



KITTTITAS COUNTY COMMUNITY DEVELOPMENT SERVICES

411 N. Ruby St., Suite 2, Ellensburg, WA 98926

CDS@CO.KITTTITAS.WA.US

Office (509) 962-7506

“Building Partnerships – Building Communities”

Affidavit of Mailing & Publication

PROPOSAL NAME: (ACU-23-00003) Atlas

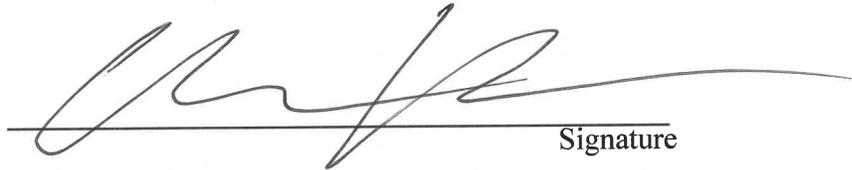
NOTIFICATION OF: Notice of Appeal Decision

NOTIFICATION MAIL DATE: March 7, 2024

I certify that the following documentation:

- ACU-23-00003 Atlas – Appeal – Notice of Decision ACU Appeal Memo
- ACU-23-00003 Atlas – Appeal – Ceraolo Appeal Decision

has been mailed and/or emailed to the attached list of persons and participants, and that proper notification (as attached) has been published in the Legal Newspaper(s) of Record for Kittitas County.



Signature

Chace Pedersen
 Planner I
 Community Development Services
 County of Kittitas
 State of Washington

Subscribed and sworn to before me this 7th day of March 2024




Steph Mifflin
 Notary Public for the State of Washington residing
 in Ellensburg.

My appointment expires: 12.23.25

From: [Sabrina Nutt](#)
To: [Chace Pedersen](#)
Subject: Re: ACU-23-00003 Atlas - (Publishing) Notice of Appeal Decision
Date: Tuesday, March 5, 2024 11:17:38 AM

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Great. It has been released for publishing.

Have a great day!

Sabrina Nutt | 509-925-1414 ext. 570223
Circulation: circ@kvnews.com
Legals: legals@kvnews.com
Classifieds: classified2@kvnews.com
Obituaries: www.dailyrecordnews.com

From: Chace Pedersen <chace.pedersen@co.kittitas.wa.us>
Sent: Tuesday, March 5, 2024 11:16 AM
To: Sabrina Nutt <snutt@kvnews.com>
Subject: RE: ACU-23-00003 Atlas - (Publishing) Notice of Appeal Decision

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Approved.

Thanks!

Chace Pedersen

Planner I

Kittitas County Community Development Services

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7637

chace.pedersen@co.kittitas.wa.us

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From: Sabrina Nutt <snutt@kvnews.com>
Sent: Tuesday, March 5, 2024 9:35 AM
To: Chace Pedersen <chace.pedersen@co.kittitas.wa.us>
Subject: Re: ACU-23-00003 Atlas - (Publishing) Notice of Appeal Decision

CAUTION: This email originated from outside the Kittitas County network. Do not click links, open attachments, fulfill requests, or follow guidance unless you recognize the sender and have verified the content is safe.

Good morning, Chace,

Apologies on the delay getting this to you, I was out sick yesterday.

The attached proof is pending approval for the following run date(s) 03/07 and 03/14. Please make changes and give approval prior to the deadline of 03/06, 10:30am. Thank you!

Sabrina Nutt | 509-925-1414 ext. 570223
Circulation: circ@kvnews.com
Legals: legals@kvnews.com
Classifieds: classified2@kvnews.com
Obituaries: www.dailyrecordnews.com

From: Chace Pedersen <chace.pedersen@co.kittitas.wa.us>
Sent: Monday, March 4, 2024 4:31 PM
To: Sabrina Nutt <snutt@kvnews.com>; KVNews Legals <legals@kvnews.com>
Cc: Jamey Ayling <jamey.ayling@co.kittitas.wa.us>; Bradley Gasawski <bradley.gasawski@co.kittitas.wa.us>; Zach Torrance-Smith <zach.torrancesmith@co.kittitas.wa.us>
Subject: ACU-23-00003 Atlas - (Publishing) Notice of Appeal Decision

CAUTION, this email originated from outside the organization.

Good afternoon,

Please publish the attached legal in your paper as follows:

Daily Record: March 7, 2024 & March 14, 2024

Please let me know if you have any questions or concerns.

Thanks!

Chace Pedersen

Planner I

Kittitas County Community Development Services

411 N. Ruby Street, Ste 2

Ellensburg, WA 98926

Office: (509) 962-7637

chace.pedersen@co.kittitas.wa.us

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message id: 38eb45916c6dcbdac24bb8719d004a14



ADVERTISING PROOF

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 Ph. (509) 204-8237 Fax: (907) 452-5054

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03/05/24	50096

Jamey Ayling
 KC COMMUNITY DEVELOPMENT SERVICES
 411 N. RUBY ST, SUITE 2
 ELLENSBURG, WA 98926

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
488780	NOD: Atlas Tower ACU	03/07/24	03/14/24	4	\$174.49

Payments:

Date	Method	Card Type	Last 4 Digits	Check	Amount
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Discount:	\$0.00	Gross:	\$174.49
Surcharge:	\$0.00	Paid Amount:	\$0.00
Credits:	\$0.00		

Amount Due: \$174.49

We Appreciate Your Business!

NOTICE OF DECISION

**Atlas Tower ACU Appeal
ACU-23-00003**

Pursuant to RCW 36.70B.130 and KCC 15A.06, notice is hereby given that on March 4, 2024, the Kittitas County Hearings Examiner affirmed the Atlas Administrative Conditional Use decision issued by Kittitas County on October 26, 2023.

Copies of the Kittitas County Hearings Examiner's decision and related file documents may be examined at Kittitas County Community Development Services, 411 N. Ruby Suite 2, Ellensburg, WA 98926, or on the Kittitas County website: <http://www.co.kittitas.wa.us/cds/landuse/default.aspx> and navigating to "Administrative Conditional Use", "View Active Applications", and then "ACU-23-00003 Atlas".

Issuance of this land use decision may be appealed by parties with standing, by filing a land use petition (LUPA) in Superior Court and serving said petition on all required parties pursuant to RCW 36.70C and KCC 15A.08, within twenty-one days of the publication issuance of this land use decision including three days after the decision is mailed (March 7). The last day to file a LUPA is **April 1, 2024**.

If you have any questions, please do not hesitate to contact our office at (509) 962-7506.

PUBLISH: Daily Record: March 7 & 14 2024 /
LEGAL# 488780

From: [Chace Pedersen](#)
To: "[Sandra Layton](#)"; "[mpowers@atlastowers.com](#)"; "[frances.ceraolo](#)"
Cc: [Jamey Ayling](#); [Zach Torrance-Smith](#); [Bradley Gasawski](#)
Subject: ACU-23-00003 Atlas Appeal - Notice of Decision
Date: Thursday, March 7, 2024 8:38:00 AM
Attachments: [ACU-23-00003 Atlas - Appeal - Notice of Decision ACU Appeal Memo.pdf](#)
[ACU 23-00003 Atlas - Appeal - Ceraolo Appeal Decision.pdf](#)

Good morning,

Attached please find the following documents regarding the Atlas ACU Appeal decision:

- ACU-23-00003 Atlas – Appeal – Notice of Decision ACU Appeal Memo
- ACU-23-00003 Atlas – Appeal – Ceraolo Appeal Decision

Issuance of this land use decision may be appealed by parties with standing, by filing a land use petition (LUPA) in Superior Court and serving said petition on all required parties pursuant to RCW 36.70C and KCC 15A.08, within twenty-one days of the publication issuance of this land use decision including three days after the decision is mailed (March 7). The last day to file a LUPA is **April 1, 2024**.

Thank you,

Chace Pedersen

Planner I

Kittitas County Community Development Services

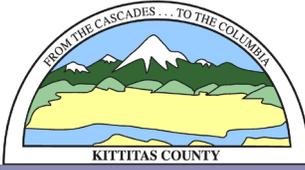
411 N. Ruby Street, Ste 2

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Office (509) 962-7506

“Building Partnerships – Building Communities”

Notice of Decision Atlas Tower ACU Appeal ACU-23-00003

To: Appellant & Interested Parties
From: Chace Pedersen, Staff Planner
Date: March 7, 2024
Subject: Atlas Tower ACU Appeal (ACU-23-00003)

Pursuant to RCW 36.70B.130 and KCC 15A.06, notice is hereby given that on March 4, 2024, the Kittitas County Hearings Examiner affirmed the Atlas Administrative Conditional Use decision issued by Kittitas County on October 26, 2023.

Copies of the Kittitas County Hearings Examiner’s decision and related file documents may be examined at Kittitas County Community Development Services, 411 N. Ruby Suite 2, Ellensburg, WA 98926, or on the Kittitas County website: <http://www.co.kittitas.wa.us/cds/land-use/default.aspx> and navigating to “Administrative Conditional Use”, “View Active Applications”, and then “ACU-23-00003 Atlas”.

Issuance of this land use decision may be appealed by parties with standing, by filing a land use petition (LUPA) in Superior Court and serving said petition on all required parties pursuant to RCW 36.70C and KCC 15A.08, within twenty-one days of the publication issuance of this land use decision including three days after the decision is mailed (March 7). The last day to file a LUPA is **April 1, 2024**.

If you have any questions, please do not hesitate to contact our office at (509) 962-7506.

KITTITAS COUNTY VALLEY HEARING EXAMINER

IN THE MATTER OF)	DECISION ON APPEAL OF
)	ADMINISTRATIVE CONDITIONAL
Appeal of Administrative CUP)	USE PERMIT DECISION
Decision 10/26/23)	
)	ACU 23-00003
Appellant: Francis Ceraolo)	
)	
)	
)	

This matter came in front of the Kittitas County Hearing Examiner on February 21, 2024. The Hearing Examiner having admitted exhibits into the record and taken testimony, hereby submits the following Findings of Fact, Conclusions of Law, and Decision:

I. FINDINGS OF FACT

1. On July 13, 2023, Atlas Tower No. 1, LLC submitted an application for an Administrative Conditional Use Permit for a proposed wireless communication facility to be located on property located at 4140 Manastash Road, Ellensburg, Washington, Kittitas County, Parcel No. 17-18-18010-0001. Kittitas County processed this application under the applicable rules and regulations for an Administrative Conditional Use Permit.
2. On October 26, 2023, Kittitas County issued a SEPA Determination of Mitigated Determination of Non-Significance.
3. On October 26, 2023, Kittitas County issued its Administrative Conditional Use Permit decision.
4. On November 8, 2023, an appeal of this Administrative Conditional Use Permit decision was filed by Francis Ceraolo.
5. On January 8, 2024, the Hearing Examiner conducted a pre-hearing conference. Participating for the Applicant was Francis Ceraolo. Appearing for Kittitas County was attorney Stephanie Hartung. Appearing on behalf of the Applicant was Sandra Layton.
6. On January 9, 2024, the Hearing Examiner issued his Order on Pre-Hearing Conference.
7. On January 25, 2024, argument and materials were submitted in a timely fashion by the Appellant.
8. On February 7, 2024, the Applicant submitted a timely response to Appellant's briefing with exhibits.
9. On February 9, 2024, Kittitas County timely filed its brief and Certificate of Service.
10. The public hearing was held on February 21, 2024.

11. Appearing for the Appellant was Francis Ceraolo. Appearing for Kittitas County was attorney, Stephanie Hartung. Appearing for the Applicant was attorney, Michael Powers.
12. The Appellant provided testimony. Her testimony was consistent with her written appeal materials. It should be noted that in the appeal document filed by the Appellant, the Appellant clearly stated that she did not wish that the Administrative Conditional Use Permit decision be reversed, but instead wished that the decision be modified.
13. In her testimony, Ms. Ceraolo challenged various portions of the Administrative Conditional Use Permit decision and the application materials.
14. Michael Powers, who appeared for the Applicant, argued consistent with their written response to the Appellant's appeal and their application materials.
15. Stephanie Hartung, attorney for Kittitas County, argued consistent with the County's legal briefing.
16. It is noted by the Hearing Examiner that this was not an appeal of the SEPA determination, but only an appeal of the underlying permit, that being the Administrative Conditional Use Permit decision.
17. Admitted into the record were the following exhibits:
 - 17.1 Ex. 1 Administrative Conditional Use Permit decision dated October 26, 2023;
 - 17.2 Ex. 2 Mitigated Determination of Non-Significance dated October 26, 2023;
 - 17.3 Ex. 3 All file materials in Kittitas County file of record, ACU 23-0003, which includes all of those items indexed as Nos. 1-60 in the County's index of the disclosure of the complete file materials;
 - 17.4 Ex. 4 Appeal filed by Francis Ceraolo and attached documents received November 8, 2023;
 - 17.5 Ex. 5 Purported cell coverage maps (three of them);
 - 17.6 Ex. 6 November 16, 2023, Kittitas County Notice of Appeal;
 - 17.7 Ex. 7 January 9, 2024, Hearing Examiner order on pre-hearing conference;
 - 17.8 Ex. 8 January 26, 2024, Kittitas County Affidavit of Mailing;
 - 17.9 Ex. 9 January 25, 2024, pre-hearing appeal materials submitted by Appellant;
 - 17.10 Ex. 10 February 7, 2024, Applicant response to Appellant briefing with exhibits A and B;
 - 17.11 Ex. 11 February 9, 2024, brief by Kittitas County;
 - 17.12 Ex. 12 February 9, 2024 County Certificate of Service of brief filed by Kittitas County;
18. The Hearing Examiner considered all testimony and evidence admitted into the record in making this decision.
19. The Appellant bears the burden of proof that the decision made by Kittitas County was in error.
20. Kittitas County's factual findings within the Administrative Conditional Use Permit decision are reviewed for substantial evidence, which is evidence of "sufficient quantity to persuade a fair-minded person of the truth or correctness of the agency order."

21. The subject property where the proposed telecommunication tower has a zoning designation of Agriculture 20, with a Comprehensive Plan Land Use Designation of Rural Working. Communication facilities are permitted with a Conditional Use Permit.
22. In review of all the evidence submitted into the record, the Hearing Examiner finds that Kittitas County clearly exercised due diligence in the consideration of this application and in making the Administrative Conditional Use Permit decision.
23. Finding of Fact No. 22 is based upon the County sending this application to agencies with jurisdiction for their comment and incorporating those comments, where appropriate, into the conditions of approval. Additionally, the County accepted public comments and addressed those public comments.
24. The Hearing Examiner would note that there were several public comments that were submitted. All public comments related to the October 26, 2023 MDNS and the Administrative Conditional Use Permit.
25. The Hearing Examiner finds that the decision on the Administrative Conditional Use Permit reviewed all the factual evidence submitted to the County and correctly determined that the review criteria set forth in KCC 17.60A.015 had been satisfied.
26. The Appellant has failed to prove that the Administrative Conditional Use Permit decision was in error.
27. The Administrative Conditional Use Permit decision set forth adequate conditions of approval to mitigate potential adverse consequences of the telecommunications facility.
28. The Applicant's proposed telecommunication facility is a utility as defined by the Kittitas County Code.
29. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted the authority to render this decision.
2. The Appellant has failed to prove that the Administrative Conditional Use Permit decision was rendered in error.
3. Telecommunication facilities are utilities as defined by the Kittitas County Code.
4. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based upon the Findings of Fact and Conclusions of Law, the appeal of the Administrative Conditional Use Permit is hereby **DENIED**. The Administrative Conditional Use Permit decision issued October 26, 2023, is hereby **AFFIRMED** in all respects.

Dated this 4 day of March, 2024.

KITTITAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

This Decision is subject to appeal pursuant to the Kittitas County Code and the Revised Code of Washington.