

# **Supplemental Narrative – Verizon Conditional Use Permit Application**

**-- The Communications Act of 1996 --**

**34754 State Highway 41, Oldtown, ID 83822 – Parcel # RP55N06W127280A**

## **The Communications Act of 1996.**

The Communications Act of 1996 (47 U.S.C. § 332) governs the regulation of personal wireless service facilities (including cell towers) by state and local governments. Although state and local governments retain some authority to make decisions regarding the placement, construction, and modification of cell towers, the Communications Act puts limits on that authority. The key points of the Communications Act that apply to the County's review of this Conditional Use Permit Application are as follows:

- I. The federal Communications Act's first limitation on local authority is that an application cannot be denied if the denial would prohibit, or have the effect of prohibiting, the provision of personal wireless services.
- II. The federal Communications Act's second limitation on local authority is that a denial of an application for a cell tower must be based on substantial evidence in a written record.
- III. The federal Communications Act's third limitation on local authority is that a decision on a cell tower application must not unreasonably discriminate among providers of functionally equivalent services.
- IV. The federal Communications Act's fourth limitation on local authority is that cities and counties must act on cell tower applications within a reasonable time. For new cell tower applications, the Federal Communications Commission ("FCC") has determined that "within a reasonable time" means within 150 days after receiving a cell tower application. This 150-day period is called the "FCC's Shot Clock Regulation."

If an applicant believes its rights under the federal Communications Act have been violated, then the applicant can sue the jurisdiction in federal court, which will essentially conduct a judicial review of the administrative record and the decision.