-8540

PARK COUNTY PLANNING & ZONING COMMISSION

Meeting **1:00 P.M., Wednesday, November 16, 2022** in the Alternate Emergency Operating Center (EOC Room), basement of the Courthouse Addition
1002 Sheridan Ave. Cody, WY.

This is a regular meeting of the Park County Planning & Zoning Commission open to the public. For more information please contact the Park County Planning & Zoning Department at 527-8540, 754-8540, or 1-800-786-2844.

APPROVAL OF MINUTES

Approve minutes from October 19, 2022 meeting.

REGULAR AGENDA

[PUBLIC HEARING – Horizon Green Creek Tower SUP-244](#)

OTHER BUSINESS

1. Update on Land Use Plan Development
2. Chair's Report
3. Planning Director's Report

ADJOURN

PLEASE SIGN IN

PLANNING and ZONING COMMISSION REGULAR MEETING November 16, 2022

		Horizon Green Creek Tower SUP-244	
	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	MARIA DEMBIK	TOWER	
2	KARL J DEMBIK	TOWER	
3	Erik Kinkade	11	YES
4	GARY CAMERON	TOWER	YES
5	Kurt Countryman	Tower	yes
6	Steve Haberland	Tower	Yes
8	Michael Miketa	TOWER	NO
9	Shirley Sinclair	TOWER	YES
10	Robert Nelson	Horizon Tower	Yes
11	Colleen Monahan	TOWER	NO
12	Bretchen Stark	TOWER	NO
13	BRIAN CLARKSON	HORIZON TOWER	?
14	MARY T. SAUVE	HORIZON TOWER	YES
15	RICHARD R. SAUVE	HORIZON TOWER	YES
16	Wendy Niederriter	Horizon Tower	NO
17	Madonna Zumbo	" "	NO
18	Jim Zumbo	TOWER	NO
19	Mike Gimmeson	Cell Tower	Yes
20	Sylvan Gimmeson	Cell Tower	YES NO
21	Taylor Gimmeson	cell tower	yes
22	TINA LAMB	Cell Tower	NO
23	DAVID HALL	CELL TOWER	YES
24	KELLIE ELLWOOD	CELL TOWER	NO
25	Ann Anderson	cell tower	NO
26	STEVE ANDERSON	CELL TOWER	NO
27	Barb Sultor	cell tower	NO
28	BEN JOHNSON	CELL TOWER	NO
29	Tim & Lori McCreary	tower	Yes
30	KATHERINE CLARKSON	TOWER	YES

PLEASE SIGN IN
PLANNING and ZONING COMMISSION
REGULAR MEETING
November 16, 2022

Horizon Green Creek Tower SUP-244

	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	ERIC LOPEZ	CELL TOWER	N
2	KIRBY CRUM	"	Y
3	Debra Paulsen	cell tower	NO
4	CHRIS PAULSEN	CELL TOWER	NO
5	TOM RULLMAN	CELL TOWER	Y
6	SUZANNE RULLMAN	CELL TOWER	N
8	Linda Putney	Cell Tower	N
9	Janet Kempner	cell tower	Yes
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PLEASE SIGN IN
PLANNING and ZONING COMMISSION
REGULAR MEETING
November 16, 2022

		Horizon Green Creek Tower SUP-244	
	Please PRINT your name	Name of the HEARING OF INTEREST	DO YOU WISH TO SPEAK
1	JERRY L. NIEDERRITER	Horizon Tower	NO
2	Mary McKinnis	✓	yes
3	TERRY SABLE	"	No
4	SARAH NEACE	"	YES
5	SHERY NEACE	"	yes
6	Steve Kennedy	"	YES
8	Josh Leonard	"	yes
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