

BEFORE THE LEWIS COUNTY HEARINGS EXAMINER

IN RE:) HEARING NO. WCF 25-0002
)
VERIZON WIRELESS/HARMONI) FINDINGS OF FACT,
TOWERS.) CONCLUSIONS OF LAW
) AND DECISION APPROVING
) WIRELESS COMMUNICATION
) FACILITIES

APPLICANT: Harmoni Towers
REPRESENTATIVE: Bill North
North Group
P.O. Box 2449
Snohomish, Washington 98291
PROPERTY OWNER: Kevin Riffle
8025 124th Avenue NE
Kirkland, Washington 98033

NATURE OF REQUEST: The Applicant requests a Wireless Communication Facility (WCF) Permit to construct a new 150-foot monopole tower with attached antenna and cabling along with ground-mounted equipment within a leased 50 x 50-foot area. The tower would provide collocation for up to three additional providers.

LOCATION: 262 Skyview Drive

PARCEL NO.: 028513011000

SUMMARY OF DECISION:

The requested WCF Permit is **approved** subject to slightly modified conditions.

BACKGROUND

The Applicant, Harmoni Towers, on behalf of its anchor tenant, Verizon Wireless, seeks permission to construct a new 150-foot monopole tower at 262 Skyview Drive near Mossyrock.

The Applicant seeks a new tower on the basis that no nearby towers would serve as effective collocation sites, and that the proposed location is needed to extend coverage in the

Mossyrock/SR-12/Lake Mayfield area. More importantly, the Applicant asserts that the tower is

1 needed to "offload" some of the burden currently imposed on surrounding towers. There is
2 significant opposition to the application led by Lewis County for Safe Technology ("LCST").
3 Among other things, opponents challenge the need for a new tower; question whether it is
4 intended for telecommunication services or, instead, for other broadband services; challenge the
5 Applicant's supporting data; ask that it be denied because of its aesthetics impacts and negative
6 effect on rural quality of life; is unnecessary; may affect property values; is a fire risk; and is
7 overwhelmingly unpopular. County Staff recommends approval subject to several conditions.

8 **PUBLIC HEARING**

9 The public hearing commenced at 9:00 a.m. on March 13, 2026. The hearing occurred in
10 a hybrid format utilizing the Zoom platform with the opportunity to appear in person at the
11 Lewis County Community Development Hearing Room or by remote attendance with the
12 County serving as host. The Applicant, Harmoni Towers, appeared through Bill North of the
13 North Group and was represented by Jamie Howsley. The County appeared through Preston
14 Pinkston, Planner, and was represented by Karrin Phomna of the Lewis County Prosecuting
15 Attorney's Office. LCST appeared as an interested party and was represented by Todd S.
16 Richardson and W. Scott McCollough. A large crowd was present both in person and remotely
17 with significant public testimony provided. All testimony was taken under oath. Planning Staff
18 and all experts were subject to cross-examination. A verbatim recording was made of the
19 proceedings.

20 **EVIDENCE**

21 There is a substantial amount of evidence that has accumulated before, during and after
22 the public hearing:

23 ● All evidence gathered by County Staff during its application review was
24 collected, identified, and placed on the County's website. These documents are collectively
25 referred to as the "Core Documents" and are identified on the County's website.

1 ● Just prior to the hearing, pre-hearing exhibits were submitted by the parties and
2 additional public comment was received. These documents were identified at the
3 commencement of the hearing beginning at Exhibit 101.

- 4 101 Charles Frohman email
- 5 102 Public comments from Shawsing
- 6 103 Public comments from D. Schlenker
- 7 104 Cover letter from LCST legal counsel
- 8 105 LCST Pre-Hearing Brief
- 9 106 LCST Disclosure of Expert Witnesses
- 10 107 Written testimony of Allen Watts
- 11 108 "Notice of Non-Consent to Change of Use and/or Road Improvements"
- 12 109 Road Improvement Feasibility Report
- 13 110 Risk Assessment Report
- 14 111 Report of Kent Chamberlain including CV
- 15 112 Report of Erik S. Anderson, PE, Re: electrical requirements
- 16 113 Public comments of Becki Watts including photographs
- 17 114 Public comments of Katherine Carroll including photos and narrative
18 entitled "History of Adytum Sanctuary"

19 During the presentations by the Applicant and LCST, several additional exhibits were
20 submitted:

- 21 115 Resume of Bill North
- 22 116 RF Justification
- 23 117 Alternate Site Analysis
- 24 118 Screenshot of C-Band Coverage
- 25 119 CV of Alan Watts

1 120 47 CFR 1.70004

2 During the public testimony most witnesses had prepared written notes. The Hearing
3 Examiner invited the public commentators to submit their written notes to help preserve their
4 testimony and most agreed. The following written comments were provided by public
5 commentators:

6 121 Public comments of Leila Cuglievan

7 122 Photo montage submitted by Katharine Jarbo looking north from Harmoni
8 Hill

9 123 Photo submitted by Katharine Jarbo looking from Harmoni Hill toward
10 two hills to the west

11 124 Testimony of Monica Carp

12 125 Testimony of Doug Celyde

13 126 Testimony of Kristy Wallen

14 127 Testimony of Victoria Watts

15 128 Testimony of Alex DeGoede

16 129 Testimony of Marietta Currie

17 130 Testimony of Marietta Currie and Justin Laabs

18 131 Testimony of Don Carroll

19 132 Testimony of Becki Watts

20 133 Testimony of Charles Frohman with photographs

21 At the conclusion of the public hearing the Hearing Examiner granted the Applicant an
22 opportunity to provide written responses to all testimony that had been presented, followed by an
23 opportunity for the County and LCST to respond, and for the Applicant to then reply to those
24 responses. By follow-up letter (Exhibit 134) the Hearing Examiner requested responses to
25

1 several specific questions as part of the parties' supplemental responses. This led to the following
2 post-hearing exhibits:

- 3 134 Letter from Hearing Examiner
- 4 135 March 27, 2026, response from Applicant Counsel including Affidavit of
5 Steven Kennedy; Alternate Site Analysis and associated mapping and
6 analysis
- 7 136 Supplemental materials supporting Steven Kennedy analysis including RF
8 Justification
- 9 137 Rebuttal Report of Kent Chamberlain, PhD dated April 10, 2026
- 10 138 Post Hearing Response Brief in Opposition to Permit Application
11 submitted by LCST
- 12 139 April 17, 2026, Reply from Counsel for Applicant including Supplemental
13 Affidavit of Steven Kennedy

14 **COUNTY PRESENTATION**

15 The hearing began with the testimony of Preston Pinkston, Planner, and author of the
16 County Staff Report. The Staff Report, including Exhibits 1-11, is included in the Core
17 Documents. Mr. Pinkston's testimony was relatively brief and primarily relied upon his written
18 Staff Report.

19 The Applicant proposes to construct a new 150-foot monopole tower with attached
20 antennas and required ground equipment within a 50 x 50-foot area leased from the property
21 owner, Kevin Riffle, at 262 Skyview Drive. The site has a zoning designation of Rural
22 Development District - 1 Residence per 5 acres (RDD-5) and a Comprehensive Plan designation
23 of Rural Land. The Wireless Community Facility (WCF) application was submitted on July 18,
24 2025, and deemed to be complete on August 11, 2025. As part of SEPA review, notice of the
25 application was sent to other County departments, affected State agencies, local tribes, and the

1 US Corps of Engineers, and also published and posted as required. This notice generated several
2 departmental comments (Staff Exhibit 4) and 42 public comments (Staff Exhibit 5). These public
3 comments are almost entirely in opposition to the application and include several petitions
4 collectively signed by more than 300 area residents. The SEPA review resulted in a
5 Determination of Nonsignificance (DNS). The DNS was appealed by LCST but the appeal was
6 determined to be untimely and dismissed. The DNS is now final.

7 The proposed site is a 50 x 50-foot leased area near the top of Harmoni Hill, located north
8 of Mossyrock and US 12 and south and east of Lake Mayfield. The leased area is flat but the
9 larger site contains steep slopes (outside of the project area). A Geotechnical Report will be
10 required at time of building permit application to confirm site stability. Surrounding properties
11 are primarily rural residential in nature and generally on five-acre lots consistent with the site's
12 RDD-5 zoning designation. Access to the site is by way of Skyview Drive, a private road, which
13 is connected to Birley Road, a public road. The project site has an express easement for the use
14 of Skyview Drive.

15 The site is not located within any mapped habitat area but WDFW was notified to make
16 certain that there were no habitat concerns. No comments or recommendations were received
17 from WDFW.

18 As previously noted, SEPA notice resulted in 42 comment letters, almost all of which are
19 in opposition, and include several petitions signed by a large number of area residents. Public
20 comments express concerns about the project's proposed location in this rural setting; its lack of
21 compatibility with surrounding uses; its visual impacts; its environmental impacts; its burden
22 upon the private road as well as surrounding roads and the delivery of emergency services; and
23 potential noise. Staff recognizes these various concerns but nonetheless concludes that the
24 project, as conditioned, satisfies all requirements for a new WCF tower as provided for in
25 Chapter 15.50 of the Lewis County Code (LCC).

1 Mr. Pinkston then underwent an analysis of the application's compliance with the various
2 requirements of the ordinance:

3 **LCC 15.50.030.** LCC 15.50.030 demands that the applicant demonstrate a good faith
4 effort to collocate on an existing facility before seeking construction of a new WCF. Staff finds
5 that the Applicant has adequately demonstrated that there are no collocation or support structure
6 opportunities within the needed geographical area meeting Verizon's coverage objective, and that
7 the Applicant has therefore satisfied the requirements of LCC 15.50.030(A).

8 **LCC 15.50.030(1)(c).** LCC 15.50.030(1)(c) also requires that new towers be designed to
9 allowed collocation of public safety communications equipment. Staff confirms that this project
10 will satisfy this requirement.

11 **LCC 15.50.030(2).** LCC 15.50.030(2) imposes several additional requirements for new
12 support towers:

13 • Pursuant to Subsection (2)(a), all new towers must accommodate collocation
14 opportunities for at least two additional antenna arrays. This tower is designed to support three
15 additional co-locaters and thus meets this criteria. The Applicant will market the facility to other
16 providers as required.

17 • Pursuant to Subsection (2)(c), new support installations must be a minimum of
18 1,000 feet from the designated scenic highways. The nearest scenic highway is US Highway 12
19 and it is more than 1,000 feet from the project site.

20 • Pursuant to Subsection (2)(d), new towers must be a minimum of 1,000 feet from
21 all sites listed on the National Register of Historic Places. Staff confirms that there are no
22 historic places within 1,000 feet of the project site.

23 • Pursuant to Subsection (2)(e), new support towers must be analyzed to determine
24 whether they are within a 1,000-foot area of a priority habitat or endangered/threatened species

1 aera. Staff confirms that the project site is not located within 1,000 feet of any priority habitat.
2 As earlier mentioned, WDFW was notified and had no comments.

3 • Pursuant to Subsection (2)(f), any new towers within one mile of a public safety
4 building must be reviewed for possible interference with safety communications. Staff confirms
5 that the project site is not within one mile any public safety building, and further notes that Lewis
6 County Emergency Services and Emergency Management was notified of the application and
7 had no comments.

8 • Pursuant to Subsection (2)(g), at least one wireless communication service
9 provider intending to use the facility must be identified. The intended user has been identified as
10 Verizon.

11 **LCC 15.50.030(4).** LCC 15.50.030(4) prohibits use of the tower for signage. Staff
12 confirms that there is no proposed signage and that the Applicant will otherwise comply with all
13 requirements of this subsection.

14 **LCC 15.50.030(5).** LCC 15.50.030(5) requires that the facility not generate noise levels
15 in excess of the maximum standards set forth in Chapter 173-60 WAC. Staff has conditioned
16 project approval upon complying with all applicable State and federal requirements for noise.
17 Staff further notes that historic use of similar facilities has demonstrated that it will generate
18 minimal noise.

19 **LCC 15.50.035(1).** LCC 15.50.035(1)(a) establishes the allowed height for WCF towers.
20 In rural areas, the maximum height shall be 150 feet but may be increased by up to 20% if 80%
21 of the tower is screened. Staff notes that the Applicant proposes a tower height of 150 feet.

22 **LCC 15.50.035(2).** Pursuant to LCC 15.50.035(2), the project must satisfy various
23 setbacks. This subsection requires that all new towers in rural areas have a minimum 50-foot
24 setback from property lines, or a distance equal to or greater than the tower height from the
25 nearest residence or school facility on an adjacent parcel, whichever is greater. Staff finds that

1 the nearest property line is 147 feet from the tower, while the nearest adjoining structure is even
2 further away, and the requirements of LCC 15.50.035(2)(a) are met.

3 LCC 15.50.035(2)(c) requires that setbacks for auxiliary structures shall be those of the
4 underlying zoning or a minimum of 20 feet, whichever is greater. Here, the underlying zoning
5 requires a minimum 50-foot setback. The proposed auxiliary structures meet this requirement.

6 **LCC 15.50.035(3).** LCC 15.50.035(3)(a) requires that the Applicant submit a
7 landscaping and screening plan. Staff explains that it did not request a landscaping or screening
8 plan from the Applicant due to the fact that the project site is located within a mature stand of
9 timber that is to remain. Thus, a landscaping and screening plan is unnecessary as this site
10 already satisfies this requirement. This approach has been the County's standard practice for
11 previous WCF towers proposed in wooded areas. County Staff adds that the Applicant has
12 provided photo simulations of the proposed tower relative to the existing vegetation (application
13 documents – Additional Information). These photos help demonstrate that the facility will be
14 screened to the maximum extent practicable as a result of the existing vegetation, and that the
15 requirements of LCC 15.50.035(3)(a) have been met.

16 LCC 15.50.035(3)(b) requires additional screening requirements for sites within 1,000
17 feet of scenic highways, sites listed on the National Register of Historic Places, and priority
18 habitats. As earlier noted, the new tower is not within any of these areas and this additional
19 requirement does not apply.

20 LCC 15.50.035(3)(c) requires all new support towers and associated structures to be fully
21 enclosed within a minimum 6-foot high security fence. Staff confirms that this application will
22 satisfy these requirements. The fence will also be site obscuring.

23 LCC 15.50.035(3)(d) imposes certain requirements on the color of the tower. Staff
24 confirms that the proposed tower will be painted with a non-glare finish to blend with the natural
25

1 background. The facility is a single monopole with a nonreflective finish and minimal profile.
2 This requirement is therefore met.

3 **LCC 15.50.035(5).** LCC 15.50.035(5) establishes certain requirements for lighting.
4 Staff has confirmed that this tower will not be lit nor is it required to have any FAA-related
5 lighting, while all security lighting will be minimized and down shielded. This requirement is
6 therefore met.

7 **LCC 15.50.040(1).** LCC 15.50.040(1) requires that the Applicant submit a narrative
8 demonstrating how the project meets all of the above-mentioned criteria including those for site
9 location, development standards and design standards. Staff confirms that the Applicant did
10 provide the required narrative and that it was deemed complete on August 11, 2025.

11 LCC 15.50.040(1)(b) also requires a comprehensive description of the proposed facilities
12 including technical reasons for the design and configuration and other design elements. Staff
13 confirms that the Applicant has provided the requirement comprehensive description of the
14 proposed facility.

15 LCC 15.50.040(1)(c) requires documentation establishing the Applicant's right to use the
16 site including a copy of the proposed lease agreement as well as a copy of any easement needed
17 to provide access to the site. The Applicant has provided evidence of the required lease as well as
18 the required easement allowing access to the site (included in application documents).

19 LCC 15.50.040(1)(e) requires "an analysis of the proposal area and discussion of factors
20 influencing the discussion to target the proposed location. Such analysis shall include the good
21 faith efforts and measures taken to secure a higher priority location; how and why such efforts
22 were unsuccessful; and how and why the proposed site is essential to meet service demands for
23 the geographic service area." Staff responds that the analysis provided by the Applicant (Staff
24 Report Exhibit 11) demonstrates that there are no higher priority/preference locations within the
25 needed area; that there are no collocation opportunities in this area; that the proposed site is the

1 highest available location in the desired coverage area and essential to meet service demands.
2 Staff finds the Applicant's analysis to be satisfactory and that this requirement has been met.

3 LCC 15.50.040(1)(f) requires a photographic analysis of the proposes it including a
4 representation of existing conditions and a simulation of the new structure relative to existing
5 conditions. Staff confirms that this requirement has been satisfied.

6 **LCC 15.50.040(2).** LCC 15.50.040(2) requires a site plan providing additional detailed
7 information; elevation drawings including all important features; detailed landscaping and
8 screening; analysis of existing WCF's within the intended service area and opportunities for
9 collocation elsewhere; stamped engineering materials demonstrating compliance with the
10 International Building Code; compliance with FAA requirements; and payment of all fees. Staff
11 responds that these requirements have been met. Staff notes, however, that certain requirements,
12 such as the presentation of stamped designs complying with building codes, are no longer
13 required at this phase but instead must be presented at time of building permit application. With
14 this understanding, Staff confirms that the application is complete and has met the requirement
15 of LCC 15.50.040(2).

16 Mr. Pinkston concluded his testimony by again acknowledging the various public
17 concerns in opposition to the application but confirmed that Staff continues to recommend
18 approval subject to the fourteen conditions set forth in the Staff Report. Included among those
19 conditions is the requirement that Skyview Drive be widened to 20 feet to better accommodate
20 construction traffic.

21 At the conclusion of Mr. Pinkston's direct testimony, the Hearing Examiner asked a few
22 questions regarding the proposed landscaping. In response to the Hearing Examiner's questions,
23 Mr. Pinkston confirmed that the County's willingness to allow the surrounding standing timber to
24 serve as the necessary landscape screen has been the standard practice for towers located in rural,
25 wooded areas, and that the County was comfortable with this approach for the proposed tower.

1 Mr. Pinkston acknowledged, however, that the surrounding trees proposed to serve as a
2 landscaping screen are not within the Applicant's leased area and therefore are not under the
3 Applicant's control. The County's proposed conditions of approval currently do not include an
4 additional condition requiring these trees to be retained.

5 Mr. Pinkston was then cross-examined by LCST. In response to questions, Mr. Pinkston
6 confirmed that many code and design requirements, as well as the Geotechnical Report, have not
7 yet been completed and will be submitted at time of building permit application. Again, this is
8 standard procedure. Mr. Pinkston was also asked as to his interpretation of "wireless
9 communication" as found in LCC 15.50.020(23) and replied that he interpreted it to mean
10 "basically cell service". In response to additional questions, Mr. Pinkston acknowledged that he
11 is unaware:

- 12 ● If current Verizon users in the targeted area have coverage issues.
- 13 ● If the Applicant's analysis relies upon dropped call logs.
- 14 ● If the Applicant is intending to provide 4G or 5G service.
- 15 ● If "best server" maps have been examined.
- 16 ● What bandwidths are intended.
- 17 ● Whether the Applicant has relied upon drive test data to confirm its mapping.

18 **Applicant's Presentation.** At the conclusion of Mr. Pinkston's testimony, the Applicant
19 was allowed to make its presentation beginning with the testimony of Bill North. Mr. North and
20 his company, the North Group, are the agents for the Applicant, Harmoni Towers. Mr. North's
21 resume is found at Exhibit 115. He has been in the cell tower site acquisition business for 30
22 years, or since 1994. The proposed tower would be owned by Harmoni Towers with Verizon
23 serving as its anchor tenant. It proposes a 150-foot monopole tower within a 50 x 50-foot leased
24 area. The tower will allow for future collocation by three additional carriers (one more than
25 required by County regulation).

1 Mr. North explains that the proposed tower is to improve wireless coverage north of
2 Mossyrock along the US 12 corridor; the areas north of US 12; and rural/recreational properties
3 near Lake Mayfield. The site atop Harmoni Hill was selected as it is undeveloped; is the highest
4 point in the area; is surrounded by low density rural residential development; and enjoys existing
5 natural landscaping by way of a mature timber stand surrounding the leased site. More
6 importantly, propagation mapping prepared by the Applicant's expert, Steven Kennedy, confirms
7 that the proposed tower would resolve current "coverage" issues as well as "capacity" issues, that
8 is, that the facility would address both a "coverage gap" and a "capacity gap" in the area. Mr.
9 North then explained that Verizon has concluded that there are no collocation opportunities in
10 the targeted area and a new tower is essential. He added that if the tower was required to move
11 off the top of the hill, there would be a significant degradation in its coverage due to the loss of
12 elevation. He acknowledged that during the public comment period a number of possible
13 locations were suggested by members of the public. Each of these suggested locations has been
14 examined by an independent party and all have been found to be unsuitable (Exhibit 117). Mr.
15 North concluded his testimony by reiterating that propagation mapping has demonstrated the
16 need for a new antenna site; that there are no suitable collocation opportunities; and that the
17 proposed site satisfies all of Verizon's needs while also satisfying all County requirements for a
18 new tower.

19 Following Mr. North's testimony the Applicant presented the testimony of its expert,
20 Steven Kennedy. Mr. Kennedy is a radio frequency engineer with more than 36 years of
21 experience in the telecommunications industry and specializes in commercial wireless and
22 satellite communication networks. He is an independent contractor and works with all major
23 carriers to analyze gaps in service and determine suitable solutions. He has examined thousands
24 of prospective cell tower sites and has testified hundreds of times in cell tower hearings.

1 In order to better explain Mr. Kennedy's testimony, it is first important to identify
2 existing WCF towers in the vicinity of the project site. As measured from the proposed site atop
3 of Harmoni Hill:

4 ● There is an existing tower approximately due east 10.87 miles located just to the
5 north of Morton (the "East Tower"). The East Tower currently provides collocation for Verizon,
6 AT& T and T-Mobile.

7 ● Slightly southeast of the project site, and south of Mossyrock, is a tower located
8 4.15 miles from the site (the "South Tower"). The South Tower is also currently collocated by
9 Verizon, AT& T and T-Mobile.

10 ● Roughly due west 4.19 miles is an existing tower (the "West Tower") currently
11 collocated by Verizon, AT& T and T-Mobile.

12 ● Slightly to the northeast a distance of 6.38 miles is a tower that is currently only
13 used by T-Mobile. It is not used by Verizon or AT & T.

14 To summarize, there are existing towers 10.87 miles to the east, 4.15 miles to the south,
15 4.19 miles to the west, and 6.38 miles to the north. Verizon, AT & T and T-Mobile are already
16 located on the East, South and West Towers, with only T-Mobile located on the T-Mobile tower
17 to the north.

18 The goal of this facility is to improve service north of Mossyrock along US Highway 12
19 and east of Lake Mayfield (the "Service Area").

20 Mr. Kennedy explains that all three carriers are lacking quality service in the Service
21 Area. This conclusion is reached through a series of measuring devices, all included in the
22 Applicant's Additional Information package:

23 ● **FCC Broadband Mapping.** The FCC Broadband Map is a well recognized tool
24 to identify areas with limited coverage. The Broadband Map is provided by the FCC and helps
25 identify where current coverage is deemed adequate - either for outdoor reception or, more

1 importantly, for in-vehicle use. In this case, in-vehicle coverage is an important consideration
2 due to the goal of providing service to travelers along US 12. Mr. Kennedy provided FCC
3 Broadband Maps demonstrating in-vehicle mobile coverage for Verizon, AT & T and T-Mobile.
4 The Broadband Maps for in-vehicle mobile use demonstrate a number of gaps in Verizon
5 converge along US 12 as well as in the surrounding area. By comparison, the FCC Broadband
6 Map for AT & T in-vehicle mobile coverage demonstrates better coverage than Verizon's in the
7 Service Area, but with similar (albeit fewer) gaps in coverage. Finally, the FCC Broadband Map
8 for T-Mobile in-vehicle mobile coverage demonstrates improved coverage over that provided by
9 either AT & T or Verizon in the Service Area (perhaps because of its use of the T-Mobile tower
10 to the north) but it also has gaps in its coverage, although less than those shown in the Broadband
11 Maps for Verizon and AT & T.

12 ● **RSRP as measured by Forsk Atoll Propagation Mapping.** "RSRP" stands for
13 "Reference Signal Received Power". It is a standard measuring device when calculating the
14 strength of a cell signal. Signal strength is measured in minus dBm, where dBm stands for
15 decibels (dB) relative to one milliwatt (m), or dBm, with the lower the number, the better the
16 reception: Verizon measures "good" or "indoor" coverage at -85 dBm; "acceptable" or "in-
17 vehicle" coverage at -95 dBm; and "poor" or "on street" coverage at -106 dBm.

18 To determine RSRP, Mr. Kennedy relies upon Atoll Propagation Mapping provided by
19 Forsk. Atoll is a well recognized resource and is used by all three major carriers for propagation
20 mapping. It has been used by Mr. Kennedy on more than 600 similar projects. For existing
21 towers, it is measured from the carrier's antenna array, while for proposed new towers a dipole is
22 utilized to determine signal strength from the proposed site and expected elevation of the
23 antenna. A number of additional calculations are included that take into consideration terrain,
24 vegetation and various other factors which may affect signal strength.

1 Mr. Kennedy utilized the Atoll software to calculate current RSRP for Verizon in the
2 Service Area. RSRP is measured at various bandwidths including "low band" at 751 MHz¹;
3 "mid band" at 2120 MHz; and, occasionally, "C-Band" at 3200 MHz. In this case, Mr. Kennedy
4 examined RSRP for Verizon at the 751 MHz and 2120 MHz bands. The resulting propagation
5 mapping of current conditions is demonstrated on Mr. Kennedy's Propagation Map entitled
6 "Verizon RSRP Current Coverage - 751 MHz", with good or "indoor" coverage shown in green;
7 acceptable or "in-vehicle" coverage in yellow; and poor or "on street" coverage in red.² This map
8 demonstrates that most areas in the vicinity of the project site have poor coverage, although
9 much of the area near Mossyrock is shown to have good coverage (likely due to the South Tower
10 located south of Mossyrock). A similar map has been provided for Verizon's current 2120 MHz
11 coverage. It also demonstrates relatively poor coverage near the project site but with better
12 coverage to the south and west.

13 Mr. Kennedy has also prepared RSRP Mapping at both the 751 MHz and 2120 MHz
14 bandwidths based for the proposed new tower. These propagation maps demonstrate
15 significantly improved coverage for both bandwidths, with much of the area surrounding the site,
16 along US Highway 12, and through the Mossyrock area now having "good" coverage.

17 ● **"Best Server" Mapping.** One of the features of Atoll is that it can generate
18 "Best Server Plots". These plots define geographical areas where a specific cell tower is
19 dominant. As an example, it can be used to measure which cell tower would be relied upon by a
20 motorist's cell phone while driving along US Highway 12. This tool helps analyze coverage
21 areas, overlapping coverage, and areas with little or no coverage. Mr. Kennedy has provided

22 _____
23 ¹ Low band frequencies travel farther but carry less energy; mid-band frequencies carry greater energy but do not
24 extend as far; C-bands carry high energy but travel only short distances and are less useful in rural areas.

² It requires greater energy for a signal to pass through the walls of a house than a moving car, and even less energy
to be received by someone standing outside.

1 before/after Best Server Mapping at both the 751 MHz and 2120 MHz bandwidths. Mr.
2 Kennedy explains that these maps demonstrate that the new tower would dramatically improve
3 the sharing of cell service between the new tower and the existing towers to the south and west,
4 thereby relieving these other towers of a current overload in demand.³

5 ● **CellMapper.** CellMapper is a crowd-sourced cell tower and coverage mapping
6 service. Members of the public are asked to contribute data to its website to help map actual
7 coverage of cell networks based on real life conditions. It can be used to measure signal strength
8 and other network data collected by users to better determine network coverage in certain areas.
9 CellMapper processes the data users have sent it and creates a geographical representation of
10 available coverage, which users can then browse from their app. Importantly, however, there are
11 restrictions on the use of CellMapper data for commercial purpose. Thus, any reliance upon it
12 for this application is unclear and, at best, its findings should only be used as added support for
13 the information provided through the FCC Broadband Maps and other resources. With this in
14 mind, Mr. Kennedy explained how CellMapper data, as shown on the CellMapper map,
15 identifies significant coverage issues along US Highway 12 in the Service Area. Again, this
16 information is provided by members of the public and uses real time data.

17 In addition to all of this mapping and other data, Mr. Kennedy adds that the Service Area
18 is demonstrating notable growth in network utilization such that the existing towers to the west
19 and south are over capacity and experiencing "throughput" limitations. These problems will only
20 increase over time.

21 Mr. Kennedy also explained that the current WCF application results from both
22 "coverage" and a "capacity" issues: "capacity" is providing bandwidth or processing capacity to
23 service the customers in the area, while "coverage" is providing service where it currently does

24
25 ³ My apologies for any errors in converting highly technical engineering concepts into layperson terms.

1 not exist and calls are being dropped. The proposed new cell tower is intended to address both
2 capacity and coverage issues: It addresses capacity issues by providing additional bandwidth to
3 allow for better throughput, and to reduce the current burden on the towers to the west and south.
4 It addresses coverage issues by extending the overall coverage in the Mossyrock/US 12/Lake
5 Mayfield area as shown on the RSRP Mapping.

6 Mr. Kennedy concluded his testimony by confirming that there are no available sites for
7 collocation. Again, the existing towers to the east, south and west are already utilized by
8 Verizon, while the T-Mobile tower to the north is too far to the north to address either the
9 coverage or the capacity issues currently faced by Verizon. All other possible sites as suggested
10 by members of the public have been examined and found to be unsuitable. In summary, the
11 proposed site is the only available and effective site for a new antenna array to address current
12 gaps in coverage and to resolve a growing capacity issue.

13 At the conclusion of Mr. Kennedy's direct testimony he was cross-examined by LCST.
14 Mr. Kennedy acknowledged:

15 ● The use of Atoll as a predictive tool depends on the quality of the data it is
16 provided, and that it must be "tuned" to the local environment. Mr. Kennedy concedes that much
17 of the underlying data is not found in his report but has instead been provided by Verizon.

18 ● Mr. Kennedy did not undertake a drive test to confirm the results of the predictive
19 mapping.

20 ● Mr. Kennedy did not personally calibrate the mapping results with drive test data
21 but instead used the underlying data provided by Verizon.

22 **LCST Presentation.** Following the Applicant's presentation, LCST was allowed to make
23 its presentation. It began with the testimony of Allen Watts whose full written report is found at
24 Exhibit 107. Mr. Watts identifies himself as a "Professional Project Manager" (PMP) and has
25 managed numerous large scale construction projects primarily in the oil and gas industry. Mr.

1 Watts lives near the project site and the proposed tower would be visible from his home. Mr.
2 Watt testified to the following matters:

3 ● **Current Coverage.** Mr. Watt explained that his work requires good cell
4 coverage from his home and that he had originally relied on Verizon for this coverage. While a
5 Verizon customer, he had no problem with coverage and did not suffer any dropped calls or
6 experience video conferencing problems.

7 ● **Screening.** Mr. Watts confirms that the project site is surrounded by existing
8 trees consisting of a mix of deciduous trees as well as evergreens (Douglas Firs). While these
9 trees would provide full screening during summer months, there would be less coverage during
10 the winter when the deciduous trees lose their leaves. The existing trees are approximately 80
11 feet tall, meaning that half of the tower would be above tree height.

12 ● **Access.** As a construction manager, Mr. Watts believes that the neighborhood
13 private road, Skyview Drive, is incapable of supporting the equipment needing to be brought to
14 the site for construction of the tower. [NOTE: Much of Mr. Watts' written statement, as well as
15 the majority of LCST's Pre-Hearing Briefing, challenges the Applicant's use of Skyview Drive
16 for construction of the proposed tower. These challenges are both legal in nature (that it exceeds
17 the scope of the access easement and that it violates the Road Maintenance Agreement) as well
18 as practical (that the road is not capable of supporting the needed equipment). At the
19 commencement of the hearing, the Hearing Examiner advised LCST that these issues are outside
20 the Hearing Examiner's jurisdiction, as discussed more fully in the Analysis Section.]

21 LCST then presented its primary witness, Dr. Kent Chamberlin. Dr. Chamberlin's
22 written report, including CV, is found at Exhibit 111. Dr. Chamberlin is a professor and Chair
23 Emeritus of the Department of Electrical and Computer Engineering at the University of New
24 Hampshire where his primary area of research and teaching is in electromagnetics, including
25

1 computer modeling of radio wave propagation and interference modeling. Again, his fuller CV
2 is found at Exhibit 111.

3 Dr. Chamberlin has not prepared his own propagation mapping for the site but has
4 instead been asked to review and analyze the work prepared by Steven Kennedy on behalf of the
5 Applicant. Dr. Chamberlin finds fault with several aspects of Mr. Kennedy's findings while also
6 asserting that this application has little to do with "telecommunications" coverage and everything
7 to do with broadband coverage. As such, Dr. Chamberlin believes that this application lies
8 outside of the intended purposes of the County's WCF ordinance, Chapter 15.50 LCC.

9 Dr. Chamberlin's testimony addressed the following:

10 ● **Use of Forsk Atoll Propagation Software.** Again, Dr. Chamberlin has not
11 undertaken his own propagation mapping but instead has analyzed the work done by Mr.
12 Kennedy utilizing the Forsk Atoll Propagation Software. Dr. Chamberlin is familiar with the
13 Atoll Software. He stresses that the use of Atoll is not "plug and play", that is, while Atoll is
14 commonly used by wireless carriers and systems designers, its end product is only as good as the
15 information it is provided. He explains that there a great number of variables that affect the final
16 results from using the software including unusual terrain, buildings, weather and many other
17 variables. When the information inputted into the Atoll software regarding these variables is not
18 disclosed, there is no way to know way to know whether end product is reliable. Dr. Chamberlin
19 asserts that Mr. Kennedy has not "shown his work", and that none of the inputted variables have
20 been disclosed, making the end product unreliable.

21 ● **Information Contained in FCC National Broadband Maps.** Much of Dr.
22 Chamberlin's analysis is premised on the "significant gap in coverage" standard found in the
23 Federal Telecommunications Act of 1996 (the "TCA") and has analyzed this application to see
24 whether the data identifies a "significant gap in coverage" as discussed in federal rulings
25 addressing the TCA.

1 To determine whether there is a significant gap in coverage, Dr. Chamberlin first
2 examined the FCC Broadband Maps which had earlier been discussed by Mr. Kennedy. In his
3 review of the FCC Broadband Maps, Dr. Chamberlin comes to a different conclusion than Mr.
4 Kennedy and asserts that the FCC mapping shows that there is no significant gap in coverage.
5 More specifically, Dr. Chamberlin asserts that the FCC Broadband Map "demonstrates 100%
6 outdoor Verizon Wireless coverage at and around the proposed installation site", while also
7 demonstrating 100% outdoor and in-vehicle coverage for T-Mobile near the installation site,
8 suggesting that if T-Mobile is able to obtain 100% in-vehicle coverage, Verizon should be able
9 to do so as well.

10 Although Dr. Chamberlin relies upon the FCC Broadband Map to demonstrate 100%
11 "outdoor" coverage, he does not assert that the FCC Broadband Mapping demonstrates a similar
12 level of "in-vehicle" coverage for Verizon (as earlier pointed out by Mr. Kennedy). Nonetheless,
13 Dr. Chamberlin believes that any identified gaps in in-vehicle coverage are not "significant" and,
14 to the contrary, are small enough to be addressed through other available technology including
15 localized signaling such as "small cell" antennas, "signal boosters", and other devices.

16 ● **Confirmation of Atoll Results Through Drive Test and Dropped Call Logs.**

17 As noted above, Dr. Chamberlin explains that while the use of Atoll is commonly recognized,
18 the quality of its end product depends upon the expertise of its user and the accuracy of the data
19 it is fed. Poor use of the software, or poor data, will lead to poor results. When propagation
20 mapping suggests a weakness in coverage it becomes necessary, then, to confirm its findings
21 through real life data. In addition to the FCC Broadband Maps, gaps in coverage can be
22 confirmed through either "dropped call logs" or "drive testing". Dr. Chamberlin believes that all
23 wireless carriers maintain dropped call logs. These are computerized records of cell phone calls
24 made by carrier subscribers where an in-progress cell phone call is involuntarily terminated
25 while in progress - perhaps due to loss of signal due to coverage limitations or perhaps due to

1 over capacity. These logs can be used to help confirm that the project area has experienced
2 dropped calls and is in need of improved service. Importantly, Dr. Chamberlin notes that Mr.
3 Kennedy's reports do not include any information provided by dropped call logs and that the
4 propagation mapping is therefore unsubstantiated by real life data.

5 Dr. Chamberlin adds that a second way to "field test" propagation mapping is through
6 drive tests done either by the test engineer or, preferably, by an independent entity. In a "drive
7 test", a person simply drives through the area and takes RF signal strength measurements along
8 the way, keeping track of where each call is placed, the signal strength, and a record as to
9 whether the call can be placed, completed, and/or maintained. The resulting data can then be
10 compared to the results of the propagation mapping. Once again, Dr. Chamberlin notes that Mr.
11 Kennedy's report does not make any mention of drive tests, and shows no evidence that the
12 results of the propagation mapping were confirmed through this process.

13 ● **Real Purpose of the Requested Tower.** Dr. Chamberlin concludes his
14 presentation by asserting that this WCF application has little to do with providing
15 "telecommunications" services, that is, cell phone service, and is instead entirely related to
16 Verizon's goal to improve its broadband internet access service. Dr. Chamberlin asserts that the
17 evidence demonstrates little or no significant gap in coverage for cell service and that the only
18 reason Verizon would go to this much trouble is to be well positioned to capture its share of the
19 rapidly growing broadband internet service. He argues that, if so, the proposed use does not
20 qualify as "telecommunications"; is not covered by the TCA; and therefore is not covered by the
21 County's WCF ordinance.

22 LCST's Final witness was Erik Anderson. Mr. Anderson is an engineer and was asked to
23 examine the electrical design for the proposed tower. His report can be found at Exhibit 112
24 wherein certain electrical design issues are raised. [NOTE: County Staff responds that any
25 issues relating to electrical design will be addressed and resolved during permit review.]

1 **Public Testimony.** At the conclusion of the presentation by LCST the hearing was
2 opened for public comment. There was significant attendance both in person and remotely with
3 approximately 15 attendees asking to testify, all in opposition to the permit. Many commentators
4 came prepared with written statements and most agreed to have their written notes entered as an
5 exhibit. The following is a brief summary of their testimony:

6 **Leila Cuglievan.** Ms. Cuglievan is a member of LCST and is opposed to the tower. She
7 allowed her written script to be introduced as an exhibit (Exhibit 121). She lives in close
8 proximity to the project site and believes that her property will be unusually affected by the
9 visual impacts of the tower due to the elevations of the two properties. She believes that this will
10 fundamentally affect the quality of her property and that this is inconsistent with the intent of the
11 County Comprehensive Plan and its goal of protecting rural residential communities and
12 ensuring compatibility among competing uses.

13 **Katharine Jarbo.** Ms. Jarbo is opposed to the application. She believes that there are
14 better sites available on nearby, uninhabited hills that could serve Verizon's needs without
15 having such a significant impact on this rural residential neighborhood. Ms. Jarbo presented a
16 photo montage (Exhibit 122) looking from Harmoni Hill north to a series of undeveloped hills
17 which she believes would be a better location. Another photo (Exhibit 123) is taken at the top of
18 Harmoni Hill looking west to other undeveloped hills which might also serve as a location. Ms.
19 Jarbo believes that this tower should be located where it is less intrusive and where its unpleasant
20 aesthetics would be less impactful.

21 **Monica Carp.** Ms. Carp is a member of LCST and is opposed to the application. She
22 has agreed to provide her written comments as an exhibit (Exhibit 124). She lives along Skyview
23 Drive as short distance from the project site. She and her husband chose this site due to the view
24 and because it was free of the burden of more intense development.

1 Ms. Carp has 15 years experience as a real estate agent and believes that this new cell
2 tower could have a negative impact upon real estate values. She cites a study⁴ which concludes
3 that towers can impact property values by as much as 20% while also delaying sales.

4 Ms. Carp is also concerned that a cell tower will increase wildfire risk and, therefore, the
5 cost of homeowner's insurance.

6 Ms. Carp also notes that she is a Verizon customer and that she has had no difficulty with
7 either cell service or internet access provided by Verizon, including streaming movies and using
8 work-related apps.

9 **Doug Clyde.** Mr. Clyde is a member of LCST and opposed to the application. He
10 agreed to provide his written script as an exhibit (Exhibit 125). Mr. Clyde begins by noting that
11 of the 21 landowners near the project, 20 are opposed to the tower. The voice of these
12 homeowners should be heard.

13 Mr. Clyde also believes that the proposed use is inconsistent with the road maintenance
14 agreement joined in by all of the surrounding property owners, and that the Applicant cannot use
15 this road without the neighbor's consent.

16 **Kristy Wallen.** Ms. Wallen is opposed to the application. She agreed to submit her
17 written statement as an exhibit (Exhibit 126). Ms. Wallen suffers from a condition known as
18 Electro hypersensitivity, whereby exposure to radio frequency and other electromagnetic signals
19 triggers physical symptoms she and others facing similar health problems are unable to consider
20 living in an area where a cell tower is located. She urges that this tower be denied so that his
21 neighborhood not be burdened by this impact.

22 _____
23 ⁴ "Wireless Towers and Home Values: An alternative valuation approach using a special econometric analysis"
24 J Real Estate. Finan Econ. (2018)

1 **Victoria Watts.** Although Ms. Watts' is only 12 years old, she proved to be an excellent
2 speaker with well prepared comments. She agreed to have her written comments introduced as
3 an exhibit (Exhibit 127). She is opposed to the application and believes: (1) it will disturb the
4 beautiful views from Skyview Drive; (2) construction traffic will interfere with other residential
5 uses; and (3) construction noise will be a significant nuisance to surrounding properties, and to
6 students engaged in homeschooling. She concludes her comments by noting that if the tower is
7 built her family will constantly have a metal tower in their beautiful and quiet neighborhood.

8 **Alex DeGoede.** Mr. DeGoede is opposed to the application. His written comments were
9 admitted as Exhibit 128. Mr. DeGoede is the grandson of the founder of DeGoede Bulb Farms
10 which, until just recently, graced the fertile plateau surrounding Mossyrock with acres of tulips
11 and other bulbs. Mr. DeGoede believes that the Mossyrock community is identified by its
12 natural beauty, including its forest, farms and mountains. The tower conflicts with the aesthetics
13 of the Mossyrock community and will significantly impact views from the area.

14 **Marietta Currie.** Ms. Currie and her husband, Justin Laabs, reside at 252 Skyview
15 Drive which is less than 400 feet from the project site. Ms. Currie is a member of LCST and is
16 opposed to the application. The written comments prepared by Ms. Currie and her husband have
17 been submitted as Exhibit 129, with a large number of photos admitted as Exhibit 130. Ms.
18 Currie and her husband offer a lengthy list of objections:

- 19 ● The Applicant does not have the permission of other property owners along
20 Skyview Drive to use this private road for access to the project site.
- 21 ● The visual impact would be significant, especially to nearby neighbors.
- 22 ● Ms. Currie would never have purchased her home if this cell tower existed at that
23 time.
- 24 ● Neighbors will constantly worry about the risks associated with this tower.

1 ● The County WCF ordinance expressly encourages the location of new towers in
2 nonresidential areas, not residential neighborhoods such as this one.

3 ● The Applicant has failed to demonstrate that the proposed site is the best choice
4 among alternatives. Photos show a number of undeveloped hills in the general area that could
5 serve as the tower's location without impacting nearby residents.

6 ● The tower would affect property values and marketability, and homeowners
7 insurance would likely increase.

8 ● The tower would diminish the natural character of the area, including its abundant
9 wildlife.

10 **Steven Olson.** Mr. Olson is a nearby property owner and is opposed to the application.
11 He did not submit written comments. Mr. Olson strongly disagrees with the assertion that the
12 visual impacts of the tower would be "negligible". He spent a year searching for a residential lot
13 and put in a well, power and established a site plan only to now face a view of this new facility.
14 He urges that it not be approved.

15 **Don Carroll.** Mr. Carroll and his wife, Kathryn, or "Kat", are opposed to the
16 application. Mr. Carroll agreed to provide his written comments as Exhibits 132. Mrs. Carroll's
17 lengthy written comments were submitted shortly before the hearing as Exhibit 114. For the past
18 20 years, the Carrolls have been the owners of a small agri-tourism and hospitality business
19 called Adytum Sanctuary overlooking Lake Mayfield. Mrs. Carroll's earlier written comments
20 include a narrative regarding this business. The Carroll's were drawn to their property by its rare
21 natural beauty and sweeping views. Their business incorporates these views while relying
22 heavily upon the area's natural scenery and solitude to attract patrons, many of whom travel from
23 other countries. The Carrolls urge, not just as business owners but as stewards of this unique
24 scenic area, that the application be denied in order to protect this region's best qualities.

1 **Becki Watts.** Ms. Watts is the founding member of LCST and is opposed to the
2 application. She provided her written testimony as Exhibit 133. Ms. Watts resides at 277
3 Skyview Drive, 425 feet from the proposed tower. Ms. Watts is a Verizon customer and relies
4 heavily upon her Verizon service for personal phone calls; aid in homeschooling her children;
5 and in running online businesses run primarily from her phone. Despite these many demands
6 upon her Verizon service, she has not had any issues with her phone calls, the downloading or
7 uploading of data, or any other use. Given that her Verizon service shows no problems with
8 coverage, she believes that the Applicant should be put to a higher standard of demonstrating an
9 actual need for the tower.

10 Ms. Watts also notes that the tower will directly impact the view from her family's
11 property and that this view will be forever changed. She asks that the wishes of the surrounding
12 property owners be respected and that the application be denied.

13 **Johnny Gonzales.** Mr. Gonzales is opposed to the application. He resides along
14 Skyview Drive near the project site and has worked as a police officer for 22 years. He relies
15 upon Verizon for both cell service and Wi-Fi and good coverage is critical. He has not had any
16 problems with his Verizon coverage. Mr. Gonzales moved to the area because of its beauty and
17 fears that its qualities will be lost if the tower is approved.

18 **Chad Nolan.** Mr. Nolan is opposed to the application. He resides on Breezy Lane a
19 short distance from the project site. He has served as a first responder for many years. Mr.
20 Nolan relies on Verizon for all of his communication needs and has never had a problem with
21 reception. He does not believe that the tower is needed.

22 **Michael Hadaller.** Mr. Hadaller is opposed to the application. He serves as a
23 Commissioner for the Lewis County PUD and resides nearby. He does not experience any
24 reception problems and questions whether Verizon has any problem with reception in the area.

1 This appears to be a broadband issue, not a cell service issue, and he believes that the WCF
2 ordinance is not meant to provide broadband.

3 **Charles Frohman.** Mr. Frohman is affiliated with the National Health Federation and is
4 opposed to the application personally and on behalf of the Federation. Mr. Frohman asserts that
5 the Applicant has not demonstrated any real significant gap in service and that this application is
6 merely an attempt to improve upon its broadband service in the area. He adds that a cell tower
7 was the cause of one of the largest forest fires in California's history (with photos included of a
8 burning cell tower), and concludes his comments by referencing studies that have found cell
9 towers to have a negative impact upon property values.

10 **Heidi Brenneman.** Ms. Brenneman is opposed to the application. She suffers health
11 problems attributable to RF affects. When looking for a house to purchase she eliminated all
12 possible homes located near cell towers. She believes that other individuals with similar ailments
13 will do the same, affecting the marketability of homes near towers.

14 **Post-Hearing Evidence**

15 At the conclusion of all public testimony the Hearing Examiner advised the Applicant
16 that it would be given a week to provide responses to the testimony presented by LCST and
17 members of the public. LCST and the County would then be given a week to respond, and the
18 Applicant would then be allowed an additional week to reply (these dates were later extended by
19 agreement of the parties).

20 Shortly after establishing these deadlines for supplemental materials, the Hearing
21 Examiner notified the Applicant of several specific questions the Hearing Examiner would like
22 answered in addition to any general responses the Applicant might have. These questions were
23 posed in the form of a letter (Exhibit 134). Among other things, the Hearing Examiner:

24

- Asked the Applicant to better explain why collocation on the "T-Mobile"

25 tower would not be effective.

1 ● Did the Applicant have additional "direct" evidence of gaps in coverage as
2 evidenced by dropped call logs or drive through testing?

3 ● To the extent that the Applicant's request for the WCF tower is based upon
4 "capacity" rather than "coverage", is a capacity issue a sufficient basis for approving a cell
5 tower?

6 ● Has the use of CellMapper to support the finding of propagation mapping
7 been approved by courts?

8 **Applicant's Supplemental Materials.** The Applicant responded to the Hearing
9 Examiner's invitation to present supplemental materials:

10 1. Applicant's Written Response Together with Affidavit of Steven Kennedy and
11 Supporting Documentation. (Exhibit 135)

12 2. RF Justification Prepared Osman Ibis Including Drive Test Data. (Exhibit 136)

13 The Applicant asserts that these supplemental materials demonstrate the following:

14 1. **Use of Drive Test.** During the public hearing, LCST noted that the Applicant's
15 materials failed to show any evidence of a drive test to help confirm the accuracy of the
16 propagation mapping, and questioned whether any such testing had been undertaken. The
17 Applicant's supplemental materials confirm that drive testing was undertaken, with the drive test
18 data included in Exhibit 136. The drive testing was undertaken by Verizon employees during the
19 fourth quarter of 2025. It demonstrates areas of limited coverage along US Highway 12 through
20 the project area. Indeed, the drive test data suggests an even greater coverage issue along
21 Highway 12 than what the propagation mapping predicated (but roughly equal to what
22 CellMapper data indicates).

23 In other words, the coverage issues identified in the Applicant's RSRP Maps is confirmed
24 by three separate sources: (1) the FCC Broadband Maps; (2) Verizon's drive test results; and (3)
25 CellMapper data.

1 2. **"Coverage" issues versus "capacity" issues, and the purpose of the proposed**
2 **tower.** The Applicant acknowledges that most individuals assume that a proposed new cell
3 tower is simply meant to extend coverage where none currently exists. Indeed, LCST argues that
4 a coverage gap must be demonstrated (pursuant to the "significant gap in coverage" standard
5 found in federal regulation) and that the Applicant's evidence has not adequately demonstrated a
6 coverage problem. Similarly, residents who oppose the application, but who rely upon Verizon,
7 have testified that they have no coverage problems - either for cell service or for a broader array
8 of broadband uses. The Applicant partially responds to these challenges by again noting all of its
9 evidence (propagation mapping, drive test data, FCC Broadband Maps, CellMapper)
10 demonstrates that there are coverage issues in the project area, especially along the US Highway
11 12 corridor. But the Applicant stresses that "coverage" is not the primary purpose of this new
12 tower and that "capacity" is the primary focus.

13 To further explain this, the Applicant utilizes the analogy of the delivery of water through
14 a water pipe: If the water pipe feeds only one residence, that residence enjoys 100% of its
15 available water, but if two houses are connected to it, each gets 50% of the available water, while
16 four houses would reduce each to 25%, etc. In other words, the water pipe can deliver only so
17 much water, and each added user reduces the amount of water available to other users. The
18 Applicant's expert, Mr. Kennedy, explains that the radio signals used for cell service are not
19 materially different than the water pipe analogy, and that there is a finite amount of information
20 that can be sent via a radio channel. Thus, the more users of that radio channel, the less
21 information each individual user can send/receive. Once the radio channel reaches full capacity,
22 cell calls may be "dropped" and other uses may be slowed or delayed. As a result, a particular
23 location may have "coverage" but it still may experience dropped calls and poor service due to
24 too great a burden on the available capacity.

1 Over-burdened cell towers can be relieved of that excess burden by having other cell
2 towers available nearby to balance demand. The Applicant relies upon another analogy to help
3 explain this: If a grocery store has only one check out line open, the checking out process will
4 become long and slow, but if two additional check outs are opened, customers will flow to the
5 shortest available line and everyone's check out process will become short and quick. Similarly,
6 if two existing cell towers are over burdened, adding a nearby third cell tower allows radio traffic
7 to be shifted, thereby eliminating dropped calls and slower response through the efficient
8 distribution of radio signals. This efficiency is increased further if each of the three towers has a
9 dominant area of coverage, thereby reducing the amount of effort spent by systems searching for
10 the most available tower.

11 With these concepts in mind, the Applicant then provides additional information to help
12 explain that the project area is currently providing coverage primarily from the existing tower
13 located 4.15 miles to the southeast (previously referred to as the "South Tower") and the existing
14 tower 4.19 miles to the west (the "West Tower"). The Applicant explains that the South Tower
15 and the West Tower are both at or near capacity and, in fact, are over capacity during parts of the
16 year. This capacity problem is measured by "ASEU" (Average Scheduled Eligible Users).
17 ASEU is a measurement of actual usage relative to capacity, and can be measured for each
18 "sector" of a cell tower's coverage (if coverage was a pie, a "sector" would be a slice of the pie).
19 The Applicant's data focuses on two of the sectors related to the West Tower (referred to as the
20 "Mayfield Lake Alpha Sector" and the "Mayfield Lake Beta Sector") as well as a sector from the
21 South Tower (the "Riffe Lake Alpha Sector"). Verizon's data indicates the following:

- 22 ● The Mayfield Lake Beta Sector operates near capacity most of the year but
23 exceeds capacity for several months including the summer months.
- 24 ● The Mayfield Lake Alpha Sector is approaching capacity year round.

1 ● The Riffe Lake Alpha Sector operates at near capacity throughout the year but
2 significantly exceeds capacity during the spring and summer months.

3 In other words, the two existing towers serving the project area, the South Tower and the
4 West Tower, are already at or near capacity, and exceed capacity during the summer months.

5 Using the software included within Atoll, the Applicant has prepared "Best Server"
6 mapping to demonstrate how the South Tower and West Tower are currently providing coverage
7 in the project area. The Applicant's Best Server mapping notes that the lack of a dominate tower
8 in this area results in more energy spent searching for a suitable tower which results in lower
9 quality coverage and capacity.

10 The Applicant then demonstrates how the proposed new tower would eliminate the
11 current excess burden on the South and West Towers; would establish a dominant tower in the
12 project area; and would improve the overall efficiency of cell service to the entire region and not
13 just the project area - while at the same time expanding coverage to areas where it is currently
14 poor.

15 3. **Possible Collocation on the T-Mobile Tower.** The Hearing Examiner requested
16 that the Applicant provide a fuller explanation as to why collocation on the existing "T-Mobile
17 Tower" to the north is not a suitable solution, as the FCC Broadband Maps suggest that its use by
18 T-Mobile has proven useful in providing coverage for that carrier in the project area. To respond
19 to this question, it is first necessary to discuss the "capacity" issue, as the benefits of collocating
20 on the T-Mobile Tower must be examined in light of the proposed tower's primary purpose:
21 removing the overburden on the South and West Towers.

22 But first, the Applicant responded to the Hearing Examiner's request that it utilize the
23 Atoll propagation mapping to calculate the extent to which installing antennae at the highest
24 available elevation on the T-Mobile Tower would affect coverage in the project area. The
25 resulting RSRP mapping is found in Exhibit 136. Separate RSRP maps are included to identify

1 existing coverage; added coverage using only the T-Mobile site; and added coverage if both the
2 proposed tower and the T-Mobile Tower were utilized. The map of predicated coverage with the
3 addition of the T-Mobile Tower demonstrates that coverage through the project area would
4 improve but that there would remain areas of poor coverage, especially in areas south of the
5 project site. In comparison, installation of antennae on both the T-Mobile Tower as well as the
6 proposed new tower would result in good coverage through much of the region. To summarize,
7 the Applicant's propagation mapping indicates that use of the existing T-Mobile Tower, without
8 also using the proposed new tower, would improve coverage in the project area but would not
9 provide acceptable levels of coverage in all parts of the project area.

10 The Applicant then turns to what it regards as the more important question, that is,
11 whether collocating on the T-Mobile Tower would significantly assist in resolving the current
12 capacity issues faced by the South and West Towers. The Applicant's analysis concludes that use
13 of the T-Mobile Tower would offer no assistance to the capacity problem, and that it is simply
14 too far away to help relieve either the South or West Towers of their current capacity problems.
15 More specifically, the Applicant's data indicates that the proposed new tower would offload 71%
16 of the traffic currently going to the other towers, while use of the T-Mobile Tower would offload
17 0% of that traffic with respect to the 751 MHz band. The difference is even greater for 2120
18 MHz traffic, where the proposed new tower would offload 80% of the traffic while the T-Mobile
19 Tower would again offload 0%. In conclusion, the Applicant asserts that collocation on the T-
20 Mobile Tower will fail to achieve the primary purpose of balancing the demand among the
21 region's towers.

22 4. **Use of CellMapper.** The Hearing Examiner asked the Applicant to better explain
23 how CellMapper has been used in evidentiary hearings, and whether restrictions are imposed on
24 its use. The Applicant acknowledged that CellMapper is an open source tool that is not meant to
25 be relied upon as a primary source of information. This is both because of the way in which its

1 information is gathered and because its use for commercial purposes is prohibited absent a
2 subscription (which Mr. Kennedy does not have). Thus, Mr. Kennedy acknowledges that any
3 information gained through CellMapper is meant to be supplemental information and is not to be
4 primarily relied upon. Here, the CellMapper data indicates consistency with the FCC Broadband
5 Maps and drive test data, and supports the propagation mapping.

6 **5. Must a "significant gap in coverage" be demonstrated?** LCST has repeatedly
7 stressed that, at the federal level, the "significant gap in coverage" standard is utilized asserts that
8 and Lewis County has incorporated this standard into its regulations. LCST therefore argues that
9 "capacity" issues are irrelevant when determining whether a new tower should be approved, as
10 the only relevant question is whether the Applicant has demonstrated a coverage problem, with
11 LCST asserting that the Applicant has not demonstrated a significant-enough coverage problem.
12 The Applicant responds to this assertion by disagreeing as strongly as possible. The Applicant
13 asserts that the "significant gap in coverage" standard found in federal regulations has no
14 application at the local level, while Lewis County's WCF regulations make no distinction
15 between the need to address coverage versus the need for capacity. The Applicant suggest that
16 LCST's entire argument is a red herring intended to distract focus from the actual requirements
17 of County code.

18 **6. Other Issues.** The Applicant concludes is supplemental material by
19 acknowledging the various concerns expressed by members of the public but then explaining
20 why none of the expressed concern are a basis for denying the application.

21 **Supplemental Materials of LCST.**

22 Following the Applicant's supplemental materials, LCST responded through an additional
23 declaration by Dr. Chamberlin (Exhibit 137) together with LCST's responsive briefing (Exhibit
24 138).

1 Dr. Chamberlin's response is 10 pages of single space, while LCST's briefing extends 45
2 pages. In order that this decision does not become unduly long, significant condensing of these
3 responses is necessary, with no offense meant by this process.

4 Dr. Chamberlin makes the following key points in response:

5 ● The FCC Broadband Maps demonstrate that Verizon currently enjoys "100%
6 outdoor coverage" in the vicinity of the project site. Similarly, FCC Broadband Maps
7 demonstrate that T-Mobile enjoys 100% outdoor and in-vehicle coverage near the project site. If
8 the goal is to eliminate "significant gaps in coverage" this should be achievable by simply having
9 Verizon collocate everywhere T-Mobile currently locates (that is, the T-Mobile Tower to the
10 north).

11 ● The "Spectrum Act" (47 USC Section 1455) has significantly reduced the barriers
12 to increasing the height of cell towers and allows their height to be increased by 10% (here, 15
13 feet) through a fairly simple process. It would therefore be relatively easy to increase the
14 existing height of the T-Mobile Tower to the north, thereby providing Verizon with a superior
15 location to T-Mobile. And, since T-Mobile's coverage appears to be adequate, Verizon's
16 coverage should then be adequate.

17 ● The Applicant's updated modeling information still lacks key data. It continues to
18 omit key variables all of which have a major impact on the outcome. Additionally, it is unclear
19 that the Applicant's data has been calibrated for accuracy through drive test data.

20 ● The drive test data recently provided by the Applicant is inadequate and lacks
21 core data and an explanation of its methodology. It also fails to include any of the key
22 measurements. Without this information the drive test data is simply unreliable.

23 ● The original application suggested that an additional 9 antenna would be installed
24 in the vicinity. No further explanation has been provided for this proposal.

1 ● The Applicant's explanation/analysis of an "over capacity problem" is not
2 supported by any dropped call log data, and the ASEU plots and other new maps have no
3 analytical value.

4 ● The Applicant's discussion of "throughput" in its supplemental materials is
5 misleading and fails to distinguish between "up link" and "down link" information.

6 ● The Applicant supports its capacity arguments on the basis of population increases
7 in the area but the actual increases are minuscule.

8 ● The real purpose of the proposed tower is to advance Verizon's long term
9 objective of increasing its wireless internet business.

10 ● The Applicant continues to not respond to suggestions that reasonable, small scale
11 alternatives exist to the proposed new tower.

12 In addition to these issues raised by Dr. Chamberlin, counsel for LCST raises the
13 following matters in its supplemental briefing:

14 ● The federal definition of "wireless communications" limits it to phone service and
15 excludes wireless broadband internet access. Lewis County's definition of "wireless
16 telecommunications" incorporates the federal definition and, therefore, is also limited to phone
17 service and not other broadband services. Thus, issues relating to "capacity", etc. must be
18 restricted to phone service, not other services.

19 ● Lewis County impliedly incorporates the "significant gap in coverage" and "least
20 intrusive alternatives" standards imposed at the federal level. The Applicant must therefore
21 demonstrate a true gap in existing coverage relating to phone service (not other services) and
22 must also demonstrate that the proposed site is the least intrusive alternative. These
23 requirements are implied by the provisions of LCC 15.50.010.025, .030 and .040, and are also
24 necessary to achieve consistency with the County Comprehensive Plan.

1 ● The Applicant's new evidence in support of its application continues to be
2 unreliable as explained by Dr. Chamberlin. Further, much of this evidence is unrelated to phone
3 service and is instead relating to a larger goal of expanding broadband internet services.

4 ● The testimony of the many witnesses in opposition to the application provides
5 competent evidence that the proposed tower is inappropriate for its location, while the universal
6 unpopularity of the application should be recognized and taken into consideration.

7 ● The WCF ordinance includes various requirements for landscaping plans,
8 engineering plans, and other plans which County Staff are deferring until time of building permit
9 issuance. Deferring these requirements is inappropriate and denies the public an opportunity to
10 review and respond.

11 ● Local residents should not be forced to accept the unreasonable burdens and
12 adverse impacts imposed by this project. Neighbors have highlighted the project's impacts upon
13 property values, aesthetic values and other impacts, while also noting the burdens this project
14 will impose upon the local private road. Neighbors should not be forced to ensure these burdens.

15 **Applicant's Reply Materials.** Following receipt of LCST's response, the Applicant was
16 allowed the final opportunity to reply. The Applicant's reply document consists of a
17 supplemental affidavit by its expert, Steven Kennedy, together with the Applicant's reply
18 briefing (collectively Exhibit 139).

19 Mr. Kennedy provides a 17-page reply to the challenges made by Dr. Chamberlin in his
20 supplemental response. Again, these responses have been condensed:

21 **FCC Broadband Maps.** Mr. Kennedy accuses Dr. Chamberlin of "mixing and
22 matching" FCC Broadband Maps, that is, blending maps of "outdoor coverage" with those for
23 "in-vehicle" coverage (the latter being a higher standard of coverage) while also using less
24 detailed maps, and while altering the areas covered by the maps, resulting in misleading
25 suggestions. Meanwhile, the Applicant's use of FCC Broadband Maps has consistently relied

1 upon the "in-vehicle" standard; has consistently relied on maps having the same level of detail;
2 and has consistently applied the same scale of mapping, such that all use of FCC Broadband
3 Maps by the Applicant is uniform. In summary, Mr. Kennedy responds that LCST is the party
4 attempting to manipulate mapping, not the Applicant, and that the Applicant's use of FCC
5 Broadband Mapping has been consistent and credible.

6 **Increasing the Height of the T-Mobile Tower to the North.** Mr. Kennedy is familiar
7 with the Spectrum Act and the ability it offers to raise the height of an existing tower, but even if
8 the owner of the T-Mobile Tower could be convinced to increase its height and allow Verizon to
9 install an array at the very top, *this array would not solve Verizon's problem with capacity.* Mr.
10 Kennedy explains that the T-Mobile Tower is simply too far north and even if its height was
11 increased it will still not effectively offload capacity from the South and West Towers as
12 currently needed. Overcapacity can only be offloaded to a new tower located where the
13 overloaded sectors are found. Here, the overloaded sectors are in the area of the proposed new
14 tower. The T-Mobile Tower to the North is not located in the affected area and cannot help with
15 the necessary offloading of the overcapacity experienced by the South and West Towers.

16 **Providing Meaningful Information About the Modeling Process.** In his response, Dr.
17 Chamberlin asserted that Mr. Kennedy had failed to explain how a long list of variables had been
18 inputted into his modeling, and that the failure to provide this information made the results
19 unreliable. In response, Mr. Kennedy acknowledges each of the variables;⁵ explains what each
20 variable is and its importance; and then explains how the variable was factored into the

21
22 ⁵ The list of variables includes: (1) the computational engine used; (2) the environment-specific factors; (3) clutter
23 loss parameters; (4) terrain and GIS resolution variables; (5) signal thresholds; (6) receiver height; (7) time,
24 statistical and margin variables; (8) seasonal factors; (9) calibration through drive test data; (10) identification of
25 other new antenna.

1 modeling. Mr. Kennedy concludes that every variable mentioned by Dr. Chamberlin was wholly
2 and correctly incorporated into the modeling.

3 **Other Antennas.** Contrary to Dr. Chamberlin's assertion that other antenna system
4 changes have not been identified, all surrounding antenna have been fully identified and
5 accounted for. Dr. Chamberlin apparently overlooked this information.

6 **Use of Dropped Call Log Data to Corroborate Over Capacity Findings.** Mr.
7 Kennedy acknowledges that dropped call logs can aid in corroborating other capacity-related
8 data, but the lack of such data is immaterial: even if calls are not dropped, other evidence can
9 amply demonstrate that service is inadequate due to capacity issues. By analogy, a car forced to
10 travel at 10 miles per hour on the freeway would not qualify as a "stopped" vehicle but its
11 operator would certainly not regard this as a properly functioning freeway. Similarly, even
12 though a call may not show as "dropped" it may be of such poor quality that the cell user would
13 not regard it as adequate.

14 **The Issue of "Throughput" and Up Link v. Down Link Measurements.** Mr.
15 Kennedy explains what "throughput" means and the difference between up link throughput and
16 down link throughput. He concludes by explaining that the key measurement is down link
17 throughput, and that Verizon's data demonstrates that down link throughput is below standard,
18 especially during peak summer periods.

19 **De Minimus Increases in Local Population. Dr. Chamberlin's challenge to the**
20 **Applicant's statistics on population increase.** Mr. Kennedy responds that the collective
21 information amply demonstrates that through a combination of increased population, increased
22 travel along US Highway 12, and increased individual use of broadband services, the demands
23 on Verizon's facilities is constantly increasing while the existing towers are at over capacity.

24 **Dr. Chamberlin's Proposed "Less Intrusive, Technologically Feasible Alternatives".**
25 Dr. Chamberlin has proposed a variety of options to the new tower including cell phone boosters

1 (or "signal booster" or "repeater"); collocation on structures other than towers; and use of small
2 cell antennas in strategic areas. Mr. Kennedy responds by again reminding the parties that the
3 primary reason for the new tower is *capacity*, not coverage, especially along the US Highway 12
4 corridor. None of the alternative suggested by Dr. Chamberlin will offer any improvement to
5 this primary problem.

6 The Applicant's final briefing replies to the following issues:

7 ● Nothing in the Lewis County Code limits the use of WCF towers to sending
8 traditional voice calls. While LCC 15.50.020(23) includes the federal definition of "wireless
9 communications" in its own local definition, it does not restrict its definition to only the federal
10 definition and instead recognizes communication services "that currently exist or that may in the
11 future be developed".

12 ● Conversely, LCC 15.50.015 provides a list of those communications which are
13 *exempt* from the WCF ordinance. Importantly, broadband internet is not identified as being
14 excluded from the ordinance's coverage. Read together, LCC 15.50.020(23) and LCC 15.50.015
15 are expansive in defining what is regulated by the WCF ordinance, not restrictive.

16 ● Similarly, Lewis County has not adopted either the "significant gap" or "least
17 intrusive means" standards found in federal regulations. Nowhere in the County's ordinance is
18 either concept referenced or even suggested. The WCF Ordinance imposes a number of express
19 requirements (siting preferences; collocation requirements, alternatives analysis, etc.) but none of
20 these requirements incorporate this "significant gap in coverage" or "least intrusive" standards.

21 The County agrees.

22 ● The applicant's technical evidence satisfies all substantial evidence standards.
23 The Applicant relies upon FCC Broadband Maps, propagation mapping utilizing commonly
24 accepted practices, drive test data and a detailed analysis by the Applicant's engineer, Steven

25 Kennedy, who has performed thousands of similar analyses. LCST has repeatedly attempted to

1 challenge this data but each challenge has been fully rebuffed by Mr. Kennedy. Most recently,
2 LCST now argues that the data should have been further supported by dropped call records but
3 LCST cannot cite to any case requiring this standard, while the lack of dropped calls has no
4 bearing as available service may be extremely poor but still not result in a dropped call. The
5 Applicant asserts that all supporting evidence meets or exceeds all of the requirements of the
6 WCF ordinance.

7 ● LCST repeatedly suggests that the "will of the people" should be recognized and
8 that the project's clear unpopularity should be taken into consideration. The Applicant simply
9 responds that this is not allowed as a matter of law.⁶

10 ● LCST argues that the WCF ordinance imposes several procedural requirements
11 including "safety code materials" and other design documents that the Applicant has not yet
12 presented, as the County does not expect them until the time of building permit application.
13 LCST asserts that these documents should be available now for public review, but the Applicant
14 responds (and the County agrees) that these are technical code requirements that either meet
15 applicable building, electrical and other codes or don't, and public participation in technical code
16 compliance would be meaningless.

17 ● The Applicant had previously responded to community testimony in its first
18 supplemental response but reiterates several of its earlier points:

- 19 1. Claims that property values will be impacted are speculative and unsubstantiated.
20 2. Aesthetic concerns must be supported by substantial evidence, not personal
21 preferences or generalized opposition. Meanwhile, LCST has not identified any standard in the
22 County's regulations which makes aesthetics a material factor.

23 _____
24 ⁶ *Maranatha Mining v. Pierce County*, 59 Wn. App. 795, 804 (1990)

1 5. All other requirements of Chapter 15.50 LCC have been met or will be met at
2 time of building permit issuance.

3 6. Members of the public have expressed a number of reasonable, understandable
4 concerns, but these concerns do not alter the conclusion that the application has satisfied all
5 requirements of the County's WCF ordinance.

6 It is for these reasons that the requested WCF permit is granted.

7 The following a more complete analysis of these issues:

8 **1. Does the Lewis County WCF ordinance, Chapter 15.50 LCC, limit its**
9 **application to the use of WCF's for traditional phone calls?**

10 LCST argues that the FCC excludes wireless broadband internet access from the federal
11 equivalent of the term "wireless communications" utilized in the County's WCF ordinance.

12 LCST then notes that the County has adopted the FCC standard in its definition of "wireless
13 communications" as found at LCC 15.50.020(23).⁷ LCST therefore argues that all analysis of
14 the pending application must be in the context of traditional voice calls and exclude other
15 broadband internet services.

16 The Applicant and County Staff disagree and assert that the WCF ordinance is not limited
17 to the use of WCF's for traditional voice calls. The Applicant argues that LCST's interpretation
18 of federal law is outdated and, more importantly, that nothing in LCC 15.50.020(23) limits the
19 County's definition of "wireless communications" to the federal standard. Stated differently,
20 while the local definition *includes* the federal Telecommunications Act, it does not *limit* its

21
22 ⁷ "Wireless Communications" shall mean any personal wireless services as defined by the Federal
23 Telecommunications Act of 1996, including cellular, personal communication services (PCS), specialized mobile
24 radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar FCC licensed commercial wireless
25 telecommunication services that currently exist or that may in the future be developed.

1 definition to the federal definition. Rather, the Lewis County definition goes on to acknowledges
2 that "wireless communications" shall include a number of other communication systems "that
3 currently exist or that may in the future be developed." This is expansive, not restrictive,
4 language. I concur.

5 The Applicant further notes that LCC 15.50.015 provides an express list of those services
6 not covered by the ordinance, and that broadband internet services are not included in the list of
7 systems exempt from the ordinance. Read together, LCC 15.50.020(23) encourages an
8 expansive definition of wireless communications, while LCC 15.50.015 does not exclude
9 broadband services from the ordinance's coverage, such that the two in combination announce an
10 expansive interpretation of wireless communication. Again, I concur.

11 In addition to the Applicant's responses, I conclude that there are two other reasons why
12 the County's WCF ordinance should be read more expansively:

13 ● Even if the term "wireless communications" is interpreted in the more restrictive
14 fashion proposed by LCST, *the WCF ordinance does not limit its application to "wireless*
15 *communications."* To the contrary, LCC 15.50.020(24) defines a "wireless communications
16 facility (WCF) as "any unstaffed facility for the transmission and/or reception of *radiofrequency*
17 *(RF) signals . . .*". LCC 15.50.020(13) then defines "radiofrequency (RF) energy" as "the
18 energy used by cellular telephones, telecommunications facilities, and other wireless
19 communications devices to transmit and receive *voice, video and other data information.*" In
20 summary, Lewis County's WCF ordinance recognizes that the use of WCF's extends to a number
21 of services beyond voice calls including other broadband internet services.

22 When there is possible ambiguity in the interpretation of a County ordinance, the
23 interpretation that is more consistent with the County's Comprehensive Plan is favored. I
24 conclude that that the Applicant's interpretation is more consistent with the County
25 Comprehensive Plan:

1 1. Included within the County's Vision Statement, found at page 22 of the Plan, is
2 the recognition that "*the expansion of broadband* will support new economic opportunities and in
3 support for emergency and communication services."

4 2. The Rural Element of the Plan, at page 37, declares that "*broadband expansion* is
5 a priority to support economic opportunities, communication services, and emergency response
6 capabilities."

7 3. In the Utilities and Capital Facilities Section, commencing at page 74/75, the Plan
8 recognizes that "for non-county-owned services like schools, fire protection, electricity *and*
9 *broadband*, the County focuses on coordination with providers to align improvements with
10 community needs and leverage shared resources. . . . Collaboration with external providers aims
11 to improve efficiency, address *capacity challenges*, and reduce environmental impacts. The Plan
12 emphasizes . . . *expanding broadband* in underserved areas. . . ."

13 4. Goal CF16 declares the County's desire to "*promote the development of a high*
14 *quality telecommunications network in Lewis County*." Policy CF16.1 directs County Staff to
15 "craft the County's Development Regulations to be *flexible and responsive to innovations and*
16 *advances in telecommunications technology*. . . ."

17 5. Goal CF17 announces that the County "*supports broadband infrastructure* in
18 Lewis County to give more opportunities to residents and reduce vehicle miles traveled. Policy
19 CF17.2 encourages that the County "partner with appropriate jurisdictions, agencies, and private
20 partners *to support broadband infrastructure*."

21 Collectively, these Visions, Goals and Policies found in the recently updated
22 Comprehensive Plan are a recognition that telecommunications and broadband are intertwined,
23 and that the County's regulations should be read in a manner which encourages their
24 development and assists in relieving capacity problems.

1 For the same reasons that I conclude that the Applicant's interpretation of "wireless
2 communications" is consistent with the Comprehensive Plan, I also conclude that the application
3 itself is consistent with the Plan as required by LCC 15.50.010.

4 **2. Does Chapter 15.50 LCC incorporate the federal requirements of**
5 **demonstrating a "significant gap in coverage" or that the facility be the "least intrusive**
6 **alternative"? Conversely, is a "capacity" issue a sufficient basis for a new WCF?**

7 An application for a wireless tower involves a two-step process initially involving its
8 review under local land use regulations and then, potentially, further review under the
9 Telecommunications Act (TCA) if the application is denied at the local level:

10 • Initially, the application is reviewed to determine its consistency with local land
11 use regulation (in this case, the WCF ordinance, Chapter 15.50 LCC). If the application satisfies
12 local requirements and the permit is granted, no additional federal review occurs.

13 • If, however, the application is denied at the local level on the basis that it fails to
14 meet local requirements, the permit's denial may then be challenged at the federal level. If such
15 challenge occurs, the federal court will determine if the local denial "prohibits or has the effect of
16 prohibiting the provision of personal wireless services". 47 USC Section 332(c)(7)(B)(i)(II) (an
17 "Effective Prohibition" claim). An Effective Prohibition claim involves a two-pronged analysis:
18 (1) has the provider demonstrated a "significant service gap," and (2) does the application
19 propose to address that gap by the "least intrusive means." Thus, federal decisions, coming after
20 an application has been denied at the local level, repeatedly discuss the concepts of "significant
21 gaps in service" and "least intrusive alternative". If the applicant can demonstrate that both
22 prongs have been satisfied, the federal court can overturn the permit's denial by the local
23 jurisdiction and allow the tower to be constructed pursuant to the TCA.

24 LCST asserts that Chapter 15.50 LCC impliedly incorporates the "significant gap in
25 coverage" and the "least intrusive alternative" standards applied in federal decisions. Much/most

1 of LCST's arguments are premised on these standards, while Dr. Chamberlin's reports declare
2 that his analysis assumes that these two standards apply.

3 The terms "significant gap in coverage" and "least intrusive alternative" are not to be
4 found in the County's WCF ordinance. Nonetheless, LCST asserts that both requirements are
5 implied by the other provisions of the WCF ordinance including: the repeated requirements for
6 collocation found in LCC 15.50.010, .030 and elsewhere; the "location priorities" found in LCC
7 15.50.025; the various development standards for new support towers found in LCC
8 15.50.030(2) and elsewhere; landscaping and screening requirements as well as other design
9 standards, found in LCC 15.50.035; and the reference to "higher priority locations" found in
10 LCC 15.50.040. LCST argues that, collectively, these and other sections of the WCF ordinance
11 clearly implicate the federal requirements of a significant gap in coverage and a showing that the
12 application is the least intrusive alternative.

13 I respectfully disagree. Neither requirement is mentioned - or suggested - in Chapter
14 15.50 LCC. To the contrary, it is clear that the County is aware of the federal regulations as it
15 has expressly incorporated other aspects of the TCA into the local ordinance, and yet there is no
16 mention of either of these standards in the ordinance. Further, the various other requirements
17 found in Chapter 15.50 LCC would largely be redundant if the County had intended to apply the
18 federal standards.

19 Separately, it is important to recognize that the County disagrees with LCST's
20 interpretation of the County ordinance. Deference is to be given to local jurisdictions in the
21 interpretation of their own ordinances. This required deference reinforces my interpretation.

22 **3. Has the Applicant demonstrated that all collocation possibilities have been**
23 **adequately considered (including adding to the height of an existing tower)?**

24 The above analysis relating to issues 1 and 2 serves as a necessary foundation to this third
25 issue. Without question, the WCF ordinance imposes a burden on the Applicant to demonstrate

1 that collocation is not possible before a new tower can be approved. LCC 15.50.030(1). But the
2 benefits of collocation cannot be determined *until the purposes of the proposed new tower are*
3 *established*: Collocation is only beneficial if it would satisfy the Applicant's *allowed needs*
4 without having to construct a new tower.

5 Again, LCST asserts that the Applicant's "allowed needs" are limited to traditional voice
6 calls, and that the Applicant must demonstrate a significant gap in coverage for these traditional
7 voice calls. Based upon these limits, Dr. Chamberlin asserts that current coverage is adequate
8 and/or that any inadequacies can be addressed through less intrusive means such that localized,
9 smaller scale facilities or, attentively, by increasing the current height of the T-Mobile Tower to
10 the north and installing antennas at its new top. The Applicant responds by reiterating that the
11 primary purpose of the proposed tower is to improve capacity, not coverage, and to relieve some
12 of the burden currently imposed on the South and West Towers nearby. Thus, LCST's arguments
13 that "coverage" could be improved through less burdensome means fails to recognize that
14 coverage is largely not the issue. The Applicant has amply demonstrated that its capacity issues
15 cannot be resolved through any form of collocation and can only be addressed through a new
16 tower at this location. I concur with the Applicant.

17 In his final report, Dr. Chamberlin suggests for the first time that a solution could be
18 found through increasing the height of the existing T-Mobile Tower six miles to the north of the
19 project site, and then installing Verizon antenna at the very top of the increased tower, giving
20 these antenna the highest possible point of signal distribution. He notes that an increase in the
21 tower's height is relatively straightforward under the Spectrum Act. The Applicant responds
22 that, even if the tower's height could be increased, it would still fail to achieve the Applicant's
23 need for improved capacity as the T-Mobile Tower is simply not positioned where it could
24 offload the current burdens on the South and West Towers - no matter its height. I concur with
25 the Applicant's analysis but separately conclude that this suggestion is highly impractical. Not

1 only has it been introduced at the last minute, there has been no demonstration that the many
2 *contractual* and *practical* problems associated with it could be resolved: from a contractual
3 standpoint, it must be remembered that the current user, T-Mobile, has a protected contractual
4 right and could lawfully object to any proposed modification to the tower that would disrupt its
5 current use, either temporarily or permanently. Even if T-Mobile agreed, the owner of the tower
6 is under no obligation to approve its reconstruction. And even if the owner of the tower would
7 agree, the underlying landowner is under no obligation to modify the current ground lease.
8 Anyone seeking to modify the tower's height would need to get all three of these entities to "row
9 in same direction" and it is unclear why they would, especially T-Mobile. And, even if all other
10 affected entities agreed, there would still remain significant engineering issues with the
11 introduction of a new, heavy, set of antenna 15 to 20 feet above the current tower height, raising
12 issues with wind, snow and other loading requirements as well as the separate possibility of
13 having to now install an air traffic warning beacon to assure air traffic safety. Thus, even if the
14 Spectrum Act reduces some of the *permitting* requirements, the contractual and practical
15 challenges facing this project are enormous.

16 Somewhat similarly, Dr. Chamberlin's suggestion that smaller, localized communication
17 systems would serve as an effective alternative are premised entirely on the notion that this is a
18 coverage issue and not a capacity issue. Viewed from a capacity standpoint, these suggestions
19 are unpersuasive.

20 4. **If the Applicant's supporting data reliable?**

21 At multiple times - during application review; the public hearing; and post-hearing
22 analysis - LCST has, through the testimony of Dr. Chamberlin, strenuously challenged the
23 Applicant's supporting data; the methodologies by which the data has been gathered; and the
24 means by which these methodologies have been cross checked for accuracy. LCST has
25 challenged the Applicant's expert, Mr. Kennedy, and his expertise with the use of Atoll

1 propagation mapping; the variables he has put into the Atoll software in order to render mapping;
2 his use and interpretation of FCC Broadband Maps to confirm the results of the propagation
3 mapping; the confirmation of all results through drive testing; and various other technical
4 challenges. With each such challenge Mr. Kennedy has responded with a measured, careful and
5 articulate answers, and each claimed missing variable or data piece has been provided and
6 explained. In layperson terms, Dr. Chamberlin has lobbed a great many grenades over the wall
7 and Mr. Kennedy has tossed every one of them back. Having carefully considered all of Dr.
8 Chamberlin's challenges to Mr. Kennedy's work, I conclude that Mr. Kennedy is well qualified;
9 that his work is to required standards; and that it demonstrates that Verizon has both a coverage
10 and a capacity issue in the project area that can only be resolved through installation of a new
11 cell tower at the requested location.

12 No one disputes that the Atoll software is commonly used by all of the major carriers to
13 assist in coverage issues and help determine the proper location of facilities. Mr. Kennedy has
14 been involved in several thousand projects including more than 600 which have relied upon use
15 of the Atoll software. His qualifications to utilize this software are unquestioned. When
16 challenged on *how* he used the software, Mr. Kennedy responded with a detailed identification
17 and explanation of each variable. Use of the Atoll software identifies areas of poor coverage,
18 especially along US Highway 12, while also demonstrating that the existing towers to the south
19 and west are at or over capacity, and that a new tower at the proposed location would
20 significantly aid in offloading the burden currently imposed on these other towers. I conclude
21 that Mr. Kennedy's analysis is well founded and sound.

22 Mr. Kennedy supports the results of his propagation mapping by comparison to the FCC
23 Broadband Maps. Mr. Kennedy relies on the FCC Broadband Mapping for "in-vehicle"
24 coverage, not the lesser standard of "outdoor" coverage. I agree with Mr. Kennedy that the "in-
25 vehicle" coverage is the correct analysis, and that the FCC Broadband Maps demonstrate

1 deficiencies in in-vehicle coverage in the project area. By comparison, Dr. Chamberlin uses the
2 FCC Broadband Map for Verizon's "outdoor" coverage - a lesser standard - and not the standard
3 of coverage expected for this area, especially taking into consideration the need to improve
4 coverage/capacity along US Highway 12.

5 LCST challenged Dr. Kennedy on whether drive test data existed to support his other
6 conclusions. Mr. Kennedy responded by producing the requested data. I am satisfied that Dr.
7 Kennedy's conclusions are well supported.

8 To repeat all of the above, I conclude that the Applicant has demonstrated both a
9 coverage and capacity issue in the project area; that there are no collocation opportunities that
10 will resolve both of these problems; and that a new tower at the proposed location is necessary to
11 resolve these issues.

12 **5. Have all other requirements of Chapter 15.50 LCC been met?**

13 LCC 15.50.035(C) requires the Applicant to submit a landscaping and screening plan
14 with the WCF application. The Applicant has not submitted a plan, and the County has not
15 requested one. Instead, the County has acknowledged that the project site is surrounded by a
16 mature stand of trees that serve as an effective screening of the project without need for a
17 landscape plan. The County has applied the same approach to previous WCF applications in
18 rural areas. LCST challenges this approach and asserts that the ordinance should be strictly
19 followed. I respectfully disagree and concur with the County that the existing timber stand
20 surrounding this site serves as adequate screening without the need for a formal landscape plan.
21 As noted by a neighbor, Mr. Watts, this stand of trees is approximately 80 feet tall and therefore
22 will effectively screen the lower half of the tower, leaving only the upper portions visible to
23 public view. This is consistent with all prior WCF permits.

24 My only concern with use of the existing trees as a screen is that the proposed conditions
25 of permit approval do not include a requirement that the trees be retained. This requirement is

1 critical as, otherwise, there would be no assured screening or landscaping for the project as
2 required by LCC 15.50.035(3). I am therefore imposing the additional condition on project
3 approval that the Applicant obtain a conservation easement from the property owner whereby all
4 existing trees on the landowner's property within 150 feet of the tower site be preserved for the
5 duration of the permit, excluding any trees needing to be removed for construction or that
6 otherwise become a hazard. LCST also objects to the County's willingness to defer some of the
7 documentation required by LCC 15.50.040(2) demonstrating compliance with the building code,
8 electrical code and other design requirements. Instead of receiving these documents with the
9 application, the County has agreed for their receipt at time of building permit application. LCST
10 argues that the ordinance requires their production now, not later, and that their deferred
11 production denies the public an opportunity to respond. Again, I respectfully disagree. These
12 are technical requirements to be reviewed and approved by code compliance personnel. Even if
13 the Applicant had produced these documents already, and opponents challenged them, my
14 response would be to simply require the challenges to be carefully reviewed by the code
15 compliance officers. In short, their deferred production is not material to my decision.

16 **6. How do public concerns affect the decision-making?**

17 A substantial amount of public comment was received in response to the notice of
18 application including petitions in opposition signed by more than 300 individuals. Significant
19 additional testimony in opposition was provided during the public hearing. Except for a few
20 favorable comments, almost all participation has been decidedly in opposition. This opposition
21 is based upon a number of concerns including the following:

- 22 ● Health concerns from RF transmissions.
- 23 ● The project is inconsistent with the surrounding rural area.
- 24 ● The project offends the area's current views and other aesthetics.
- 25 ● The project will negatively impact property values.

- 1 ● The project will cause insurance premiums to rise.
- 2 ● The project raises fire risk.
- 3 ● The tower is unnecessary as current service is adequate.
- 4 ● The application is opposed by virtually all nearby residents.

5 These are legitimate, understandable concerns and are deserving of a careful and
6 thorough examination. It is important, however, that this examination be undertaken in a manner
7 consistent with the controlling regulations and, in particular, those found in the WCF ordinance,
8 Chapter 15.50 LCC.

9 A. The Evaluation of Public Concerns Under the WCF Ordinance in Comparison to
10 Other Land Use Regulations. It may be important to first recognize that most land use
11 permitting in Lewis County is governed by Chapter 17 of the County Code. This includes all
12 Special Use Permits, that is, uses that are neither permitted outright or prohibited outright under
13 their zoning designation, but are instead allowed if they can demonstrate that all requirements
14 imposed by Chapter 17 LCC have been met. Importantly, then, every application for a Special
15 Use Permit bears the burden of demonstrating that the application satisfies all general land use
16 standards set forth in LCC 17.142.020. Among other things, this requires that the application
17 demonstrates that the proposed land use:

18 (a) Will be harmonious and in accordance with the general and specific
19 objectives of the Lewis County Comprehensive Plan and zoning regulations; and

20 (b) Will not create excessive additional requirements at public cost for public
21 facilities and services, and will not be detrimental to the economic welfare of the community;
22 and

23 (c) Will not involve uses, activities, processes, materials, equipment, or
24 conditions of operation that will be detrimental to any persons, property, or the general welfare
25 by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.

1 In summary, an applicant for a Special Use Permit bears the burden of demonstrating that
2 the application is harmonious with surrounding uses, will not be detrimental to any persons,
3 property or the general welfare, nor detrimental to the economic welfare of the community.
4 These various requirements impose a high standard on the Special Use applicant to show a
5 proper "fit" between the proposed use and surrounding uses.

6 *The WCF ordinance has been purposely removed from Chapter 17 LCC and placed in*
7 *Chapter 15 LCC.* As a result, WCF applicants are *not* required to demonstrate compliance with
8 LCC 17.142.020. A WCF applicant is not held to the same requirements as a Special Use
9 applicant. This distinction is an intentional one made by the County in the organization of its
10 land use regulations.

11 Equally importantly, the WCF ordinance does not contain any provision similar to LCC
12 17.142.020. None of its subsections demand that the application be harmonious; or that it be not
13 detrimental to the economic welfare of the community; or that it not be detrimental to any
14 persons, property or the general welfare. All of these requirements are omitted from the WCF
15 ordinance. Instead, the ordinance requires a careful consideration of collocation opportunities;
16 requires "consistency" with the Comprehensive Plan and building code; prohibits towers in
17 certain specific locations; requires that there be landscaping and screening and a muted color
18 scheme; prohibits signage and restricts lighting; requires an analysis of the applicant's "good
19 faith efforts and measures taken to secure a higher priority location" and how and why the
20 proposed site is essential to meet the service demands for the geographic Service Area and,
21 finally, requires a narrative demonstrating how all of these criteria are met.

22 Read literally, these requirements do not offer much opportunity for opponents to raise
23 challenges relating to compatibility or the tower's "fit" with its surroundings. Even when read
24 liberally, these regulations still suggest a preference for the proposed location unless a better
25 location is well demonstrated.

1 Thus, while understanding and recognizing the public's concerns, I am unable to find any
2 basis for denying the application due to these concerns.

3 B. Weis Towers, LLC v. Kootenai County, Idaho. A recent (September, 2025) U.S.
4 District Court decision for the District of Idaho, *Weis Towers, et al. v. Kootenai County, Idaho*⁸
5 ("Weis Towers") addresses a remarkably similar set of public concerns which had led the
6 Kootenai County Commissioners to deny a WCF permit, only to have the Federal District Court
7 conclude that these types of objections are generally insufficient reasons to deny a WCF permit.
8 It is important to recognize that as *Weis Towers* is a Federal decision interpreting Idaho law, it
9 has no binding qualities on the present case. Nonetheless, its analysis is thorough and thoughtful
10 and therefore serves as a useful parallel even though, again, it does not serve as a precedent.

11 A brief summary of the facts in *Weis Towers*: Verizon and one other carrier petitioned
12 Kootenai County for a WCF permit to construct a new 150-foot monopole tower to aid in
13 coverage near Coeur d'Alene, especially along the I-90 corridor. The application went before the
14 County's Hearing Examiner who approved the requested permit. A tower opponent challenged
15 the Hearing Examiner's decision and sought de novo review by the Kootenai County Board of
16 Commissioners as allowed by the County's rules. In the hearing before the Commissioners,
17 opponents: expressed general opposition to such towers; complained of the affect of
18 radiofrequency waves on human health; raised concerns over the tower's aesthetic impact and the
19 effect it would have on community members' rural lifestyle; expressed worry about the risk of
20 fire; and expressed concern of its potential to reduce nearby property values. By a majority vote,
21 the County Commissioners acknowledged that the tower was not wanted by neighbors and
22 denied the application on two grounds: (1) that the applicant had not shown that the proposed

23 _____
24 ⁸ *Weiss Towers, LLC v. Kootenai Cnty., Idaho*, No. 2:24-CV-00375-BLW, 2025 WL2549838 (D. Idaho Sept. 4,
25 2025).

1 tower would be compatible with the existing homes, businesses, neighborhoods, and the natural
2 characteristics of the area, and (2) that the application did not adequately address site constraints
3 or hazards and adequately mitigate any negative environmental, social, and economic impacts.⁹

4 Verizon and others appealed the decision to the Federal District Court for Idaho on
5 several grounds including that the Kootenai County Board of Commissioners had not
6 demonstrated a sufficient factual basis for denying the permit under the County's WCF
7 regulations (as noted in Footnote 7, Kootenai County's WCF standards impose a much higher
8 burden on the applicant than those required by Lewis County). Despite these higher standards,
9 the District Court agreed with Verizon that the County Commissioners had failed to provide
10 adequate reasons for denying the permit based upon the concerns expressed by opponents. As
11 part of its decision, the court identified each of the opponent's concerns and then analyzed
12 whether it was a sufficient reason for denying the permit, ultimately concluding that none of the
13 public concerns were sufficient to deny the permit.

14 The following is each identified concern and that court's analysis:

15 (a) Health Effects Posed by Radio Frequency Emissions. Several opponents voiced
16 concerns based upon the alleged health effects posed by radio frequency emissions. The Court
17 noted that Congress, through the TCA, prohibits local governments from denying applications
18 for cell towers based on concerns about such effects. 47 USC Section 332(c)(7)(B)(iv).

22 ⁹ The Kootenai County WCF ordinance has seven requirements: (a) the applicable procedural requirements have
23 been met; (b) the proposal complies with the applicable standards for the proposed use without variances, or with
24 such variances as may be approved by the board; (c) the proposal is compatible with the existing homes, businesses,
25 and neighborhoods, and with the natural characteristics of the area; (d) the proposal adequately addresses site
constraints or hazards, and adequately mitigates any negative environmental, social, and economic impacts; (e) the
services and facilities for the proposal are available and adequate; (f) the proposal will meet the duly adopted
requirements of other agencies with jurisdiction; and (g) the proposal is not in conflict with the Comprehensive Plan.
These requirements are significantly more stringent than those found in Lewis County's WCF ordinance.

1 Here, at least two witnesses (Kristy Wallen and Heidi Brenneman) expressed similar
2 concerns regarding this tower. As the *Weis Towers* court noted, the TCA prohibits consideration
3 of these issues.

4 (b) Impacts to Opponents Rural Way of Life. Several commentors in *Weis Towers* expressed
5 concerns about the tower's impact on their rural way of life and objected to it being "in their back
6 yard". The court responded by explaining how other district courts have found that these types
7 of sentiments do not constitute substantial evidence, and that a general dislike by nearby rural
8 neighbors is not a sufficient basis for denying the permit.

9 Here, a number of opponents have expressed a similar sentiment and assert that the tower
10 is inconsistent with nearby properties and the rural area surrounding the site. While I understand
11 these sentiments, I cannot find a basis in the WCF ordinance for denying the permit based upon
12 them.

13 (c) Aesthetic Impact. Several commentors in *Weis Towers* also expressed opposition
14 based upon concerns about the aesthetic impact of the proposed tower. In response, the court
15 noted that these comments reflected "a general opposition to the look of a cell tower, not a
16 concern with the specific location of the proposed tower or any feature of the type of tower
17 proposed. Such 'generalized aesthetic concerns' have been deemed insufficient to constitute
18 substantial evidence," citing to several federal decisions. Other commentors expressed concern
19 that the tower would negatively impact their scenic view from their home. Once again, the court
20 found these objections to be insufficient even under the higher standards imposed by the
21 Kootenai County Ordinance.

22 Here, many commentors have expressed concern that this project will effect the
23 aesthetics of their property and their views. While I understand these concerns, I do not find a
24 basis in Chapter 15.50 LCC to deny the application based upon them, especially when
25

1 recognizing that the project site will be surrounded by 80-foot trees, leaving only the upper
2 portions visible on nearby properties.

3 (d) Fire Risk. Several commentors expressed general concerns about fire, while
4 some submitted photos of a cell tower on fire. The court discounted these concerns noting that
5 none of the witnesses had substantiated these concerns and, further, that the local fire and rescue
6 district had reviewed the application and approved it.

7 Here, several commentors express concerns about fire while one commentor, Mr.
8 Frohman, included photos of a cell tower on fire in California. But none of these witnesses
9 provided evidence that this tower poses a fire risk and, like *Weis Towers*, the County Fire
10 Marshal and the local fire district have not expressed any concerns. In fact, no evidence has
11 been presented that any of the numerous cell towers in Western Washington have created a fire
12 risk.

13 (e) Decreased Property Values. Several commentors in *Weis Towers* expressed
14 concern about the proposed tower decreasing property values, and some cited to surveys and
15 other studies to support their claims, while one commentor was a real estate agent and expressed
16 the belief that a cell tower would negatively impact nearby properties. In response, the court first
17 addressed the various surveys and studies submitted by commentors. The court examined these
18 studies and concluded that they had little, if any, value as there was no demonstration that these
19 reports were relevant to Kootenai County, Idaho and, further, that each study was contingent on
20 its specific, localized facts. The court then turned to the testimony of the real estate agent and
21 explained that a real estate agent lacks the credentials to testify as an expert on before/after
22 property values, especially when the witness cannot produce any actual evidence to support this
23 opinion.

24 Interestingly, the various studies cited to by witnesses in *Weis Towers* are the same
25 studies cited by opponents to this application. I agree with the District Court that these studies

1 carry no weight. They are at different times, at different locations, and are under different
2 circumstances. Indeed, most, perhaps all, of these studies warn that they are site specific and are
3 not to be relied upon at other locations.

4 Here, one of the witnesses, Ms. Carp, is a real estate agent licensed in Washington. As a
5 real estate agent, Mr. Carp is of the belief that the proposed tower would have a negative impact
6 upon surrounding properties. But Ms. Carp's status as a real estate agent does not qualify her as
7 an expert to provide before/after analyses of the impact of a cell tower in the community. More
8 importantly, Ms. Carp has not identified any instances nearby, in the region, or in the State where
9 a cell tower has affected the value of an adjoining or nearby property. More specifically, it must
10 be remembered that the proposed site is surrounded by existing cell towers to the north, east,
11 south and west which have existed for several years and which are generally located in
12 surroundings similar to the project site. Neither Ms. Carp or any other witnesses has provided
13 evidence that any of these nearby existing towers have had any negative impact on surrounding
14 property values.

15 Finally, even if some demonstration of reduced values had been presented, that evidence
16 would then need to be compared to the potential for *increased* values to surrounding properties
17 resulting from improved service. If the tower was constructed, it is not hard to imagine that real
18 estate agents will loudly boast of the area's coverage, and sophisticated buyers would take note.
19 But as there was no demonstrated evidence of reduced property values, it is unnecessary to
20 further examine any potential offsetting increased values.

21 f. Lack of Popularity. In addition to all of the public concerns discussed in *Weis*
22 *Towers*, this matter also includes a strong element of general unpopularity, including several
23 hundred signers to petitions in opposition. But the Applicant correctly notes that in Washington
24 a project's unpopularity is not a consideration. *Maranatha Mining Pierce County*, 59 Wn. App.

1 795 (1990). The Hearing Examiner reminded everyone of this standard at the beginning of the
2 public hearing.

3 Again, despite the more stringent standards imposed by the Kootenai County WCF
4 ordinance, the court found that none of the stated reasons justified the permit's denial. The
5 decision in *Weis Towers* is not binding but it is thoughtful and persuasive. I concur with that
6 court's decision and conclude that for similar reasons, the concerns expressed by opponents are
7 not sufficient to justify denial under Chapter 15.50 LCC.

8 It is perhaps worth adding that even if Lewis County had imported the more stringent
9 standards imposed on Special Use Permits under LCC 17.142.020 into the WCF Ordinance, the
10 public concerns would remain insufficient to deny the WCF Application.

11 **A Post Script Re: Driveway Issues.** In its pre-hearing briefing, LCST alerted the
12 Hearing Examiner that it intended to raise a series of challenges to the Applicant's use of
13 Skyview Drive - a private road - to gain access to the project site for the construction of the
14 tower. LCST raises three challenges to the road's use by the Applicant:

15 1. Scope of the Easement. LCST acknowledges that the property owner enjoys an
16 express easement which grants the owner ingress and egress to the property "across an existing
17 road" (Exhibit 105) but LCST asserts that this existing road (Skyview Drive) has been limited to
18 10 feet in width throughout its use, while the County is requiring it to be widened to 20 feet as a
19 project condition, and that the Applicant does not have the legal right to increase the
20 longstanding width of the road. Stated slightly differently, LCST is challenging the "scope" of
21 the existing easement and the right of the Applicant to increase its width.

22 2. Road Maintenance Agreement. All of the properties along Skyview Drive are
23 subject to a written Road Maintenance Agreement (RMA). The adjoining neighbors assert that
24 the RMA gives them the right to collectively vote on whether improvements can be made to the
25 private drive. The other neighbors have signed and recorded a "Notice of Non-Consent to

1 Change of Use and/or Real Improvements" (Exhibit 108), giving notice that they will not agree
2 to have the road widened or otherwise improved. LCST asserts that, since the County is
3 requiring a road 20 feet in width, and since the neighbors are refusing to allow its widening
4 pursuant to the RMA, the WCF application must fail for lack of access.

5 3. Separate from the legal challenges to the Applicant's right to use the road, LCST
6 asserts that the road simply isn't capable to supporting the construction-related equipment
7 needing to gain access to the project site.

8 The Washington State Constitution, at Article IV, Section 6, declares that the Superior
9 Court has "original jurisdiction" in all cases which involve the "title or possession of real
10 property". LCST's challenge to the "scope" of the existing easement involves "title" to real
11 property, while its challenges to the Applicant's use of the driveway involve "possession" of real
12 property. As a result, all of these challenges to the Applicant's use of the driveway fall within
13 the Superior Court's original jurisdiction and are outside of the Hearing Examiner's authority.
14 The Hearing Examiner alerted the parties to this at the commencement of the public hearing. As
15 a result, relatively little testimony was provided regarding these issues, and this decision makes
16 only passing reference to them. Instead, if these issues are to be pursued they must be presented
17 to the Lewis County Superior Court.

18 Nonetheless, I feel compelled to convey my thoughts about these challenges, as 45 years
19 of practicing real property law has left me troubled by these claims and the opponents
20 "weaponizing" of the RMA. I respectfully disagree with these claims. To help explain why, I
21 have prepared a number of parallel scenarios which may help highlight the problems with the
22 opponent's claims. These scenarios are attached as Addendum A to this decision.

23 It is important to highlight that my opinions are just that - opinions - with no precedence
24 or bearing on these issues. They are simply dicta and are not meant to have any importance to
25

1 the Superior Court judge that may be asked to rule on these matters. Instead, they are merely
2 offered as a courtesy to the parties based upon many years of experience in this area.

3 **FINDINGS OF FACT**

4 **General Findings**

5 1. The Findings of Fact contained in the foregoing Background, Public Hearing, or
6 Analysis Sections are incorporated herein by reference and adopted by the Hearing Examiner as
7 his own Findings of Fact.

8 2. The Applicant, Harmoni Towers, on behalf of its anchor tenant, Verizon, requests
9 a Wireless Communication Facility (WCF) permit to construct a new 150-foot monopole tower
10 with attached antenna and cabling along with ground-mounted equipment within a leased 50 x 50
11 foot area at 262 Skyview Drive near Mossyrock.

12 3. The Tax Parcel No. is 028513011000.

13 4. The tower is initially intended for use by Verizon but is designed for collocation
14 by three additional providers.

15 5. The project site is a 50 x 50 foot leased area located within a larger parcel owned
16 by Kevin Riffle (the "Riffle Property").

17 6. The Riffle Property is zoned Rural Development District - 1 Residence per 5
18 acres (RDD-5). All surrounding and nearby properties have the same RDD-5 zoning designation.

19 7. The Riffle Property has a land use designation of Rural Land in the County
20 Comprehensive Plan. Again, surrounding and nearby properties have the same Rural Land
21 designation in the Comprehensive Plan.

22 8. The Riffle Property is north of the City of Mossyrock and US Highway 12. US
23 12 is a major east/west arterial with significant daily traffic. Lake Mayfield lies to the west and
24 north of the Riffle Property. Surrounding and nearby property uses include a mix of rural
25 residential, suburban, recreational, agricultural, and timber-related properties. The proposed

1 facility is intended to assist in providing services to the surrounding residential/recreational
2 properties; the US 12 corridor; and the Mossryock area.

3 9. The Riffle Property is currently vacant and undeveloped. Most surrounding
4 properties have been developed with a single-family residence and associated developments
5 consistent with their RDD-5 zoning designation.

6 10. The Riffle Property is located at or near the top of Harmoni Hill. Harmoni Hill is
7 the highest elevation in the region. The project site is relatively flat while the remaining Riffle
8 Property slopes downward and includes areas of steep slopes.

9 11. The portion of the Riffle Property surrounding the project site is currently forested
10 with a mix of deciduous and evergreen (Douglas Fir) trees estimated to be 80 feet in height.
11 Photos of the project site and its surrounding vegetation can be found in the Core Documents as
12 part of the Applicant's Additional Information.

13 12. If the surrounding stand of trees is retained, the proposed tower and supporting
14 equipment will be screened up to 80 feet, leaving only the upper one-half visible from other
15 properties.

16 13. In addition to the proposed monopole tower, other site improvements include
17 associated ground equipment and perimeter fencing as required by the WCF ordinance. The
18 perimeter fence will be site obscuring as required by the WCF ordinance.

19 14. The tower will not require FAA lighting. No other tower lighting is proposed.
20 The project site will have security lighting but it will be required to be downlit and shielded. The
21 tower will be painted with a nonglare finish to blend with its natural background.

22 15. The Applicant does not propose any signage on the tower.

23 16. The closest public road to the project site is Birley Road. From Birley Road, a
24 private road (Skyview Drive) continues through several other adjoining private properties and
25 provides access to the Riffle Property and the project site.

1 17. The owners of the Riffle Property have an express easement for the use of
2 Skyview Drive for ingress and egress (Core Documents).

3 18. The owners of the Riffle Property and surrounding properties have entered into a
4 Road Maintenance Agreement (RMA) providing for the ongoing maintenance of Skyview Drive.

5 19. Skyview Drive, near the Riffle Property, is estimated to have a current width of
6 approximately 10 feet.

7 20. As a condition of project approval, the County is requiring Skyview Drive to be
8 widened to 20 feet.

9 21. Surrounding property owners have challenged the Applicant's right to utilize
10 Skyview Drive for the construction of the proposed tower and associated improvements, as well
11 as the right to widen the road.

12 22. Surrounding property owners who are parties to the RMA have signed and
13 recorded a "Notice of Non-Consent to Change of Use and/or Road Improvements" (Exhibit 108).

14 23. Among other things, surrounding property owners challenge the Applicant's use
15 of Skyview Drive for construction-related purposes on the basis that it: (1) exceeds the scope of
16 the express easement granted to the Riffle Property; (2) is in violation of the RMA and the
17 "Notice of Non-Consent" signed by the other RMA members ;(3) and would damage and
18 overburden the existing road. As previously noted, these challenges relate to the "title" and
19 "possession" of real property and thus fall within the original jurisdiction granted to the Lewis
20 County Superior Court under Article IV, Section 6 of the Washington State Constitution.

21 Findings Relating to the Project Site's Relation to Other Important Features and
22 Structures

23 24. The project site is 147 feet from the nearest property line, and well more than 150
24 feet from the nearest residence. The project therefore satisfies all setback requirements of LCC
25 15.50.035.

1 25. The proposed tower is not within 1,000 feet of a scenic highway, historic site,
2 priority habitat, urban residential area, or school zone.

3 26. The project site is more than 1,000 feet from any designated scenic highway (US
4 Highway 12).

5 27. The project site is more than 1,000 feet from any sites listed on the National
6 Register of Historic Places.

7 28. The project site is not within one mile of any public safety building.

8 29. There are existing WCF towers to the east, south, west and north of the project
9 site (the "East Tower", "South Tower", "West Tower" and "T-Mobile Tower") as earlier
10 identified in the testimony Steven Kennedy.

11 30. Verizon has existing antenna on the East, South and West Towers. AT & T and
12 T-Mobile also have antenna located on these three towers.

13 31. Verizon is not located on the T-Mobile Tower 6.38 miles to the north nor is AT &
14 T. The only current user of this tower is T-Mobile.

15 Findings Relating to Public Notice and SEPA Review

16 32. The WCF application was submitted on July 18, 2025, and deemed completed on
17 August 11, 2025.

18 33. Planning review for critical areas and resource lands was conditionally approved
19 on April 9, 2025 (Staff Report Exhibit 3).

20 34. The County, as Lead Agency, issued a SEPA Determination of Nonsignificance
21 (DNS) on August 21, 2025 (Staff Report Exhibit 7).

22 35. Notice of the DNS was circulated to all other County departments. Three
23 departmental responses were received (Staff Report Exhibit 4). Most departments indicated that
24 they had no comment. The Building Department required that engineered building plans be
25 required at time of building permit issuance, and that improvements would be required to the

1 access road including an emergency vehicle turnaround. The Public Works Department required
2 that any work in the County right-of-way first obtain a right-of-way permit. No other department
3 comments were received.

4 36. The SEPA notice generated 42 written public comments (Staff Report Exhibit 5).
5 Although a few of these comments were supportive of improved coverage in the area, the vast
6 majority were in opposition and expressed concerns about the proposed location; its
7 compatibility with surrounding uses; its visual impacts; its environmental impacts; and concerns
8 over road use, property values, fire risk and noise. Attached to several comments were photos to
9 help illustrate the impact the facility would have on nearby properties.

10 37. One or more written comments attached studies of the impact of a cellular phone
11 tower on real estate values, including the following studies: (1) the "Disamenity Value of
12 Cellular Phone Towers on Home Prices in Savannah, Georgia" (August, 2019); (2) "Wireless
13 Towers and Home Value: An Alternative Valuation Approach Using a Spatial, Econometric
14 Analysis" (a 2018 report examining housing prices in Alabama); and (3) the "Effect of Distance
15 to Cell Phone Towers on House Prices in Florida" (an examination of Florida housing prices in
16 2007).

17 38. In addition to individual public comments, several petitions were submitted in
18 response to the SEPA Notice:

- 19 ● A petition stating:

20 "We, the undersigned residents of Mossyrock and greater Lewis County, oppose
21 the construction of a 150-foot Verizon wireless tower proposed for 262 Skyview
22 Drive in Mossyrock. The site is located on a tall hill in a quiet residential
23 community, along a narrow, privately owned and maintained lane road, and
24 would be visible for miles in all directions. This proposed development poses
25 serious concerns regarding road maintenance, property values, health, safety,
aesthetics, and neighborhood character."

Thirty-plus sheets of petitions were submitted bearing approximately 230 signatures.

- 1 ● A document issued by Change.org stating:

2 "We, the undersigned residents and community members of Mossyrock and
3 surrounding areas, strongly oppose the application SEP25-0021 by Verizon
4 Wireless to construct a 150-foot tall wireless communication tower at 262
5 Skyview Drive. This project poses series and immediate risks to the safety,
6 character and environmental integrity of our rural community."

7 Bearing 133 signatures.

8 39. Following receipt of all agency and public comment, County Staff retained the
9 SEPA DNS.

10 40. The DNS was appealed by LCST but its appeal was held to be untimely and
11 dismissed on November 18, 2025. The DNS is now final.

12 41. Notice of the public hearing before the Hearing Examiner was issued more than
13 30 days in advance of the hearing date consistent with the requirements of LCC 17.05.040(2).

14 42. Notice of the application has been provided to all pertinent County departments,
15 State agencies, regional tribes and the Corps of Engineers as noted on page 2 of the Staff Report.

16 Findings Relating to Verizon's Coverage

17 43. The term "coverage" generally refers to signal availability in a certain area. To
18 "improve coverage" is to extend it to areas where it currently does not exist and calls are being
19 dropped.

20 44. To determine its existing coverage, Verizon has utilized the services of Steven
21 Kennedy, a radio frequency engineer with more than 36 years of experience in the
22 telecommunications industry specializing in commercial wireless and satellite communications
23 networks. Mr. Kennedy has assisted various carriers on thousands of projects similar to this one.

24 45. In order to better determine Verizon's current coverage, Mr. Kennedy has utilized
25 the Atoll propagation mapping software to create maps of estimated coverage. Atoll mapping is
26 well recognized in this industry and Mr. Kennedy has relied upon it for more than 600 similar
27 projects.

1 46. Utilizing the Atoll software, Mr. Kennedy has produced "RSRP" maps at both the
2 751 MHz (low band) and 2120 MHz (mid band) ranges. At both of these bandwidths, the
3 mapping identifies good or "in door" coverage in green (-85 dBm or better); average or "in-
4 vehicle" coverage in yellow (-95 dBm or better); or outside coverage in red (-106 dBm). The
5 RSRP maps for current coverage at both bandwidths demonstrate areas of poor coverage
6 especially near the US Highway 12 corridor.

7 47. The coverage problems demonstrated in the RSRP mapping are confirmed
8 through FCC Broadband Mapping. This mapping, provided by the FCC, confirms that, while
9 Verizon enjoys extensive "outdoor" coverage through the Service Area, there are gaps in its "in-
10 vehicle" coverage consistent with the RSRP maps.

11 48. "In-vehicle" coverage is necessary for this Service Area as a primary purpose of
12 coverage in this area is for moving traffic along US Highway 12. "Outdoor" coverage is not
13 sufficient to provide sufficient coverage for moving vehicles.

14 49. The RSRP mapping is further supported by Verizon's drive test data.

15 50. The RSRP mapping is also supported by the data provided through CellMapper
16 (with results nearly identical to the drive test data) but CellMapper is an open sourced
17 application requiring a subscription for its commercial use. Mr. Kennedy does not have a
18 subscription for its commercial use and, therefore, any reliance upon its data is uncertain.
19 Nonetheless, the RSRP mapping demonstrating areas of poor coverage in the Service Area are
20 supported by the FCC Broadband Maps, Verizon's drive testing, and the CellMapper data.

21 51. Again, using the Atoll software, Mr. Kennedy has produced RSRP mapping for
22 the estimated coverage resulting from use of the proposed new tower. The resulting maps
23 demonstrate good coverage throughout the Service Area for both the 751 MHz and 2120 MHz
24 bands. Thus, use of the proposed new tower would improve Verizon's coverage in the Service
25 Area and fill current gaps.

1 52. Methodology followed by Mr. Kennedy to determine Verizon's current coverage,
2 and to estimate future coverage from the proposed tower, has been undertaken properly and the
3 results are reliable.

4 Findings Relating to Capacity Issues

5 53. The term "capacity" refers to providing sufficient bandwidth for processing
6 capacity to service customers in the targeted area. If the provider has limited capacity, simply
7 having coverage will not be sufficient and calls may be dropped or other services may be poor
8 despite there being coverage. Improving capacity refers to providing additional bandwidth for
9 customers; improving "throughput;" and allowing over-burdened towers to "offload" their excess
10 communications to other towers having greater capacity, resulting in more reliable and faster
11 service.

12 54. Verizon declares that it has a capacity problem in the Service Area, defined as the
13 Mossyrock area and the rural areas to its north as well the US Highway 12 corridor from Riffe
14 Lake to Mayfield Lake.

15 55. Verizon has declared that a primary purpose of the proposed new facility is to
16 improve capacity through the Service Area while also improving coverage.

17 56. Again, using the Atoll software, Mr. Kennedy demonstrates that Verizon is
18 experiencing a capacity problem at its existing facilities on the South Tower and West Tower
19 that currently provide service to this area. Using ASEU (Average Scheduled Eligible Users),
20 Mr. Kennedy demonstrates that three different sectors of coverage within this area, referred to in
21 his mapping as the "Riffe Lake Alpha Sector," the "Mayfield Lake Beta Sector," and the
22 "Mayfield Lake Alpha Sector," are approaching or exceed capacity especially during summer
23 months. This may result in dropped calls and poor service even in areas otherwise having
24 coverage.

1 57. The proposed new facility is intended as an "offload" site, that is, one of its
2 primary purposes is to reduce ("offload") the excess capacity being experienced by the South and
3 West Towers, thereby allowing all three facilities to operate more efficiently. Currently,
4 messages are jumping between the existing facilities looking for available capacity, resulting in
5 lower throughput and a greater amount of power required to link each user, all of which reduces
6 the quality and efficiency of the coverage. The proposed new facility would resolve this
7 problem. It would also assure needed capacity for future growth of service in this area.

8 58. Mr. Kennedy's calculations with respect to Verizon's capacity issues are well
9 demonstrated and credible.

10 Findings Relating to the Requirement that Collocation be Attempted

11 59. The County shall deny an application for a new tower if the Applicant does not
12 demonstrate a good faith effort to collocate on an existing facility. LCC 15.50.030(a).

13 60. As earlier noted, there are four existing towers in the area (the East, South, West
14 and "T-Mobile" tower to the north). Verizon has existing facilities on the East, South and West
15 Towers, making them unavailable for collocation. The only remaining existing tower is the T-
16 Mobile Tower to the north, located 6.38 miles from the project site

17 61. In order to determine whether the Applicant has demonstrated a good faith effort
18 to collocate on an existing facility, it is first necessary to determine the Applicant's *intended*
19 *purpose*. As discussed in earlier Findings, Verizon's intended purpose is partially to extend
20 coverage but, more importantly, is to improve capacity.

21 62. At the request of the Hearing Examiner, Mr. Kennedy has undertaken additional
22 propagation mapping utilizing Atoll to help calculate likely coverage if Verizon established new
23 antenna on the existing T-Mobile Tower at the highest available collocation site on the tower.
24 The resulting RSRP mapping demonstrates improved coverage in the Service Area but with
25 some continued areas of poor coverage.

1 63. Mr. Kennedy has undertaken a separate analysis as to whether use of the T-
2 Mobile Tower would address Verizon's current capacity problem in the Service Area.

3 64. Mr. Kennedy concludes that collocation on the T-Mobile site would have no
4 beneficial impact to the current capacity problem, that is, that the T-Mobile Tower is simply too
5 far away to offload any excess traffic currently going to the South and West Towers. This same
6 result is reached at both the 751 MHz and 2120 MHz bands.

7 65. The Applicant has adequately demonstrated that the T-Mobile Tower to the north
8 will not offer any assistance to the current capacity problem; that the need to address capacity
9 issues is a primary purpose of the proposed new tower; and that collocation on the T-Mobile
10 Tower is unhelpful. The Applicant has therefore demonstrated a good faith effort to collocate on
11 this facility and has demonstrated that collocation will not be effective and that a new tower is
12 required.

13 66. Opponents have suggested a number of possible options to a new tower including
14 smaller, localized systems to address specific gaps in coverage. But the Applicant has
15 demonstrated that the primary purpose of the proposed tower is not to address gaps in coverage
16 (although it does so) but to address capacity problems. The small, localized facilities proposed
17 by opponents do not address these capacity problems and are unsuitable solutions.

18 67. The Applicant has therefore demonstrated that all collocation requirements have
19 been satisfied.

20 Findings Relating to the Other Requirements of WCF Ordinance, Chapter 15.50 LCC

21 68. **LCC 15.50.025, Location Priorities.** Although new support towers are
22 recognized as the lowest priority location, the Applicant has demonstrated that collocation on
23 existing WCF's, as well as new attached WCF's on support structures not currently used for other
24 WCF's, is not suitable, and that a new support tower is therefore the priority location per LCC
25 15.50.025(1).

1 69. **Lease Areas.** The Applicant has provided evidence of a written lease for the
2 project site. The written lease satisfies the requirements of LCC 15.50.025(2).

3 70. **LCC 15.50.030(1), Development Standards.**

4 (1) **Collocation.** As noted in earlier Findings, the Applicant has demonstrated
5 a good faith effort to collocate on an existing facility, and that collocation is not explained in
6 previous Findings.

7 The proposed support tower has been designed for collocation of public safety
8 communications equipment at fair market value, consistent with LCC 15.50.030(1)(c).

9 71. **LCC 15.50.030(2), New Support Towers.**

10 (a) The proposed tower has been designed to accommodate collocation by
11 three additional antenna array. The Applicant does not request a height bonus. The requirements
12 for LCC 15.50.030(2)(a) have been met.

13 72. The proposed new tower: Will be a minimum of 1,000 feet from designated
14 scenic highways located outside of incorporated areas within the County; will be a minimum of
15 1,000 feet from all sites listed on the National Register of Historic Places; is not within 1,000
16 feet of a priority habitat or endangered/threatened species areas; is not within one mile of any
17 public safety building. The requirements of LCC 15.50.030(2)(b-f) are met.

18 73. Verizon is the identified wireless communication service provider using the new
19 tower. The requirements of LCC 15.50.030(2)(g) are met.

20 74. No signage is intended on the proposed facility. The requirements of LCC
21 15.50.030(4) are met.

22 75. The project, as conditioned, will be subject to compliance with the noise standards
23 set forth in Chapter 173-60 WAC. The requirements of LCC 15.50.030(5) are met.

24 76. **LCC 15.50.035, Design Standards.** The height of the proposed new tower is
25 150 feet. This complies with the requirements of LCC 15.50.035.

1 77. Pursuant to LCC 15.50.035(2), new support towers in rural areas must maintain a
2 minimum 50-foot setback from the property line of the parent parcel or a distance equal to or
3 greater than the tower height (150 feet) from the nearest residence or school facility on adjacent
4 parcels, whichever is greater.

5 78. The nearest property line is 147 feet from the tower. The nearest residence is a
6 substantial distance from this property line.

7 79. County Staff finds, and the Hearing Examiner concurs, that all setback
8 requirements set forth in LCC 15.50.035(2) have been met, including setbacks for auxiliary
9 structures.

10 (3) **Landscaping and Screening.** LCC 15.50.035(3)(a) requires that a landscaping
11 and screening plan, as applicable, shall be submitted with all new support tower application.

12 The Applicant has not submitted a landscaping and screening plan with its support tower
13 application but this is due to the County not requiring one as the project site is currently
14 surrounded by mature trees, 80 feet in height, that will satisfy all landscaping and screening
15 requirements. County Staff has utilized the same standard for previous WCF's in wooded
16 settings. The Hearing Examiner finds that this approach satisfies the requirements of LCC
17 15.50.035(3)(a) and the need to present a landscaping and screening plan.

18 The proposed new tower will be fully enclosed with a minimum six-foot security fence,
19 at all times gated and locked. The requirements of LCC 15.50.035(3)(c) are therefore met.

20 The tower is proposed to be painted with a non-glare finish that will blend with the
21 natural background. This will comply with LCC 15.50.035(4).

22 80. **LCC 15.50.040.** LCC 15.50.040(1) requires:

23 (a) A narrative demonstrating how the proposal meets the criteria set forth in
24 the WCF ordinance for site location, development standards, and design standards. Staff finds
25 that this requirement has been met. The Hearing Examiner concurs.

1 (b) A comprehensive description of the existing or proposed facilities
2 including the technical reasons for the design and configuration of the facility, design and
3 dimensional information, coverage schemes, and capacity of future collocation opportunities.

4 County Staff finds that this requirement has been met. The Hearing Examiner concurs.

5 (c) Documentation that establishes the applicant's right to use the site shall be
6 provided at time of application by a copy of the proposed lease agreement and easement
7 agreement. Staff confirms that both the lease agreement and easement agreement (for use of
8 Skyview Drive) have been provided. The Hearing Examiner concurs.

9 (d) An analysis of the proposal area and discussion of factors influencing the
10 decision to target the proposal location, including the good faith efforts and measures taken to
11 secure higher a priority location; how and why such efforts were unsuccessful; and how and why
12 the proposed site is essential to meet service demands for the geographic service area. As noted
13 earlier, the "service demands" for this facility include both improved coverage as well as
14 improved capacity. County Staff finds, and the Hearing Examiner concurs, that the Applicant
15 has provided an analysis that is consistent with all of the requirements of Subsection (e).

16 (e) Photographic analysis of the proposed site, including a representation of
17 existing conditions and photographic simulations depicting views of any new support structures
18 or towers. Staff finds, and the Hearing Examiner concurs, that this requirement has been met.

19 81. Staff finds that all other, additional applicable information the County deems
20 necessary has been adequately provided and reviewed.

21 82. Additionally, applications for a new support tower must provide additional
22 information as set forth in LCC 15.50.040(2) including:

23 (a) A site plan which satisfies all other requirements identified above and also
24 clearly indicates the location of the proposed facility in relation to (1) significant features within
25

1 1,000 feet; (2) governmental jurisdiction boundaries within 500 feet; and (3) priority habitat and
2 endangered/threatened species habitat areas within 1,000 feet. This requirements has been met.

3 (b) Elevation drawings of the proposed site and facility including the tower,
4 equipment structures, antennas, mounts, and other applicable features including security fencing
5 and screening. Staff confirms that this requirements has been met.

6 (c) A detailed landscaping and screening plan, including existing and
7 proposed vegetation. As noted in previous Findings, the project site is surrounded by mature
8 trees 80 feet in height that will serve as landscaping and screening. This requirement has been
9 met.

10 (d) An analysis of existing WCF's within the intended service area describing
11 the status of collocation opportunities at the sites. As explained in previous Findings, this
12 requirement has been met.

13 (e) A report stamped, dated and signed by a licensed professional engineer
14 registered in the State of Washington demonstrating compliance with various codes, collocation
15 requirements, FAA and FCC compliance and the basis for calculation of capacities. Staff
16 explains that this requirement is outdated and that under current master site review processes
17 implemented by the County all such review will occur during building permit review. As a
18 result, this requirement has been met. The Hearing Examiner concurs.

19 (f) The location of the new tower in relation to any National Wildlife Refuge.
20 There are no nearby National Wildlife Refuges.

21 (g) Evidence of compliance with FAA requirements. This requirement has
22 been met. The tower will not require FAA lighting.

23 (h) That all applicable fees have been paid. This requirement has been met.

24 83. All requirements for application review pursuant to LCC 15.50.040(3) have been
25 met.

1 9. The owner of the tower shall not deny collocation of public safety communication
2 equipment at fair market value or other cost agreed by the parties, as required by LCC

3 15.50.030(1)(c).

4 10. The owner of the tower shall not deny a wireless provider the ability to collocate
5 on their facility at a fair market value or at another cost basis agreed to by the affected parties, as
6 required by LCC 15.50.030(2)(b).

7 11. The wireless communication facility shall not be used for signage, symbols, flags,
8 banners, nor other devices or objects attached to, designed into or painted on any portion of the
9 wireless communication facility except: emergency information, public safety warnings, and any
10 additional signage required by a governmental agency, in compliance with LCC 15.50.030(4).

11 12. The wireless communication facility shall not generate noise levels in excess of
12 maximum standards set forth in Chapter 173-60 WAC. Generators may be operated only for
13 emergency purposes, in compliance with LCC 15.50.030(5).

14 13. Any auxiliary equipment installed to support future collocations at this site must
15 meet the 25 foot setback from the parent parcel's property lines as required by LCC
16 15.50.035(2)(c).

17 14. Any new or auxiliary equipment installed at this site must be enclosed by a
18 minimum six (6) foot high, security fence and screening consistent with LCC 15.50.035(3).

19 15. The Applicant shall obtain a conservation easement from the property owner,
20 satisfactory to County Staff, preserving the existing mature trees located within the property
21 owner's property, but not adjoining properties, within a 150-foot radius of the center of the
22 project site but excluding the project site and further excluding any trees needing to be removed
23 for construction purposes or deemed dangerous.
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1 DATED this 27th day of April, 2026.



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4 Mark C. Scheibmeir
Lewis County Hearing Examiner

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1 ADDENDUM A

2 **Scenario 1.** A plat is divided into five residential lots (Lot 1 - Lot 5). An existing road runs
3 from Lot 1 through Lots 2-4 and terminates at Lot 5. Each lot is granted an easement over this
4 "existing road". All lot owners have signed a "Road Maintenance Agreement" requiring
5 approval for common expenditures for the maintenance and repair of the road. After the
6 subdivisions is established, the County enacts private road standards (similar to those currently
7 found in Lewis County) in which lesser road standards are allowed for four or fewer houses, but
8 a wider, improved road is required for more than four lots. Owners of Lots 1-4 quickly apply for
9 building permits and are allowed to build based upon the existing road. Later, the owner of Lot 5
10 seeks a building permit and is told by the County that he must first have the road widened and
11 improved to meet the heightened private road standards for five houses. The owners of Lots 1-4,
12 not liking what the owner of Lot 5 wants to do, sign a "Notice of Non-Consent to Change of Use
13 and/or Road Improvements" to prohibit the road from being widened, thus preventing the owner
14 of Lot 5 from obtaining a building permit.

15 I do not believe that any court would deny the owner of Lot 5 from widening and improving the
16 private road as needed to satisfy the County's private road standards, as such improvements are
17 reasonable and foreseeable, and merely allow Lot 5 to enjoy the same rights and privileges
18 enjoyed by Lots 1-4.

19 **Scenario 2.** A similar fact pattern to Scenario 1 except that the County does not require a wider
20 road for the fifth lot. Unfortunately, however, heavy rains destroy a segment of the road on the
21 upper portion of Lot 4, preventing access to Lot 5. The owner of Lot 5 seeks to build a house but
22 is required by the County to first reestablish access to the lot. The storm damage prevents the
23 road from being rebuilt at its historic location and requires its relocation 30 feet to the west. The
24 owners of Lots 1-4, not liking the proposed development of Lot 5, again sign a "Notice of Non-
25 Consent to Change of Use and/or Road Improvements" declaring that the common easement
restricts the road to its historic location and that the other owners do not agree to a new location.

Once again, I do not believe that any court would deny the owner of Lot 5 the right to relocate
and rebuild the road as necessary to enjoy the same rights and privileges as are currently enjoyed
by Lots 1-4, as such improvements are reasonable and foreseeable.

Scenario 3. A similar situation as Scenario 1 except that houses have been constructed on all
five lots. Later, the County alters its zoning regulations to allow residences to be converted to
inns. The owner of Lot 5 takes advantage of this change in zoning and converts his residence to
an inn. The remaining lot owners are upset by this conversion and sign a "Notice of Non-
Consent to Change of Use and/or Road Improvements" declaring that they will not agree to any
maintenance of the road, resulting in the road's potholes becoming ever worse and serving to
discourage patrons of the inn.

Once again, I do not believe that any court would deny the owner of Lot 5 the right to make
necessary road repairs in order to be allowed the use of his property in a manner approved by
local land use regulations, although the Lot 5 owner may be required to bear the cost on his own.