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## SITE INFORMATION

- 1) Owner: DBill LLC
- 2) Street Address: 8247 W. State Street
- 3) Ada County Tax Parcel Number(s): R0719420250
- 4) Property Description: LOT 11 BLK 2 AZALEA SUBDIVISION
- 5) Legal Lot of Record: Yes
- 6) Property Size: 0.567 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay: None
- 9) Comprehensive Plan Land Use Map Designation:
  - a) Green Boulevard Corridor
- 10) Floodplain Designation
  - a) The project is not in the floodplain according to the 2003 FIRM.
  - b) The project is not in the floodplain according to FEMA's most recent modeling of the Lower Boise River, adopted by resolution 1083-20
- 11) Adjacent Uses:
  - a) Vehicle Services
  - b) Single Family Detached Residential
  - c) Manufactured Home Park
  - d) Retail Store
- 12) Existing Use: Wireless Communications Facility
- 13) Easements on site:
  - a) 7' Pedestrian/Bike Path
- 14) Site Access:
  - a) Front: State Street
- 15) Sidewalks: Sidewalks are installed and are in good repair.
- 16) Wetlands on site: none identified

## PROJECT INFORMATION

- 1) Proposed development: Improvements to an existing cell tower
- 2) Noticing was completed on: November 17, 2022; December 2, 2022
- 3) The neighborhood meeting was held on: September 13, 2022
- 4) Associated Conditional Use Permit: CUPFY2023-0002 & CUPFY2022-0003
- 5) Site Coverage: New 15' x 20' Compound/Lease Area
- 6) Number of Structures: 1 (8'x8' Walk-in Cabinet on 9'x9' concrete pad)
- 7) Total number of vehicular parking spaces: 16
- 8) Total number of bicycle parking: 0
- 9) Trash Enclosure: No change proposed
- 10) Sidewalk: Existing sidewalk along W. State Street to remain
- 11) Fencing:
  - a) Existing 6' wood fence along southern property boundary to remain
  - b) Existing wrought iron fence along eastern boundary to remain
  - c) Existing chain-link fencing to remain around existing compound
  - d) Proposed 6' tall chain-link fence proposed around compound
- 12) Landscaping:
  - a) Street Trees: None
  - b) Parameter Landscaping: None

## AGENCY COMMENTS

The following agency comments were provided:

Agency	Comment Date	Summary
Garden City Engineer	11/25/2022	<ul style="list-style-type: none"> <li>• Approval of the project by the North Ada County Fire and Rescue District (NACFRD) may be required.</li> <li>• Prior to performing any grading on the site, if any, the applicant must prepare and have approved by the city an erosion and sediment control plan.</li> <li>• Should any water or serviced services be needed, they must be reviewed and approved by the city's Public Works Department.</li> <li>• A site grading and drainage plan may be required. Should 1,000 square feet or more of existing ground surface be altered, a grading and drainage plan would be required. Should any site grading alter existing drainage patterns on the site, a site grading and drainage plan may be required</li> <li>• Should a site grading and drainage plan be required, the landowner may be required to enter into an agreement with the city that will be recorded addressing mandatory maintenance of the site's storm water system.</li> <li>• Should relocation or changes to any existing irrigation facilities be proposed, it will require the approval of the entity in control of the facility.</li> <li>• We note the affidavit is personally signed by Taro Sitthion. It is not clear who the party is in relation to the property rights holder – an LLC. We suspect the signature is the personal signature of the member/manager of the property rights holder. The</li> </ul>

		signature should be a party for the valid right holder, the LLC (not as an individual).
Idaho Transportation Department	11/23/2022	<ul style="list-style-type: none"> <li>To help preserve the highways as constructed and provide responsible growth where allowed, any individual or business planning to add, modify, change use, relocate, maintain, or remove an encroachment on the state highway or use highway right-of-way for any purpose other than normal travel, shall obtain a permit to use state highway right-of-way. Encroachment permits approved by ITD are required for private and public approaches (driveways and streets), utilities and other miscellaneous encroachments</li> </ul>

## PUBLIC COMMENT

None provided as of the drafting of this document.

## MEETING SUMMARY

This is a summary of the discussions that occur at the Design Review consultation meetings.

### December 19, 2022, Meeting Summary:

- Extension of the existing facility, additional area for T-Mobile generator and new AT&T compound, for a total of two generators on site.
- Proposal is to continue the use and even extension of the chain-link fencing.
- Concern regarding the privacy and noise created by the industrial use. Neighbors have not provided public comment prior to the meeting.
- Conditions as drafted are conditions made of previous conditional use permits required for the installation of the wireless communication facility and continuation of the legal non-conforming use.

## CODE AND POLICY REVIEW

### Discussion

The request is for an approval of an expansion of a 'wireless communication facility', which requires approval of a conditional use permit. CUPFY2022-0002 is directly associated with this application. The proposed application is for AT&T to install ground-based equipment, including an equipment shelter building (8'x8' walk-in-cabinet and emergency generator), and collocating on an existing tower. The proposed installation includes installing antennas and ancillary equipment at the 90-foot level on the existing 119' monopole. The proposal encompasses an additional leased area measuring 15'x20' that is referred to as "the compound". The compound is proposed to be fenced in.

Installation would take place on an existing tower, served by existing utilities. The proposed installation includes:

1. Bringing power/fiber to site location
2. Adding AT&T Approved 8'x8' concrete walk-in cabinet, and associated interior equipment
3. Adding new compound fencing
4. Adding (1) 30KW AC diesel generator
5. Adding (1) GPS unit
6. Adding (3) VFA12-HD-WLL sector mounts on (E) monopole

7. Adding (6) antennas, (2) per sector
8. Adding (9) RRHs, (3) per sector
9. Adding (3) DC9 surge suppressors, (1) per sector
10. Adding (6) DC trunks
11. Adding (3) fiber trunks

**GCC 8-2B-2 Allowed Uses:** A wireless communication facility is not allowed in the C-2 General Commercial Zoning District. However, GCC 8-1B-3 allows for a nonconforming use/ structure to be expanded, provided successful obtainment of a conditional use permit. If the associated CUPFY20223-0002 is approved by the Planning and Zoning Commission, then the use would be considered an existing non-conforming use that which is permitted to expand as proposed (or otherwise conditioned).

**The Spectrum Act** (Refer to the FCC Rules submitted on 11-28-2022)

According to the Spectrum Act, a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station.” Subsection (a)(2) defines the term “eligible facilities request” as any request for modification of an existing wireless tower or base station that involves (a) collocation of new transmission equipment; (b) removal of transmission equipment; or (c) replacement of transmission equipment.

A modification substantially changes the physical dimensions of a tower or base station if it does not comply with conditions associated with the prior approval of construction or modification of the tower. As analyzed, the application does not comply with the conditions set forth in previous approvals for construction. Therefore, the application proposes substantial changes.

Staff has drafted conditions for approval based on the original 03-17-CU application and subsequent conditional use permits which contained conditions that have not been upheld through the duration of the use. Conditions drafted include aesthetic requirements based on code and previous approvals meant to minimize the visual impact of the wireless facility. The conditions do not prevent modifications to the existing facility from commencing, however, they shall be met as they are directly associated with the original approval of the facility and allow for the continuing existence of the use.

### **8-2C-46 Land Use Provisions**

A Wireless Communication Facility has a number of use specific requirements including setbacks from other wireless facilities, and general setbacks, height restrictions, findings for collocation, etc. Specifically germane to the Design Review Approval are the requirements below:

Site Design:

1. Tower facilities shall be landscaped with a buffer outside the perimeter of the compound in accordance with the standards set forth in subsection 8-4I-5C of this title.
2. Materials, colors, textures and screening shall be used that blend the tower facility to the natural and built environment. Supporting electrical and mechanical equipment installed on the tower shall use colors that are similar to the tower.
3. Except as required by the federal aviation administration (FAA) or the federal communications commission (FCC), transmission structures shall not be artificially lighted. Equipment shelters may use lighting consistent with the lighting standards set forth in section 8-4A-4, "Outdoor Lighting", of this title.

Other Regulations Apply: The site and structure design shall be subject to review by the design committee and the process set forth in section 8-6B-3 of this title.

### **8-4I-5: Perimeter Landscaping Provisions**

C. Standards:

1. A perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot;
2. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity;
3. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
4. Additional standards for parking lots and carports are set forth in section 8-41-6, "Parking Lot Landscaping Provisions", of this article.
5. Structures less than one hundred twenty (120) square feet, including, but not limited to, trash enclosures and storage sheds may encroach into the perimeter landscape area. 6. Perimeter landscape areas shall provide for pedestrian access from residential development to abutting commercial districts and vice versa.

The applicant has indicated that there is no landscaping on site at the southerly or easterly property boundaries.

Per GCC 8-41-3.F for something to qualify as landscaping, the area must be 70% or more of living material.

Conditional Use Permit 03-17-CU for the construction of the tower, required that there be a landscape buffer 75% comprised of evergreens. The evergreens were to have been at least 6' in height at the time of planting and interspersed with evergreen shrubs.

Conditional Use Permit 05-05-CU for Treasure Valley Collision Center required that there be landscaping continually maintained with a permanent, underground, and automatic sprinkler system.

Landscape plans submitted as part of the 05-05-CU permit indicated that at least 5% of the site consisted of landscaping, a percentage required by code. The documents submitted in conjunction with 05-05-CU a conditional use permit for Treasure Valley Collision show the entire 20' setback along the south property line as being dedicated to landscaping. Not maintaining at least 5% of the landscaping as shown in the submitted documents and as conditioned in the decision document of 05-05-CU, is in direct conflict with the approval.

Submitted site plans, site photos, and Google ariel and street view show that the landscaping shown in the original 03-17-CU has not been maintained, nor have the evergreens been installed or maintained. The lack of landscaping is in direct conflict with the conditions set forth in previous conditional use permits.

**Potential Conditions for Compliance include:**

1. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
2. A perimeter landscaping area shall be at least five feet (5') wide measured from the property line to the interior of the lot.
3. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity.
4. Perimeter landscaping shall not be installed withing the pedestrian/bicycle easement.
5. At least 5% of the site shall consist of landscaping.
6. Landscaping shall be 70% or more of living material.
7. Perimeter landscape shall be 75% comprised of evergreens. The evergreens shall be at least 6' in height at the time of planting and interspersed with evergreen shrubs.

8. Landscaping shall be continually maintained, and in good health. Should the landscaping die, it shall be replaced within 6 months.
9. Landscaping shall be continuously maintained with a permanent, underground and automatic sprinkler system.
10. There shall be one class II or III tree installed for every 50' of lineal frontage adjacent to State Street.
11. All chain-link fencing shall be removed and replaced with code compliant fencing materials.
12. Privacy fencing shall be installed to shield all mechanical equipment from view of the public right-of-way and adjacent properties.
13. This approval is contingent upon the Planning and Zoning Commission use approval, and successful approval and completion of all applicable permits

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

<b>Garden City Title 8 Applicable Code Sections</b>		
Code Section	Compliance	Analysis/ Discussion
<b>Title 8, Chapter 1: General Regulations</b>		
<a href="#">8-1A-4 Applicability</a>		The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
<a href="#">8-1B-1 Nonconforming Properties</a>	Complaint	Legal parcel of record as described
<a href="#">8-1B-2 Nonconforming Structures</a>	Complaint	
<a href="#">8-1B-3 Nonconforming Uses</a>	Complaint as Conditioned	The existing use "Wireless Communication Facility" is prohibited in the C-2 zone. The use was developed lawfully in 2003 under conditional use permit 03-17-CU. The use was developed lawfully prior to the adoption of current code and is considered a legal non-conforming use. Subsection A.2 of this ordinance requires a conditional use permit to add too or expand the existing use.  Conditional Use Permit will be required
<a href="#">8-1C-3 Property Maintenance Standards</a>	Complaint	Per 8-1C-2, this article applies to all existing residential and non-residential buildings, structures, and lands.  No active code enforcement cases on file.
<b>Title 8, Chapter 2: Base Zoning District Regulations</b>		
8-2B-1 Purpose	Complaint	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.



<a href="#">8-2B-2 Allowed Uses</a>	Complaint as Conditioned	Existing legal nonconforming use for a wireless communications facility.
<a href="#">8-2B-3 Form Standards</a>	Complaint	<p>The required setbacks are:  Front: 5'  Interior Side: 5'  Rear: 5'  Street side: 5'</p> <p><i>The maximum height limitations shall not apply to the following: fire and hose tower; power line tower; water tank or tower; windmill; wireless communication facility, or other commercial or personal tower and/or antenna structure; or other appurtenances usually required to be placed above the level of the ground and not intended for human occupancy.</i></p> <p>AT&amp;T proposes to expand the fenced area to accommodate its 8' x 8' walk in cabinet and an emergency generator, and the required minimum 5-foot setback to all property lines in the C-2 zone will be maintained. The antennas and ancillary equipment will be installed on the existing 119' monopole at the 90' level.</p> <p>The allowable maximum height is: n/a  The minimum lot size is: n/a  There are no encroachments  All improvements are more than 70' from the Boise River.</p>
<a href="#">8-2C</a>	Complaint	GCC 8-2C-46  Although the proposal is to expand a legal nonconforming use, the Committee may place conditions of approval upon the expansion. This section contains use standards for new Wireless Communication Facilities but is noted in this report as guidance for the Committee to consider additional conditions.  A. Setback:  1. A wireless communication facility shall not be located closer than five thousand two hundred eighty feet (5,280') (1 mile) from an existing cellular tower.  2. In addition to the setbacks required for the base zoning district as set forth in section <a href="#">8-2B-3</a> , table 8-2B-2, "Form Standards In All Base Zoning Districts", of this chapter, a support tower for a wireless communication facility shall be set back one foot (1') for every ten feet (10') of the total tower height.  3. All equipment shelters, cabinets or other on ground ancillary structures shall meet the setback requirements of the zone.

		<p>B. Height: The maximum height, including all antenna attachments shall be one hundred feet (100') in the C-1 zone and one hundred twenty-five feet (125') in the LI zone.</p> <p>C. Collocation: No new towers shall be allowed unless there has been an analysis certified by a qualified engineer and specific to the site that collocation on an existing wireless communication facility is infeasible. Evidence to demonstrate that no existing facility can accommodate the proposed new facility may consist of any of the following:</p> <ol style="list-style-type: none"> <li>1. No existing towers or structures are located within the geographic area required to meet the proposed facility's requirements;</li> <li>2. Existing structures are not of sufficient height to meet the engineering requirements of the proposed structure;</li> <li>3. Existing structures do not have sufficient structural strength to support the proposed antenna and/or equipment; or</li> <li>4. The proposed antenna would cause electromagnetic interference with the antenna on existing structures, or the antenna on the existing structure would cause similar interference with the proposed antenna.</li> </ol> <p>D. Site Design:</p> <ol style="list-style-type: none"> <li>1. Tower facilities shall be landscaped with a buffer outside the perimeter of the compound in accordance with the standards set forth in subsection <u>8-41-5C</u> of this title.</li> <li>2. Materials, colors, textures and screening shall be used that blend the tower facility to the natural and built environment. Supporting electrical and mechanical equipment installed on the tower shall use colors that are similar to the tower.</li> <li>3. Except as required by the federal aviation administration (FAA) or the federal communications commission (FCC), transmission structures shall not be artificially lighted. Equipment shelters may use lighting consistent with the lighting standards set forth in section <u>8-4A-4</u>, "Outdoor Lighting", of this title.</li> </ol> <p>E. Site Maintenance: A wireless communication facility that is no longer in use shall be completely removed and the site restored to its preexisting condition within six (6) months of the cessation of operation.</p> <p>F. Other Regulations Apply: The site and structure design shall be subject to review by the design review consultant(s) and the process set forth in section <u>8-6B-3</u> of this title.</p>
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<b>Title 8, Chapter 4: Design and Development Regulations</b>		
<a href="#">8-4A-3 Fences and Walls</a>	Complaint as Conditioned	<p>Code prohibits chain link fencing and barbed wire is not permitted unless there is Design Review Committee approval as set forth in section GCC 8-6B-3.</p> <p>The compound is currently surrounded by a chain link fence with a portion being a CMU wall. The proposal is for additional chain-link fencing 6' in height to surround the new compound leased area. This is not code compliant.</p> <p>Barbed wire is also a prohibited material. The existing fence has barbed wire and the proposed fence also contains barbed wire. This is not code compliant.</p> <p>Removal of existing chain link fencing and barbed wire shall be required. Replacement of fencing shall be of code compliant materials.</p>
<a href="#">8-4A-4 Outdoor Lighting</a>	Complaint as Conditioned	This proposal does not identify any outdoor lighting. Any future outdoor lighting will be required to be in compliance with code at the time of building permit review.
<a href="#">8-4A-5 Outdoor Service and Equipment Areas</a>	Complaint as Conditioned	<p>Code requires that areas for service and equipment areas be screened from any adjoining property and/or public street by a privacy fence. The adjacent residential property to the south has a wood fence for screening purposes, however, the chain link fence surrounding the existing and proposed compound does not act as a privacy fence.</p> <p>Approval 03-17-CU a conditional use permit for the original 'T-Mobile' facility required landscaping around the tower, including evergreens at least 6' in height at the time of planting, interspersed with lower evergreen bushes. Submitted site plans and photos show that the maintenance of this required landscaping was not maintained.</p>
<a href="#">8-4A-7 Stormwater Systems</a>	Complaint as Conditioned	A draft condition of approval has been provided requiring that the stormwater systems be built in compliance with provisions of 8-4A-7.
<a href="#">8-4A-8 Utilities</a>	Complaint as Conditioned	Another draft condition of approval is provided requiring that all utilities be underground.
<a href="#">8-4C-5 Prohibitions</a>	Complaint	There are no visible false fronts, prefabricated structures, or prohibited materials associated with the application.
<b>8-4D Parking and Off Street Loading Provisions</b>		
<a href="#">8-4D-3 Parking Design and</a>	Complaint	

<a href="#">Improvement Standards</a>			
<a href="#">8-4D-4 Parking Use Standards</a>	Complaint		
<a href="#">8-4D-5 Required Number of Off-Street Parking Spaces</a>	Complaint		The proposed expansion of the use is intended to be unmanned except for when being serviced. Existing parking located in the parking lot consists of 16 vehicular parking spaces.
<a href="#">8-4D-6 Standards for Alternatives to On Site Parking</a>	Complaint		Not requested.
<b>8-4E Transportation and Connectivity Provisions</b>			
<a href="#">8-4E-3 Public Street Connections</a>	DC	Complaint	The transportation and connectivity provisions include: Clear Vision Triangle, Internal Circulation, Private Streets, Sidewalk Standards, Pedestrian and Bicycle accessibility, and Transit requirements. There is a pedestrian easement directly adjacent to the limits of the project running the entire easterly portion of the lot.  There is a general condition of approval requiring that all streets and driveways shall adhere to the standards of a clear vision triangle at all times.
<a href="#">8-4E-4 Internal Circulation Standards</a>	DC	Complaint	The drive is 20' or greater in width
<a href="#">8-4E-6 Sidewalk Standards</a>	DC	Complaint	Existing sidewalk along W. State Street is in compliance with this section of code.
<a href="#">8-4E-7 Pedestrian and Bicycle Accessibility Standards</a>	DC	Complaint	There is a pedestrian easement directly adjacent to the limits of the project running the entire easterly portion of the lot. The easement contains an existing pedestrian sidewalk running parallel to the parking lot.
<b>8-4F Sign Provisions</b>			
<a href="#">8-4F-13 Master Sign Program</a>	Complaint		No sign proposed.
<a href="#">8-4G Sustainable Development Provisions</a>	Not Applicable		The sustainability checklist is only applicable to new structures.

<a href="#">8-4H Flood Hazard</a>	Complaint as Conditioned	<p>The planning official is the decision maker on items regarding 8-4H.</p> <p>The City highly encourages that the applicant build to the best available data identified in the FIS study due to the potential cost of flood insurance and safety concerns for the property. Should the applicant choose not to build above the base flood elevations identified in the FIS, the City will request that the applicant record a Flood Acknowledgement on the property.</p>
<b>8-4I Landscaping and Tree Protection Provisions</b>		
<a href="#">8-4I-3 General Landscaping Standards and Irrigation Provisions</a>	Complaint as Conditioned	<p>The landscaping that was present at the time of the original 03-17-CU has not been maintained. A condition of approval for 03-17-CU was to maintain the existing landscaping at the time. The lack of landscaping at present is in direct conflict with the original condition of approval.</p> <p>Code requires that the required landscape areas be at least 70% vegetation at maturity. All areas that were landscaped previously have since been replaced with gravel, dirt, or is dead. This is not compliant with code, nor the previous conditions of 03-17-CU and 05-05-CU.</p> <p>It is unknown if the required landscape areas have automatically controlled irrigation systems. 03-17-CU required that irrigation facilities be installed, but as the landscaping has since been removed or died, it is unclear if such systems were installed.</p>
<a href="#">8-4I-4 Landscaping Provisions for Specific Uses</a>	Complaint as Conditioned	<p>Both the original 03-17-CU and the 05-05-CU required that at least 5% of the site be landscaped. Both applications proved that this minimum was met and therefore compliant with code. Record documents show where those landscaped areas were.</p> <p>This application does not propose any landscaping. And the site no longer consists of landscaped areas. <u>The application is in conflict with the original conditional use permit conditions of approval, and in conflict with current code standards.</u></p> <p>There is one street tree located between the ROW of W. State Street and the sidewalk. Code requires that at least 1 class II or III street tree be installed for every 50 linear feet of frontage adjacent to State Street. The previous DSRFY2016-0014 application required that one street tree be installed. The tree was installed.</p> <p>To be compliant with current code standards two additional Class II or III street trees shall be installed along the frontage of W. State Street due to the ~140 linear feet of frontage.</p>
<a href="#">8-4I-5 Perimeter Landscaping Provisions</a>	Complaint as Conditioned	<p>The applicant has indicated that there is no landscaping on site at the southerly or easterly property boundaries.</p> <p>Conditional Use Permit 03-17-CU for the construction of the facility, required that there be a landscape buffer 75% comprised of evergreens. The evergreens were to have been at least 6' in height at the time of planting and interspersed with evergreen shrubs. The</p>

		<p>proposed application does not contain such vegetation. The application is not compliant with the original approval.</p> <p>Conditional Use Permit 05-05-CU for Treasure Valley Collision Center required that there be landscaping continually maintained with a permanent, underground and automatic sprinkler system. The landscaping has not been maintained. The application is not code compliant.</p> <p>The eastern property boundary contains a 5' wide pedestrian sidewalk. This sidewalk is located within the 5' setback area, which is preventing the property from installing the required perimeter landscaping. The perimeter landscaping was required as part of DSRFY2016-0014, but was not installed based on the neighboring parcel (8241 W. State Street) being required to install perimeter landscaping as part of their DR2014-0007 application. This landscaping is only ~5ft in width, but has not been maintained to meet the perimeter landscaping requirements.</p> <p>The location of the sidewalk is intentional as it is the location of a 7' wide bike and pedestrian pathway easement that connects to the adjoining property to the south. If perimeter landscaping was installed, it would create a non-linear pathway or elimination of an existing pathway.</p> <p>It has been conditioned to require perimeter landscaping at the rear of the property in conformance with the original 03-17-CU and 05-05-CU landscape plans; an additional condition is to prevent perimeter landscaping from being placed within the pedestrian easement.</p>
<a href="#">8-4I-6 Parking Lot Landscaping Provisions</a>	Not Applicable	No impact to the existing parking lot.
<a href="#">8-4I-7 Tree Preservation Provisions</a>	Complaint	
Title 8, Chapter 6, Article A: Administration		
<a href="#">8-6A-3 General Application Process</a>	Complaint	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
<a href="#">8-6A-4 Required Application Information</a>	N/A	<p>Application waivers requested pursuant to 8-6A-4A:</p> <ul style="list-style-type: none"> <li>• Lighting Plan</li> <li>• Topographic Survey</li> <li>• Grading Plan</li> <li>• Will Serve Letter</li> <li>• Sustainability Checklist</li> </ul>
<a href="#">8-6A-5 Administrative</a>	Complaint	A notice of intent was sent to adjoining property owners within 300' and agencies with jurisdiction.

<a href="#">Process with Notice</a>	<p>If no objections are filed within 15 days, the Design Review Committee's decision shall be considered final.</p> <p>Objections will be heard by City Council following the public hearing provision set forth in section GCC 8-6A-7.</p> <p>Conditions of approval that are deemed necessary to protect the public hearth, safety, and welfare, and prevent undue adverse impacts on surrounding properties may be required.</p>
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<b>Other Items Reviewed</b>	
Plan/Policy	Discussion/ Analysis
Previous entitlement that might affect this project	05-05-CU, 03-17-CU, CUPFY2016-05, DSRFY2016-14 and DR2014-0007, CUPFY2022-0002, CUPFY2022-0003
<a href="#">Garden City Comprehensive Plan</a>	<p>This application is in future land use designations of the Comprehensive Plan:</p> <ul style="list-style-type: none"> <li>a.) Green Boulevard Corridor</li> <li>b.) Residential Low Density</li> </ul> <p>The proposed facility is located in the Green Corridor Boulevard and Residential Low Density land use designation of the Garden City Comprehensive Plan. Green Boulevard Corridor- Dramatic Statement that highways and arterials should change from single purpose of moving vehicles to adding pedestrian accesses, refuges, trees and landscaping. Residential Low Density is designated for predominantly single family detached.</p> <p>The design as submitted is arguably not in line with either of these land use designations, as it tends to read more industrial in nature and requests facilities that are read architecturally hostile, such as chain-link fencing, and little to no vegetation.</p> <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> <li>a.) 1.4 Objective: Create a premier destination place to live, work, and recreate.</li> </ul> <p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> <li>a.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</li> </ul> <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> <li>a.) 12.1 Objective: Support a positive business environment</li> <li>b.) 12.2 Objective: Continue to support commercial and industrial land uses.</li> </ul> <p>The application may not be supported by:</p> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> <li>a.) 2.3 Objective: Promote quality design and architecturally interesting buildings.</li> </ul> <p>Goal 4. Emphasize the "Garden" in Garden City</p> <ul style="list-style-type: none"> <li>a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</li> </ul>
<a href="#">Garden City Sidewalk Policy</a>	Existing sidewalk to remain

## DECISION PROCESS

### **General Provisions**

A formal application will be processed per [GCC 8-6A-5 Administrative with Notice](#).

**Required Decisions:** The following decision processes are required for the project as governed by [GCC Table 8-6A-1](#). The Planning Official and City Council have decision authority once a Design Review Consultation has occurred.

### **Decision**

Pursuant to GCC 8-6A-5, staff shall take one of several actions:

- a. Intent to approve as submitted;
- b. Intent to approve with changes;
- c. Request changes and resubmittal;
- d. Recommend denial; or
- e. Recommend public hearing.

Once the decision is rendered it will be sent to the applicant and interested parties. If the determination is a recommendation for a public hearing or if a person with standing objects, a hearing with City Council or Planning and Zoning Commission will be scheduled.

### **Appeals of Decision:**

Per Garden City Code [8-6A-5 Administrative Process with Notice](#), there is a 15-day period to file a written objection to the application. The objection shall be made on the appeal submittal form and must be accompanied by the appeal fee. This period starts from the signed decision date. If a written objection is received within the 15-day period, a City Council hearing will be scheduled to decide the application. Verbal objections will not be accepted. Written objections received after the 15-day objection period will not be accepted.

When a design review consultation is required as part of an application that requires a public hearing, public testimony regarding design will be heard by the planning and zoning commission at the planning and zoning commission’s scheduled hearing.

## REQUIRED FINDINGS, CONCLUSIONS OF LAW AND DECISION

### **Required Findings**

In order to approve a design review application after a recommendation by the design review consultant(s), the decision maker shall make a determination with written reasoned statements on the following findings:

GCC 8-6B-3 Required Findings	Determination	Reasoned Statements
1. The proposed design shall comply with all design standards in Garden City Code, Title 8.  2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site.	Complaint as Conditioned	The application is complaint with all required findings. The application is in conformance with the reviewed sections of code noted in this decision.  The application as conditioned, is in compliance with the original



<p>3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise river and waterways, canals, and other surface irrigation.</p> <p>4. The proposed design shall be compatible with the neighborhood in scale and intensity.</p> <p>5. The proposed design shall not create an adverse impact on the surrounding neighborhood.</p> <p>6. The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood.</p> <p>7. The proposed design and landscape shall improve the design and function of the site and be consistent with the southwest Idaho climatic conditions; and</p> <p>8. The proposed design shall be compatible with applicable natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, and historic structures.</p>		<p>approval, and any subsequent approvals for the use of a wireless communications facility.</p>
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The Planning Official reviewed the application with regard to Garden City Code, Title 8, Chapter 4, and based on the conditions required herein, concludes the application **meets** the standards of approval under **GCC 8-6B-3 Design Review**.

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning Official hereby **Approves** the application, subject to the following conditions:

**IN APPROVAL**

**Site Specific Requirements:**

Scope of this permit:

1. The proposed expansion of the "Wireless Communications Facility" as applied for and herein conditioned is approved with this application. The expansion of the wireless communications facility use is contingent upon the Planning and Zoning Commission's approval of the associated Conditional Use Permits (CUPFY2023-0002 and CUPFY2023-0003).

Prior to Issuance of a Building Permit:

1. All landscaping shall be installed in accordance with the following conditions set forth in this decision document; or a surety for all landscaping improvements shall be provided for and approved prior to the issuance of the building permit.
2. Landscaping that was approved upon the original 03-17-CU and 05-05-CU applications shall be re-installed.
3. At least 5% of the site shall consist of landscaping.
4. Landscaping shall be 70% or more of living material.

5. Perimeter landscaping shall be installed along the southern property boundary line.
  - a. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
  - b. The perimeter landscaping area shall be at least five feet (5') wide measured from the property line to the interior of the lot.
  - c. Perimeter landscape shall be 75% comprised of evergreens. The evergreens shall be at least 6' in height at the time of planting and interspersed with evergreen shrubs.
  - d. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity.
  - e. Perimeter landscaping shall not be installed within the 7' wide pedestrian/bicycle easement.
6. The tower facilities shall be landscaped with a buffer outside the perimeter of the compound.
7. Landscaping shall be continually maintained, and in good health. Should the landscaping die, it shall be replaced within 6 months.
8. Landscaping shall be continuously maintained with a permanent, underground and automatic sprinkler system.
9. There shall be one class II or III tree installed for every 50' of lineal frontage adjacent to State Street.
  - a. Two Class II or III street trees shall be installed within the landscape buffer adjacent to W. State Street.

Prior to Occupancy:

1. All chain-link fencing shall be removed and replaced with code compliant fencing materials.
2. Privacy fencing shall be installed to shield all mechanical equipment from view of the public right-of-way and adjacent properties.
3. Materials, colors, textures and screening shall be used that blend the tower facility to the natural and built environment. Supporting electrical and mechanical equipment installed on the tower shall use colors that are similar to the tower.
4. Except as required by the federal aviation administration (FAA) or the federal communications commission (FCC), transmission structures shall not be artificially lighted. Equipment shelters may use lighting consistent with the lighting standards set forth in section 8-4A-4, "Outdoor Lighting" or otherwise approved by the Design Review Committee.
5. A building permit shall be applied for through Garden City Development Services.
6. This approval is contingent upon the Planning and Zoning Conditional Use Permit approval and is subject to the conditions identified by the Planning and Zoning Commission approval.

Site Specific Requirements for the Duration of the Use:

1. The tower facilities shall be landscaped with a buffer outside the perimeter of the compound.
2. A wireless communication facility that is no longer in use shall be completely removed and the site restored to its preexisting condition within six (6) months of the cessation of operation.

3. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
4. All conditions of approval related to the site as required through the Garden City conditional use permit approvals 03-17-CU and 05-05-CU and the Design Review Committee approval of DSRFY2016-0014 shall be adhered to.

**General Requirements:**

1. This review and approval is specific to the design of the project. Final approval is subject to the approval of other reviewing agencies. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail. This approval shall not annul any portion of Garden City Code or other applicable regulation unless specifically noted.
2. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
3. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations; 8-4I-3 and Landscape Maintenance Provisions 8-4I-9; and Standards for Transportation and Connectivity Provisions identified in 8-4E.
4. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
5. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
6. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
7. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
8. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
9. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
10. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock as the only ground cover in required planting areas is prohibited.
11. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
12. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
13. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils or planted with sufficient space to provide for the full maturity of the particular tree species.
14. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
15. The landscape installation shall stabilize all soil and slopes.
16. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
17. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.

18. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained prior to a Certificate of Occupancy.
19. Property Maintenance Standards shall be maintained as required by Garden City Code.
20. The property owner is responsible for the maintenance of all landscaping and screening devices required.
21. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
22. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
24. System Installation Required: Each and every lot within the subdivision shall have underground pressurized irrigation water. The pressurized irrigation system shall be constructed and installed at the same time as the domestic water lines but shall not necessarily be in the same trenches.
25. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision-making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
26. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction. Final approval is based on substantial conformance with the plans reviewed and approved.
27. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
28. Occupying the site prior to Certificate of Occupancy is a criminal offense.
29. There is a 15 day right to appeal to City Council. The applicant or any interested parties may appeal the decision or a part of the decision. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
30. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code .
31. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

## IMAGES

[See Supplementary Materials]