

Exhibit A

Wilkinson, Sean

From: Brett LaSorella [brett.lasorella@gmail.com]
Sent: Thursday, January 19, 2012 3:15 PM
To: Wilkinson, Sean
Cc: Gentry, Jimmy K.; Halacy, Shelly; Jensen, Shirley
Subject: Appeal of Conditional Use Permit (CUP 2011-07)
Attachments: Notice of Decision.pdf

Please confirm receipt of this Appeal.

To: Sean Wilkinson and the Weber County Commission,

Regarding Case Number: Conditional Use Permit (CUP 2011-07)

Sean, as you know only yesterday (because of the information you sent me) did I learn of the 15 day appeal deadline and that the Digis wireless transmission site had already been constructed. I was unable to attend the January 3rd 2012 Ogden Valley Planning Commission meeting because the notice of that meeting was postmarked 12/28/2011 and I did not receive it until 1/4/2012. Also neither the Hawkins Creek Estates Home Owners Association nor Digis ever gave me any notice of their plans for my property.

Under the circumstances I need to appeal the granting of the Conditional Use Permit for the Digis site on the water tank in Hawkins Creek Estates. My preliminary investigation indicates there are many issues concerning the antenna site, whether Digis and the HOA have the right to do what they have done, and the multiple impacts on my property.

Additionally, the Hawkins Creek CC&Rs forbid commercial use of common area property. According to the CC&Rs ARTICLE XII ADDITIONAL COVENANTS - COMMON ENTRY / RIPARIAN LANDS, Section 2 regarding common areas "No commercial use shall be permitted thereon."

Digis is going through my land for hundreds of feet on the waterline easement. That easement is only for the purpose of the waterline and nothing else. Digis does not have my permission to go through my land and run power on my land via the waterline easement which was not meant for that purpose.

This is my formal notice of my appeal of Conditional Use Permit (CUP 2011-07). If this email is not sufficient to serve as the initiation of my appeal please notify me immediately and provide anything I may need to accomplish such. Please let me know what, if anything else, is necessary to file an appeal.

I will follow up with a written copy of this email.

Thank you,

Brett LaSorella
Manager HC20 LLC
435 615 9931

Exhibit B

January 15, 2013

VIA E-MAIL

The Weber County Commission
c/o Mr. Sean Wilkinson, Planner
Weber County Planning Division
swilkinson@co.weber.ut.us

Re: Appeal of Conditional Use Permit 2011-07 (the "*CUP*"), approved by the Ogden Valley Township Planning Commission on January 3, 2012, /Digis, LLC ("*Digis*") Broadband Tower (the "*Facility*"), located on certain common areas located in the Hawkins Creek Subdivision (the "*Digis Site*")

Mr. Wilkinson:

This letter summarizes the position of HC20 LLC, a Utah limited liability company (the "*Owner*"), in its appeal of the CUP, and has been prepared in consultation with the Owner's legal counsel, who will participate in the appeal hearing on January 29, 2013.

1. Background. The Owner owns Lot 20 in the Hawkins Creek Subdivision (the "*Lot*"), which is vacant and is located immediately adjacent to the Digis Site on which the Facility has been erected. The Owner supports the existence and operation of the Digis Facility as a community benefit, but only in a location and on conditions specified in the applicable Weber County Zoning Ordinance (the "*Ordinance*"). The Owner did not receive notice of the January 3, 2012 the Ogden Valley Township Planning Commission (the "*Planning Commission*") hearing regarding the CUP until one day after the date on which such hearing occurred, but the Owner filed its notice of appeal in a timely fashion on January 19, 2012, in accordance with the Ordinance. Since that time, the Owner has, without success, incurred significant expense and has used its best efforts to resolve the problems affecting the Lot with Digis and with the Hawkins Creek Estates Homeowners Association (the "*HOA*"). The Property is located in the Forest Valley 3 Zone.

2. Approval of the CUP Failed to Comply With the Ordinance/Detrimental Effect On Owner's Lot. Based on our review of the staff notes, the staff report to the Planning Commission, and other staff file documents, it is our position that the CUP did not and does not comply with the requirements of the Ordinance. The Planning Commission staff report presented to the Planning Commission expressly and correctly identifies a "public utility substation" as a permitted conditional use in the FV-3 Zone. See Section Sections 12B and 22C of the Ordinance. That fact is mentioned both in the "Background" and "Summary of Planning Commission Consideration" sections of the staff report and recommendation. Having identified the Digis Facility as a "public utility substation" use, however, the staff and the Planning Commission failed to comply with Chapter 26-4 of the Ordinance, which requires each "public utility substation" to be located on a lot with adequate access from a street, alley, right of way, or easement. There is nothing in the CUP application, staff reports, minutes, or other staff file or documents suggesting that the staff or Planning Commission even inquired about access to the

Digis Site over the Lot or otherwise. Further, the staff report includes certain conditions for approval, one of which is that under Section 22C-4, the approval of the CUP and the desired use cannot have any detrimental effect on the surroundings on the community. Simply put, there was and is no access to the Digis Site for erection and operation of the Facility, except over the Owner's Lot. Such access and the accompanying electrical utility service running to the Digis Site literally bisects the surface and subsurface of the Lot. It is interesting to note that such access and electrical services were installed on the Owner's Lot prior to the CUP hearing without the Owner's knowledge or consent. The Owner does not know the exact location or depth of such electrical services on the Lot, but believes such electrical service is located in the vicinity of a water line easement that does not permit any other use, including such electrical service use. Access over, and the installation of the electrical service on, the Owner's Lot have adversely impacted the Owner's ability to plan and install improvements on the Lot. Thus, the use of the Owner's Lot in connection with the Digis Facility has had a significant detrimental effect on the Lot and will affect the Owner's ability to construct the desired improvements on the Lot, constitutes a trespass, and has resulted in significant damages to the Owner and the Lot.

In short, the approval of the CUP fails to comply with the requirements of the Ordinance, given such lack of access for the "public utility substation" and in light of such detrimental effect on the Lot.

3. Conditions of CUP Approval Have Not Been Met/CUP Should Have Been Revoked. The two remaining conditions to the Planning Commission's approval of the CUP were not completed by the July 31, 2012 deadline established by the staff and appearing in the staff report to the Planning Commission. Specifically, the Facility was not painted, and the required landscaping did not occur by the July 31, 2012 deadline, and those conditions remain unsatisfied at this time. Thus, in accordance with the express language of the staff report that was the basis of the Planning Commission's approval of the CUP, the CUP should have been revoked by now.

4. Digis Lease. The Owner believes that the staff and the Planning Commission were not aware of, but should have known about the issues involving the access and electrical service problems affecting the Lot in connection with the CUP application or approval. The Owner also believes that the staff may have assumed adequate access and the right to install underground electrical service to Digis Site existed because of the express terms of the Lease Agreement, dated nearly nine months before the date on which the Planning Commission approved the CUP, March 15, 2011 (the "*Digis Lease*"), between Digis and the HOA. In Article VI of the Digis Lease, the HOA granted access to and from the Digis Site over the HOA's "Property." Alternatively, the staff may have mistakenly assumed that access to the Digis Site existed under the language of the HOA Declaration, as defined herein. Unfortunately, neither of those assumptions was correct, and such access was not installed over property owned by the HOA, but over the Owner's Lot. As noted above, the installation of such access and the underground electrical service occurred without the Owner's knowledge or consent.

5. Breach of the HOA Declaration. It is the Owner's position that the existence of the Digis Site and use of Owner's Lot for access to the Digis Site constitute a breach of express terms of the recorded HOA declaration (the "*HOA Declaration*"), which bars commercial use of

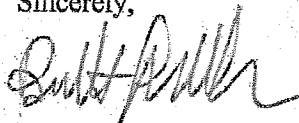
the Hawkins Creek common areas, but such breach is not the subject or the basis of the Owner's appeal. Certainly, the Digis Lease and the Facility exist as a commercial benefit to Digis and those who subscribe to the Digis broadband services.

6. Solutions. There are several simple solutions to this problem, and the Owner has proposed such solutions to Digis separately and to Digis and the HOA together. Given that the Facility is a welcome addition and provides benefits to landowners in the area, including the HOA, the Owner has done its best to persuade Digis to terminate the Digis Lease and relocate the Facility to a location that does not cause problems for the Lot, the Owner, the HOA, or Digis. Digis has the ability to do so without damage under the express terms of the Digis Lease.

Regardless of the County's decision in this appeal, unless and until Digis removes the Facility from the Digis Site or finds alternate access to the Digis Site, the Owner has no alternative but to bring legal action against Digis to stop the ongoing trespass on the Lot.

Thank you for your consideration.

Sincerely,



HC20 LLC
Manager

cc: Carl W. Barton, Esq.
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