



**Planning Commission Hearing  
Staff Report  
Hearing Date: July 10, 2019**

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**ITEM 2** Atlas Tower 1, LLC requests a Conditional Use Permit for a proposed telecommunications facility including a 105' monopole located at approximately 2268 W Lakeview Parkway in the A1.5 Agricultural Zone. Provo Bay neighborhood. Brian Maxfield (801) 852-6429 PLCUP20190126

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<p><u>Applicant:</u> Ed Montero, representing Atlas Tower 1, LLC</p> <p><u>Staff Coordinator:</u> Brian Maxfield</p> <p><u>Property Owner:</u> Carter Provo Land, LLC</p> <p><u>Parcel ID#:</u> 21:039:0035</p> <p><u>Acreage:</u> 14.70 Property / 2,500 sf site</p> <p><u>Number of Properties:</u> 1</p> <p><u>Zoning:</u> A1.5 Agricultural</p> <p><u>General Plan Designation:</u> Residential</p> <p><u>Optional Actions:</u></p> <p>1. <u>Continue to a future date</u> to obtain additional information or to further consider information presented. The next available meeting date is August 14, 2019 at 6:00 P.M.</p> <p>2. <u>Deny</u> the proposed project plan for the following reasons: (the Planning Commission must make specific findings that the project does not meet City Code requirements).</p>	<p><u>Relevant History:</u> None</p> <p><u>Neighborhood Issues:</u> None</p> <p><u>Summary of Key Issues:</u> None</p> <p><u>Related Items:</u> None</p> <p><u>Recommended Action:</u></p> <p>Approve a Conditional Use Permit for the erection of a 105 foot monopole cell tower at approximately 2268 W Lakeview Parkway.</p>
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**OVERVIEW**

This item is the approval of a Conditional Use Permit for a monopole type Cellular Tower, proposed to be located at approximately 2268 W Lakeview Parkway. The subject property and adjacent properties are within an A1.5 Agricultural Zone, with the lands used for crops and grazing. The nearest residence is located ½ mile to the north of the proposed site.

The tower has a proposed height of 105 feet with positions for four levels of antennas. New cell tower are required by Provo City Code (34.420(6)(a)(ii)) to be designed to allow at least three levels or arrays of antenna. In a letter issued March 13, 2019, the Federal Aviation Administration

(FAA) made a “Determination of No Hazard to Air Navigation” for the proposed tower (Aeronautical Study No. 2019-ANM-619-OE).

By Federal regulation through the Federal Communications Commission (FCC), a city must allow cellular service to be extended to all areas of the city. However, the city is allowed to review and approve the most appropriate site within an area that would still provide the determined service. A city may also require companies to co-locate on towers in meeting the location allowance. A map indicating current cell towers in the area is attached to this report. Although none of those towers currently have more than 2 antenna array, the proposed site is more than one mile from any other existing or approved cell tower site.

The review of a Conditional Use Permit is governed in the Zoning Ordinance as follows:

**14.02.040 Conditional Use Permits**

(1) The Planning Commission may, subject to the procedures and standards set forth in this Chapter, grant, conditionally grant, or deny an application for a Conditional Use Permit for uses allowed by the Chapter for the applicable zone. The purpose of a Conditional Use Permit is to allow proper integration of uses into the community which may only be suitable in specific locations and may have potentially detrimental characteristics if not properly designed, located, and conditioned.

(2) The following standards shall apply to any request for a Conditional Use Permit:

(a) A proposed conditional use shall be granted unless the subject use will be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(b) A proposed conditional use shall be detrimental to the health, safety, or general welfare of persons residing in the vicinity or injurious to property in the vicinity:

(i) if the proposed use will cause unreasonable risks to the safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;

(ii) if the proposed use will unreasonably interfere with the lawful use of surrounding property;

(iii) if the proposed use will create a need for essential municipal services which cannot be reasonably met; or

(iv) if the proposed use will in any other way be detrimental to the health, safety or general welfare of persons residing in the vicinity or injurious to property in the vicinity.

(c) A change in the market value of real estate shall not be a basis for the denial of a proposed conditional use.

(d) If a part of a proposed conditional use is found to be contrary to the standards described in this Section, the applicant may propose or consent to curative measures which will make the proposed use not contrary to the standards described in this Section.

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Additionally, Section 14.34.420 of the Zoning Ordinance lists requirements specifically related to Low Power Radio Communication Towers and Antennas, with Subsections (6) and (8) giving specific requirements related to monopole structures as follows:

**14.34.420 Low Power Radio Communication Towers and Antennas.**

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(6) Monopole Structures. A monopole structure is a single cylindrical steel or wooden pole that acts as the support structure for one (1) or more antennas for a cellular facility as provided in this Subsection.

(a) A monopole structure shall comply with the following development standards:

(i) All tower structures shall be of monopole construction. No lattice constructed towers of any kind shall be allowed.

(ii) All monopole structures shall be designed by a state-certified engineer to allow co-location of antennas owned by as many as three (3) separate users on a single pole.

(iii) No monopole structure shall be located:

(A) closer to a residential zone boundary than two (2) times the height of the monopole and

(B) within a one half (1/2) mile radius from another monopole unless grid documentation is supplied by an independent consultant stating that antenna co-location is not technically feasible.

(iv) A monopole with antennas and antenna support structures shall not be located in a required front setback, front landscaped area, buffer area, or required parking area.

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(8) Additional Requirements.

(a) Each cellular facility shall be considered as a separate use; and an annual business license shall be required for each such facility.

(b) In addition to the conditional use standards set forth in Section 14.02.040, Provo City Code, the Planning Commission shall make the following findings for any cellular facility subject to a conditional use permit:

(i) that the proposed structure is compatible with the height and mass of existing buildings and utility structures;

(ii) that co-location of the antenna or other existing structures in the same vicinity such as other towers, buildings, water towers, utility poles etc. are possible without significantly impacting antenna transmission or reception;

(iii) that the antenna location blends with existing vegetation, topography and buildings;

(iv) that location approval of monopoles will not create a detrimental impact to adjoining properties; and

(v) that location of cellular facility will not interfere with existing transmission signals.

### **FINDINGS OF FACT**

- The subject property is located in the A1.5 Agricultural Zone.
- Cell Towers are a Conditional Use (SLU #4700) in the A1.5 Zone.

### **CONCLUSIONS**

Staff believes the proposed cell tower meets all findings and requirements as listed in Section 14.02.040 and Section 14.34.420(8) of the Zoning Ordinance regarding the approval of a Conditional Use Permit for a new cell tower.

### **RECOMMENDATION**

*Approve* a Conditional Use Permit for the erection of a 105 foot monopole cell tower at approximately 2268 W Lakeview Parkway.



**Proposed Atlas Cell Tower**



**Existing Cell Tower Sites in the Southwest Area**



Mail Processing Center  
Federal Aviation Administration  
Southwest Regional Office  
Obstruction Evaluation Group  
10101 Hillwood Parkway  
Fort Worth, TX 76177

Aeronautical Study No.  
2019-ANM-619-OE

Issued Date: 03/14/2019

Ken Bradtke  
Atlas Tower 1, LLC  
4450 Arapahoe Ave.  
Suite 100  
Boulder, CO 80303

**\*\* DETERMINATION OF NO HAZARD TO AIR NAVIGATION \*\***

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Monopole Sunset
Location:	Provo, UT
Latitude:	40-13-02.89N NAD 83
Longitude:	111-40-58.04W
Heights:	4503 feet site elevation (SE) 104 feet above ground level (AGL) 4607 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

- At least 10 days prior to start of construction (7460-2, Part 1)  
 Within 5 days after the construction reaches its greatest height (7460-2, Part 2)

Based on this evaluation, marking and lighting are not necessary for aviation safety. However, if marking/ lighting are accomplished on a voluntary basis, we recommend it be installed in accordance with FAA Advisory circular 70/7460-1 L Change 2.

This determination expires on 09/14/2020 unless:

- the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- extended, revised, or terminated by the issuing office.
- the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination is based, in part, on the foregoing description which includes specific coordinates, heights, frequency(ies) and power. Any changes in coordinates, heights, and frequencies or use of greater power, except those frequencies specified in the Colo Void Clause Coalition; Antenna System Co-Location; Voluntary Best Practices, effective 21 Nov 2007, will void this determination. Any future construction or alteration, including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA. This determination includes all previously filed frequencies and power for this structure.

If construction or alteration is dismantled or destroyed, you must submit notice to the FAA within 5 days after the construction or alteration is dismantled or destroyed.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (424) 405-7641, or [tameria.burch@faa.gov](mailto:tameria.burch@faa.gov). On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2019-ANM-619-OE.

**Signature Control No: 395314534-399764559**

( DNE )

Tameria Burch  
Technician

Attachment(s)  
Frequency Data

cc: FCC

**Frequency Data for ASN 2019-ANM-619-OE**

<b>LOW FREQUENCY</b>	<b>HIGH FREQUENCY</b>	<b>FREQUENCY UNIT</b>	<b>ERP</b>	<b>ERP UNIT</b>
6	7	GHz	55	dBW
6	7	GHz	42	dBW
10	11.7	GHz	55	dBW
10	11.7	GHz	42	dBW
17.7	19.7	GHz	55	dBW
17.7	19.7	GHz	42	dBW
21.2	23.6	GHz	55	dBW
21.2	23.6	GHz	42	dBW
614	698	MHz	1000	W
614	698	MHz	2000	W
698	806	MHz	1000	W
806	901	MHz	500	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
929	932	MHz	3500	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1670	1675	MHz	500	W
1710	1755	MHz	500	W
1850	1910	MHz	1640	W
1850	1990	MHz	1640	W
1930	1990	MHz	1640	W
1990	2025	MHz	500	W
2110	2200	MHz	500	W
2305	2360	MHz	2000	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W
2496	2690	MHz	500	W