



Planning & Zoning Commission

AGENDA

Tuesday, January 12, 2021 at 6:00 PM
Platte County Commissioners Chambers
800 9th Street, Wheatland, WY

- A. Call to Order - Roll Call
- B. Citizen Comments
- C. Declaration of Conflicts of Interest
- D. New Business
 - a. **Request:** A request for a Simple Subdivision to divide approximately 16.5 acres off of 38.9 acres
 - i. **Applicant:** Delton Tinsley
 - ii. **Location:** located west of Guernsey town limits and north of US Highway 26, Platte County, WY West, Wheatland, Platte County, Wyoming
- E. Approval of minutes from the December 8, 2020 Regular Meeting
- F. Board discussion (If any)
- G. Adjournment


Next Planning & Zoning meeting: February 9, 2021

This agenda is not exclusive. Other business may be discussed as necessary



Platte County Planning & Zoning

600 9th Street · Wheatland, WY 82201 · (307)322-2962

<p>MEETING DATE & TIME:</p>	<p>Town of Guernsey Planning and Zoning Tuesday, December 15, 2020 at 4:00 PM Town of Guernsey Council Tuesday, December 15, 2020 at 6:00 PM Platte County Planning & Zoning, Tuesday, January 12, 2021 at 6:00 PM Platte County Commissioners, Tuesday, January 19, 2021 at 10:00 AM</p>
<p>APPLICANT:</p>	<p>Del Tinsley</p>
<p>REQUEST:</p>	<p>A Simple Subdivision to divide approximately 16.5 acres off 38.9 acres</p>
<p>LOCATION AND AREA:</p>	<p>16.5 acres <i>Legal description</i> – west of Guernsey town limits and north of US Highway 26, part of the NE4NE4, part of the NE4SE4, Section 34, T27N, R66W, Platte County, Wyoming</p> 
<p>SUMMARY:</p>	<p>Approval of this Simple Subdivision request will allow Mr. Tinsley to develop this raw land.</p>

Background and Proposal Details:

Mr. Tinsley has applied for a Subdivision to divide approximately 38.9 acres into 23 parcels; located just west of Guernsey town limits and north of US Highway 26, part of the NE4NE4, part of the NE4SE4, Section 34, T27N, R66W, Platte County, Wyoming.

Upon working with Lingle REA to provide electrical services to the proposed development it was discovered that separating the proposed subdivision into two sections would save a substantial amount of money. Thus prompting the decision to create a Simple Subdivision on the north portion of the property while keeping the already approved Subdivision on the south portion of the property.

When it comes time for the final plat, if any significant changes are made to the proposed subdivision's layout a secondary subdivision review will be required by both Planning and Zoning and the County Commissioners. The final plat will need to meet all the requirements set forth in the Platte County Planning and Zoning Rules and Regulations.

This adjustment to the overall development does not change Mr. Tinsley's plans to donate the remaining acreage located on the south side of Highway 26 to the Town of Guernsey.

Neighbor comments:

None received.

Agency Comments:

None received.

Guernsey Comments:

Guernsey Planning and Zoning: no concerns

Guernsey Town Council: approved this request for a Simple Subdivision

Analysis:

Mr. Tinsley's request to create a simple subdivision meets all the requirements of Platte County Planning and Zoning Rules and Regulations. The simple subdivision plat will need to be recorded before the subdivision plat; otherwise this division would need to be a subdivision per the Platte County Rules and Regulations.

Staff Recommendations:

The Planning Office believes that Mr. Tinsley's request to create a simple subdivision should be granted with the following conditions:

- 1) Simple Subdivision plat be recorded before the previously approved Subdivision plat.
- 2) That any lot adjustments and/or design is significantly changed that the simple subdivision be reviewed by Planning and Zoning and the County Commissioners before preparing the final plat.
- 3) That a final plat be prepared and recorded with the Platte County Recorder's Office within one year of Platte County Commissioners' approval.
- 4) Mr. Tinsley have the surveyor coordinate with the Platte County Planning Office to have the draft plat reviewed before ordering the mylar print for recording.

Planning & Zoning Commission's Options:

In reviewing the request for this Subdivision, the Planning and Zoning Commission may:

- (1) approve the preliminary plan as proposed,
- (2) approve the preliminary plan with conditions,
- (3) continue the preliminary plan to a future meeting of the board until further review has been done, or
- (4) disapprove the preliminary plan (with or without prejudice).

Failure to achieve a quorum results in an automatic continuance to the next regularly scheduled meeting, and a motion fails due to the lack of a second.

Attachments:

Exhibits:

1. Letter of Intent
2. Site Plan

Available upon request:

1. Notice of Hearing
 2. Neighbor letter & Neighbor list
 3. Routing Letter
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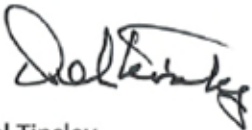
Delton Tinsley
PO Box 85
Wheatland, Wyoming 82201
dlt@wyoming.com

To whom it may concern:

I am seeking approval to divide off approximately 16.5 acres from the northern portion of my property located west of the Town of Guernsey. This portion was originally going to be part of the Rivers Edge proposed subdivision, but due to Lingle REA's quotes coming in at a savings of around \$100,000 to provide power separately to the River's Edge Subdivision and this Simple Subdivision it makes sense to make them two separate divisions.

Please contact me with any additional questions.

Kind regards,

A handwritten signature in black ink, appearing to read 'Del Tinsley', with a stylized flourish at the end.

Del Tinsley





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PLATTE COUNTY PLANNING & ZONING COMMISSION
RECORD OF PROCEEDINGS
TUESDAY, DECEMBER 8, 2020

Call to Order – Roll Call

The regular meeting of the Platte County Planning and Zoning Commission was called to order at 6:00 PM on Tuesday, December 8, 2020, by Chairman Shepard in the Platte County Commission Chambers.

Members Present: Chairman Shepard, Commission Member Lockhart, Commission Member Klein, Commission Member Warner (by phone)

Members Absent: Commission Member Brockman

Staff Present: Planner Clark

Declaration of Conflicts of Interest

Chairman Shepard asked if any of the Commission Members had conflicts of interest to declare. None noted.

Citizen Comments

Don and Lori Hale presented their plans to request to vacate the 3rd filing of Y-O ranch; they purchased the property on a metes and bounds description and didn't know it would still be considered a subdivision. Later the Town of Wheatland purchases lots 103-105 to the south where the shooting range is now located. Frontier Road and Court are a point of contention for the Town of Wheatland even though the roads have never been developed.

Stephen Sherard clarified that when purchasing parcels that are included within a platted subdivision those parcels come with certain assurances which are indicated on the plat and stated in recorded easements. Due to the length of time that has passed without the subdivision being developed the Hale's may be able to pursue abandonment.

Planner Clark noted that due to the subdivision being recorded by the developer and then not being vacated by the developer prior to the sale of the property that per state statute it is a platted subdivision. As discussed during the County Commissioners' meeting last week to determine if a partial or full vacation of the 3rd filing should be pursued the Hale's need to approach the Town of Wheatland Council, as the Town of Wheatland is the other property owner within this filing, to see if the Town would also be willing to vacate their portion of the subdivision.

Mr. Hale asked how to get on the Wheatland Town Council agenda; Planner Clark advised to contact Wheatland Town Clerk Wright to request to be added to the agenda.

New Business

Request to Rezone approximately 10 acres from Agricultural to Industrial by Stone Welding LLC located in the SW4 of Section 1, Township 24 North, Range 68 West, Wheatland, Platte County, Wyoming

Planner Clark noted Merlin Hitt applied for a Simple Subdivision to divide approximately 10-acres; this request was approved by the Town of Wheatland on October 12, 2020, by Platte County Planning and Zoning on November 10, 2020, and by Platte County Commissioners on November 17, 2020. Stone Welding is requesting that once the final plat is recorded that those 10-acres be rezoned from Agricultural to Industrial.

Rezoning this location would allow Stone Welding to continue to do business and bring business to Platte County by providing metal fabrication and welding services at this location.

This location is bordered to the north and east by county agricultural zoning and to the south and west by town highway business zoning. Rompoon Road is currently utilized by semi traffic.

Neighbor comment received from Mardy and Carolyn Droscher is included in the packet and no agency comments were received.

Rezoning of this 10-acre parcel has the potential to not only retain an established Platte County business, but it could provide potential for expansion. The parcel is bordered by both agricultural and highway business zoning and is near the Town of Wheatland's industrial park. Access to the parcel will be utilized off Rompoon Road. Rompoon Road currently experiences daily semi-truck traffic. Wheatland Early Childhood Center is located to the west of this location within the Town of Wheatland's highway business district and additional large truck traffic could pose a safety issue, however, the speed limit on Rompoon Road near the Early Childhood Center is posted 20 mph and the facility and playground area is set back off the road a good distance to provide a buffer area. It is the opinion of the Platte County Planning Office that this request be granted with the condition that the zoning change would not take effect until recording of the approved simple subdivision plat.

Merlin Hitt – neighboring landowner – is in favor of this rezone request and has spoken with the neighbors to the east and they are in favor of the rezone as it will ensure a development that could potentially affect their water well does not go in. Do not know why the neighbor that submitted a comment did as they are not near this location.

Platte County Economic Development Merlin Hitt – anything that retains and creates more jobs for Platte County residents is a good thing.

It is the opinion of the Platte County Planning Office that this request be granted with the condition that the zoning change would not take effect until recording of the approved simple subdivision plat.

Motion by Commission Member Klein was seconded by Commission Member Lockhart to approve the Rezone request with the one staff recommended condition.

Upon roll call the vote on the MOTION was:

YES: Commission Member Lockhart, Commission Member Klein, Commission Member Warner

NO: None

MOTION DECLARED CARRIED



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Request for a Special Use Permit for a Communication Tower by Visionary Communications located on a portion of an approximately 67-acre parcel located in part of the SW4NW4 and part of the SE4NW4, and part of the NW4SW4 in Section 12 of T24N R68W Wheatland, WY

Planner Clark noted Visionary Communications has applied for a Special Use Permit for the installation of a 120 ft self-supporting communications tower with 8'x8' communications equipment building and backup power system to provide communications to the Wheatland community as part of the CARES Act.

Visionary Communications obtained the signatures of the property owners to apply for this Special Use Permit on their property located on a portion of an approximately 67-acre parcel located in part of the SW4NW4 and part of the SE4NW4, and part of the NW4SW4 in Section 12 of T24N R68W Wheatland, WY as shown in the above image.

Visionary Communications hopes to have this project completed by the end of December 2020.

Neighbor comment from Stephen N. Sherard of Sherard, Sherard, Artery & Johnson: I am a part owner to various lots in North Park Business Park that borders the Kersting property for which an application for a permit for wireless communication tower has been submitted. I am for helping the community and providing more wireless communication abilities in the area sounds great. However, I am also a customer of Wyoming Wireless, and I am concerned that this tower might interfere with Wyoming Wireless's use of the airwaves. If some conditions were put on the permit to make sure that this will not interfere with Wyoming Wireless's use, it would sure put my mind at ease to protect a great current local company (Wyoming Wireless) that deserves the continued and unfettered ability to provide its services to its customers.

Stephen Sherard added my family owns part of those north park lots and the only activity that we've had up there is the motel and we have absolutely no objection to the communication tower because the town lots are zoned light industrial and we have no problems with the concept at all and we are for more things happening in Platte County. The thing that I worry about is BJ's company and I am here not as his lawyer I am here as a customer of his and a friend and he has approximately twelve-hundred customers and provides great service and if you have a problem you call him you don't get a voicemail where you can't get anybody; it's really nice. Twelve-hundred customers is a lot for this small town and I am very fearful as my email indicated that this gets approved and they start interfering with his business and now he has mad customers that can really affect his business; like Bill and Marty you have a great irrigation well out on your farm the neighbor wants to put in another irrigation well not very far from you; well you're all for that everyone needs to irrigate their crop, but if their use of that irrigation well starts to get in your cone of depression and starts sucking water from your operation you're going to be mad. That is where I am coming from. And I am all for it, I think that it would be great, but I worry about BJ's customers.

Agency comments were received from Town of Wheatland Electrical Superintendent Pinneo: No electric lines and Town of Wheatland Clerk Wright: After speaking with Jordan Ham of Wyologic, the Town of Wheatland's IT provider, I would like to express some concerns regarding the tower Visionary Communications would like to erect on the Kersting property off of Swanson Rd. The Town of Wheatland utilizes wireless equipment to connect our remote buildings and water systems back to Town Hall. These links are crucial to our day-to-day operations. Because of its location and height, this tower would have direct line of sight to these Town of Wheatland links creating a high potential for strong interference if 5GHz, 2.4GHz, or 900MHz equipment were used on this tower. Those radio bands are already highly utilized in this area and additional equipment installed using them has a high probability of causing issues for the Town of Wheatland and other entities already utilizing them.

We are not against the installation of this tower, but we would like to request that if it is approved there are stipulations to the radio bands that can be used by Visionary Communications. Specifically, we would like to request that all wireless equipment on the tower would be in licensed bands that require frequency coordination to avoid any interference. There are also concerns in regard to our internet service that we would like to be addressed by Wyoming Wireless Internet as this tower could cause similar issues for them and the ability to provide our internet

Planner Clark bringing in additional communications options to the area is great for underserved areas. Installation of a communication tower at this location needs to be carefully considered to ensure it will not negatively impact already existing infrastructure.

Before construction begins, Visionary Communications will need to supply approval from the Federal Communications Commission and will need to submit this approval and FCC public notice publication with their Building Certificate application.

Due to the proximity to Wheatland town limits and town power lines, the Planning Office recommends that before construction begins; Visionary Communications enters into a Memorandum of Agreement with the Town of Wheatland and Platte County to protect current infrastructure and address the future possibility of the location being annexed into town limits and what would be needed for this project to meet the Town of Wheatland's franchise agreement requirements in the future.

Recommendation of the Planning Office is to approve Visionary Communication's request to install a communications tower with the following conditions: 1. Provide the following supporting documents when applying for a Platte County Building Certificate: a. Federal Communications Commission approval; 2. Work with the Wheatland Town Council and Platte County Commissioners to establish a Memorandum of Agreement for this project; 3. Notify One Call of Wyoming (811 – call before you dig) before beginning construction.

Brian Worthen – Visionary CEO – We've been in business since 1994 and have had service in Wheatland since the dial up days. If you had vcn.com address that was us. So, we have been here a while and have had infrastructure here for a while and what I love hearing tonight is support for the local provider. Obviously, I am from Gillette and not from Wheatland. We do business with the State and other entities that need service here, so we deliver that service. We applied for 39 CARES grant applications around the state; the CARES money has to be spent by December 30th according to US Congress, and we were awarded 15 projects and this area was one of them. We are trying to improve service out on highway 34 towards Sybill Canyon and that is what we would



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be using this infrastructure for. But I love what was said, that there is support for a tower and concern about frequency and I would say we are in Pinedale with four other wireless providers and co-existing. This is public spectrum everybody uses it and everybody co-exists; so that the comment made that about the water, I am going to use a simpler example; if you have a Verizon phone or an AT&T phone and T-mobile phone they all co-exist or a Sprint phone; so we all might be holding different phones from different providers and they use different frequencies and it's real simple everything co-exists and what is great is, and I loved what the Town had to say about concern for frequency, everybody can co-exist and it's just a matter of talking to each other. There's a governing body for frequency disputes and that is the FCC; so fortunately for everybody in the room it's not my job to regulate that, it's not my competitors' job, it's not this counties job, it's not the city's job, fortunately the FCC exists for that and there is a process for that, but we co-exist before with the internet providers in Pinedale, we co-exist with the city water tank system in Gillette, coal mines, oil wells, gas wells, everybody is using their frequency, we have a competitive wireless provider up there, so I can tell we're well versed in this technology, we understand it and we've been working towards this goal of getting this infrastructure up by December 30th. The goal is to get service out in the hinterlands on the edge of where service has been available. What's interesting is we already have a tower roughly in that area and this was designed to get further east to connect to one of our other towers and to get further up the canyon. That was our entire goal, to improve service and that's what I am here to talk about.

BJ with Wyoming Wireless asked if Visionary provides services in Cheyenne and if they have had interference complaints or problems with other suppliers in that area. – Mr. Worthen stated that they co-exist with Millhouse and what was Skybeam and is now Rise and all three companies are in north Cheyenne in the ranchette area. What happens with frequency is everybody can use these twenty MHz slots, which is public frequency, and lets say there are twenty of those slots, Provider A can use two of those slots, Provider B can use two of those slots, and everybody really just coordinates and hopefully there is a good relationship.

Jordan Wyoming Wireless again asked if Visionary has had any problems with any other providers or any interference problems or complaints in Cheyenne or anywhere else. – Mr. Worthen stated No, no issues with anyone. Justin Nelson with Visionary stated that they have had coordination issues and that is reality of doing business in an unlicensed frequency. It is the risk that Wyoming Wireless took by not securing licensed frequencies and it is a risk we assume by using unlicensed frequencies.

BJ Wyoming Wireless – That is why we are here is to make sure we can get a situation in place to make sure we can work with Visionary.

Commission Member Klein – What can you do to help us guarantee that Visionary wont cause problems with Wyoming Wirelss?

Mr. Worthen – the beauty of this is we are trying to locate a tower in a community that is separate from Wyoming Wireless' infrastructure and I have Justin Nelson here to answer anything about

private and public spectrum, I don't know you're nearest tower, but I am assuming it is at least three quarters of a mile away on that silo on the interstate.

Commission Member Klein – What would you do if you get this going up and operating and BJ calls you up and says you are interfering with my signals?

Mr. Worthen – We would frequency coordinate, so if he is using two slots in this MHz spectrum and we overlap we move this one that is overlapping.

Chairman Shepard asked if Visionary would provide Wyoming Wireless space on this tower?

Mr. Worthen – I don't have a problem with that, I'll lease him space on my tower, here's the thing that I am not sure everyone understands, not once have I been contacted by Wyoming Wireless saying hey stop by when you're through Wheatland; here's what I am going to tell you as his attorney, there's two things and I hope you take this as it is intended. One, I built a fiber network here to serve the schools so if you have students they are on my network and I sell that to the state, BJ should reach out to the state and try to sell those services to the state, I am encouraging you to compete with me, the second thing is in November 2018 the CAF2 money was handed out to Mountain West out of Casper in Platte County and in September 2020 CARES money was handed out by the State of Wyoming and just this week the FCC handed out ARDOF money in Platte County that's all based on 477, so what I am telling you is because there is strong support for the hometown provider, I am telling you as the hometown guy, if you file 477s the federal government and the state government wont hand out money on top of you. You won't have to play defense in meetings like this; you'll be able to say I own this area and you won't have to worry about Mountain West getting money or Visionary getting money. If I would have known this was going to be this difficult in Platte County, I would not have applied for that grant. I would have asked that state to put it on the side. I am not into this time and money for engineering, surveying, working with the landowners and what I am telling you as a local provider, file 477s twice a year, use towercoverage.com, export that to the FCC, twice a year put in that work and nobody will get money from the feds anymore in Platte County.

Jordan with Wyoming Wireless – We appreciate that, we definitely do. We want to make sure you know that we are not against the tower for providing service up 34, we have had requests for that and that is something that we just can't provide in our current situation. It's not smart for us. We are not against you in that manner at all. We are watching out to kind of expand on, for everyone else obviously, there's only so much space in these unlicensed frequencies public use bands, when you end up with quite a bit of equipment, the more equipment you have the more frequencies you're going to be using, so it's not just two and two it can be 20 MHz wide to 100 MHz wide with some equipment in the 5 GHz band. Which covers a very large spectrum and makes it hard to frequency coordinate when you're consuming a ton of the channel width, because there is only so much space. With the topography and trees in Wheatland it takes a lot of equipment and multiple sites to cover the area. When you get into frequency reuse you can only use those in certain places, so eventually you run out of channels/space. When there is no where to move to is when you have a problem, we already have to be extremely careful when we put up new equipment because it can happen where you interfere with yourself and it takes a lot of planning. With the use of the unlicensed band and for the sake of what Visionary would like to do with the tower is where we would like to request, if at all possible for Visionary to stick with licensed frequencies to avoid that in general and frequency coordination is already done and can be searched on the FCC website and allow other services to send you notifications if you have other equipment in the area. This would minimize that already congested area and we would love for you to provide service up



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34, we have friends up there that we cannot provide service to and we would love for them to have great internet.

Mr. Worthen – It is not entirely reasonable for you to say to stick to licensed frequency where you are using public frequency. But we just went through this in Pinedale and we were on the mountain with another provider and we are on the same tower. We moved a quarter mile away to clean everything up. We have made sure that this location is separate from your towers and I would also point out too that we have been in town wirelessly for eight years and how many times have we ran into problems? BJ, you know my brother's number, it happens, and we work it out. We have picked a tower location where it's going to work. What's interesting about this project is we weren't planning on using 2, 4, 5, 8MHz, we don't even use 2 or 4MHz or the 900MHz, we use 5.8MHz, we weren't planning on that for this tower, we were going to use that to connect to our tower to the east and beam out licensed to highway 34, but it's not reasonable for you or the town or the county to say to us we want to put these stipulations because that what public frequency is, its for everybody's use. It's the same frequency you're using in your homes when you're on WiFi. We just want to be treated that same as you guys, I'm not even asking for the hometown advantage, he's already got that, my intent was to deploy these CARES funds, so what's interesting about this is we drove six hours to say we want to deploy where it's fair and we want to pursue our plans; however, because this Planning Commission meeting couldn't be rescheduled to accommodate our CARES schedule, I don't feel we can complete this tower in time. We are still seeking the permit, we will have to adjust it to meet the setbacks, so it will be a 100 ft tower, so we will be adjusting our request.

Planner Clark asked Chairman Shepard if anyone from Visionary Communications had contacted him with a request to call a special meeting to here this item. Chairman Shepard stated no.

Commission Member Klein – Where is the CARES act money at specifically, is the CARES Act money you received for Wheatland?

Mr. Nelson stated we received 15 projects, so we are serving Orin Junction with one project, we're serving Easterbrook south of Douglas with another project, we are serving Pinedale in the Upper Green with another project.

Commission Member Klein – But it is not for the town of Wheatland? Specifically, it is for the outskirts and this tower is part of this CARES Act that you are talking about is for highway 34?

Mr. Nelson it is for highway 34, there are two or three towers that direction and to connect to Cherry Knob and it is within an eighth of a mile of an existing tower we have that co-exists with you today.

BJ Wyoming Wireless – I am aware of some licensed frequencies that you have applied for that show that the 34 is being fed off Orin Junction.

Mr. Worthen – We had to change plans because the of the timeline with the Planning Commission. Imagine ordering a hundred-foot tower and supply chain issues being what they are with Covid. I actually can't order a hundred-foot tower until I get this permit which wouldn't happen until next week, so there is no possible way this tower is going to be delivered in time for me to deploy it. So,

I've had to re-engineer all those licensed links to another tower and it's not optimal, I would have preferred to put the infrastructure here, pay property tax here, pay use fees here, but it is what it is. Stephen Sherard – I don't know about this board, but this is way over my head. To me you can simplify by issuing a conditional permit saying that if there is unreasonable interference then they can come back before the board to see if there is a way to resolve it or revoke it.

Mr. Nelson stated he would struggle with that given that generally regulation of those frequencies is done by the FCC.

Stephen Sherard – I thought the FCC did not regulate those public frequencies.

Mr. Nelson stated the FCC controls them and you would have to go through the FCC to file for an interference claim.

Jordan Wyoming Wireless – Essentially the FCC does not say who can and can't use the public frequencies they are open for everybody, but they do mediate the interference.

Mr. Worthen – You are more likely to have interference with your Wi-Fi router in your house than an external provider.

Jordan Wyoming Wireless – That is a problem that every wisp has.

Stephen Sherard – I appreciate everyone's comments; why did you put the burden on BJ to contact you, why didn't you contact him?

Discussion about who has contacted who when over the years.

BJ Wyoming Wireless – I had a contract with Lock Trucking that competitors could not put equipment on my tower in our agreement, Visionary placed equipment on the tower, at that time we said we have this agreement and they said they would have the equipment taken off and it took a month to take it down and during that time that site went down four times at least intermittently and we had never had issues with it and then after they had taken it down we didn't have any issues.

Mr. Worthen – To be fair, we did send crews down and took down the equipment to comply with your agreement with Lock Trucking.

Jordan Wyoming Wireless – You did and it took quite a while and the equipment was powered on.

Mr. Worthen – I have a fiber network here, and heaven forbid I offered to BJ access to his fiber network to feed his towers and I don't offer wireless here anymore. We haven't had those discussions. It is easy to say we haven't had those discussions it could be you could be BJ could be Brian. Let look at this stuff objectively, I am coming before the Planning Commission and asking for a tower that I have heard support for including Wyoming Wireless and I am just being asked to limit my access to frequency, I can't do that. The FCC says to work together and file public comments and as an attorney you understand that when a public comment is filed to the FCC it is actionable and somebody can wave that in front of me. Yes, there was an issue at that site, we came down and took it down, there is no doubt about it.

Chairman Shepard – I don't know what this project is going to cost you, you're not going to spend millions of dollars to come and take a tower down. If you are going to the trouble of putting up the tower.

Mr. Nelson stated if you are asking if we would leave the tower up, if something happened and we were no longer providing wireless service in Wheatland.

Chairman Shepard clarified if there was interference and this board put a condition on this Special Use Permit that if there is interference with Wyoming Wireless. Would have an undo restriction on Wyoming Wireless if we do not have a restriction in our permit.

Mr. Nelson state then I do not think we would be interested in an agreement that had the commission regulating frequency within the county and the reason is again that jurisdiction



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belongs to the FCC and the county would be putting undo restriction on us verses another local provider.

Chairman Shepard, I can only speak for me as a person now and not the board, I want to look out for our local provider.

Mr. Nelson stated that he understands, but if we agree to that we would be ceding to the county's ability to regulate our frequency use in Platte County. So, from a long-term use, we can go put 5.8MHz on top of our existing tower and we can start going after customers today without this tower. Once we agree to that we are saying to you as the commission, hey you can regulate what frequencies that you can use. So, we would rather not have a tower and not deploy the CARES Act money than cede something that really belongs with the FCC and not you. I get that you want to protect the local guy, I am saying we would rather not move forward if that is the path that commission would like to go through. If the condition was added, then not only would Wyoming Wireless have recourse through the FCC they would have that through the county. We had the same dialog in Pinedale with the commission there. If the commission enters into that you're entering into controlling what a private entity does. We would rather not be in that position for ourselves, but also because then the commission is in every dialog about frequency in Wheatland. I should mention we are not looking to expand into Wheatland in wireless, that is not our agenda. If Wheatland was a more interesting market we would expand with fiber, but this is about deploying CARES money.

BJ Wyoming Wireless asked about alternatives for the CARES money such as at Cherry Knob.

Mr. Nelson verified that they do, but they are not as good of runs and restricted access, because we cannot get fiber to those towers, so we can fiber feed this tower with a build in 2021 to provide a significant bandwidth, so those are options that we have available with this tower that we don't have with those other towers.

Mr. Worthen stated he would like to reiterate something that Mr. Nelson said, if BJ puts something up, are we going to be able to come before this commission, who is entertaining the idea of regulating this instead of the FCC, and say, hey BJ is now interfering with us and we were there first. If it is equal it is somewhat interesting, but it is still overriding the FCC.

Stacie with Visionary stated I work with lots of communities on franchise agreements and planning commissions and different things and have been to several meetings in the last few months and the overwhelming majority of them have decided that as a county planning commission you don't want to be entering into picking winners and losers, I appreciate looking out for the local providers, but this would set a precedent for you and we wont be the last people that are coming here and then every time that you do this you'll have to be involved again and it's just not the role of the planning committee to take the initiative in that way to set up barriers in a free market between competitors. Pinedale had a meeting and then an internal discussion was like, whoa we just have to get out of this, and it might be good advice.

Commission Member Klein asked if Visionary would shut down the tower that is an eighth of a mile away?

Mr. Worthen stated they would probably leave some up on that with licensed frequency rather than paying the relicense fee, we would move some.

Commission Member Klein asked why aren't they putting this equipment on that tower?

Mr. Nelson stated there are rules against the height of the tower and that is why we picked this location for this tower and worked with the landowner in this situation. The height is important, we have to be able to get all the way up to 34.

Mr. Worthen stated we are here to say that we will not be able to finish this project and we are not sure we can proceed, but we are still asking for the permit and the commission approval, because we will entertain this next year.

Jordan Wyoming Wireless wanted to clarify why it sounds like we are coming across a bit aggressive in our request is we don't currently have really any relationship with Visionary and in the past, it hasn't been great for us and we do have relationships with other wisps. To your knowledge it may be correct, but we have had other wisps in Cheyenne report interference has caused them problems and to lose customers that were directly related to new towers and new sites being put up by Visionary Communications. Me personally think that it could be worth sitting down and having a small conversation to see if a relationship could be mended.

Chairman Shepard stated that is sounds like the providers need to sit down and establish some kind of working relationship.

Commission Member Klein can you clarify for me why you are requesting to build this new tower an eighth of a mile from the other one, is it due to the height? Because my thinking is, I am not sure I want a bunch of towers all over my town.

Mr. Nelson stated it is to provide coverage, height, and the ability to connect to fiber.

Mr. Worthen stated this is what we heard in Pinedale as well, but there are only so many things that you can do and discussed the other structure mounted towers that Visionary has in the surrounding area. I will close out my public comment; Wheatland has the best Taco Johns in the state, and I love stopping here.

Jen Stone, I have a quick point of clarification, when you were speaking just a minute ago you where talking about not coming into the town and competing with BJ, correct?

Mr. Nelson stated our goal with this CARES money, none of this money is for coming into the town and competing, and I am not saying we aren't coming into town we already are in the town offering services, I am saying we didn't receive CARES money to come and add and compete in town. All of CARES money is for expansion outside of town to underserved areas and to Mr. Worthen's earlier point, that money would not have been handed out if Wyoming Wireless had been filing 477s.

Jen Stone continued the only reason is I am a business owner also and I have had Visionary employees come in and trash talk BJ and asked us to move over to Visionary, I did not tell them who we were with because he thought we were with CenturyLink and I simply said, no thank you. So, when he made that comment I just needed a point of clarification, when an employee is coming into my business.

Visionary asked Mrs. Stone for more details and she said she would supply those as she kept his business card.

Commission asked about frequency regulation. Planner Clark reiterated that if frequency issues arise the FCC is in place to and does handle those disputes, thus there is no reason for nor does the county have jurisdiction to regulate frequencies.



Planning & Zoning

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Motion by Commission Member Lockhart was seconded by Commission Member Warner to approve the Special Use Permit for a communication tower.

Upon roll call the vote on the MOTION was:

YES: Commission Member Lockhart, Commission Member Warner

NO: Commission Member Klein

MOTION DECLARED CARRIED

Approval of Minutes

Approval of Minutes – November 10, 2020

Motion by Commission Member Lockhart with a second by Commission Member Klein was made to approve the minutes of the previous November 10, 2020 meeting as presented.

Upon roll call the vote on the MOTION was:

YES: Commission Member Klein, Chairman Shepard, Commission Member Lockhart, Commission Member Warner

NO: None

MOTION DECLARED CARRIED

Board Discussion

Planner Clark noted that currently there are agenda items for meetings thru February 2021 and as of now meetings will continue in person while following the state orders.

Chairman Shepard adjourned the meeting at 7:50 PM.

Approve:

Attest:

Chairman Planning & Zoning Commission

Planning Director