



Bonner County

Board of Commissioners

Asia Williams

Brian Domke

Ron Korn

April 14, 2025

Subj: **Appeal File CUP0012-24 – Conditional Use Permit – Communication Tower**

Christy & Charles Hilbert
34756 Hwy 41
Oldtown, ID 83822

Dear Mr. and Mrs. Hilbert,

The Board of County Commissioners, at the April 10, 2025 hearing, reversed the decision of the Hearing Examiner and denied the above referenced file.

MOTION TO REVERSE THE DECISION: Commissioner Domke moved to reverse the Hearing Examiner's decision and deny this project, FILE CUP0012-24 a Conditional Use Permit for a Communications Tower based upon the following conclusions:

Conclusion 1: The proposed conditional use permit **is** in conflict with the policies of the Bonner County Comprehensive Plan.

Conclusion 2: This proposal was reviewed for compliance with the criteria and standards set forth at BCRC Title 12, Chapter 2, Subchapter 2.2 Conditional Use Permits; Chapter 4 Development Standards and Chapter 7 Environmental Standards. The proposal **is not** in accord with the Bonner County Revised Code.

Conclusion 3: The proposed use **will** create a hazard or **will** be dangerous to persons on or adjacent to the property.

The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. Commissioner Domke further moved to adopt the findings of fact as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this decision and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the conditional use permit is to:

- 1) File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or
- 2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code

Roll call vote:

Commissioner Williams	AYE
Commissioner Domke	AYE
Commissioner Korn	AYE

Voted upon and the Chair declared the motion carried with a unanimous vote.

Findings of Facts:

1. The applicants are requesting a Conditional Use Permit for a Communication Tower.
2. The subject parcel is zoned Rural 5 with a land use designation of Rural Residential.
3. The site is accessed off Highway 41, a State of Idaho owned and maintained public right-of-way.
4. Communication Towers are conditionally permitted in the Rural 5 zoning districts.
5. The applicant is proposing construction of a 135' tall communications tower along with a building for support equipment within a 50' X 50' lease area to facilitate the functioning of the proposed communications tower.
6. A backup generator will be located on the site for emergency purposes.
7. Construction is proposed to occur in a single phase of development.
8. The facility is expected to be unmanned and will be occupied only during routine maintenance.
9. The facility will provide telecommunications service to residential properties within the vicinity 24 hours per day year-round.
10. At the January 15, 2025 hearing, the Bonner County Hearing Examiner approved this file.
11. On February 18, 2025, the Planning Department received a request for appeal of the Hearing Examiner's decision on this file to the Board of County Commissioners.
12. The proposed communication tower is in conflict with the policies of the comprehensive plan, specifically the policies of Community Design component and the goal of the Land Use component.
13. The documentation provided did not provide adequate prove that there is a lack of cell coverage in the proposed cell tower location, and that the area was not sufficiently reviewed for other potential sites. Additionally, the studies shown by the applicant are not applicable to rural areas.

- 14.The proposed communication tower would diminish property values due to the change in the rural character of the area and potential harm from Radio Frequency Emissions.
- 15.The evidence provided by the applicant conflicts with the coverage map provided on the Verizon public website, the carrier who will be leasing the tower.
- 16.The applicant did not provide a "No Hazard Determination" by the FAA.
- 17.The applicant did not provide adequate information showing access to the parcel.

NOTE: Following any final decision concerning a site-specific land use request, the petitioner has a right to request a regulatory taking analysis pursuant to Section 67-8003, Idaho Code (*Idaho Code §67-6535(3)*).

Please contact the Bonner County Planning Department if you have any questions.

Sincerely,

Asia Williams, Chair
Board of County Commissioners

Cc:
Appellant:
Morgan Hepler, Hepler Law

Applicant:
Robert Custer
Andy Hambright, SmartLink Group
Josh Leonard, Clark Wardle