

Bonner County Planning Department

"Protecting property rights and enhancing property value"

1500 Highway 2, Suite 208, Sandpoint, Idaho 83864

Phone (208) 265-1458 - Fax (866) 537-4935

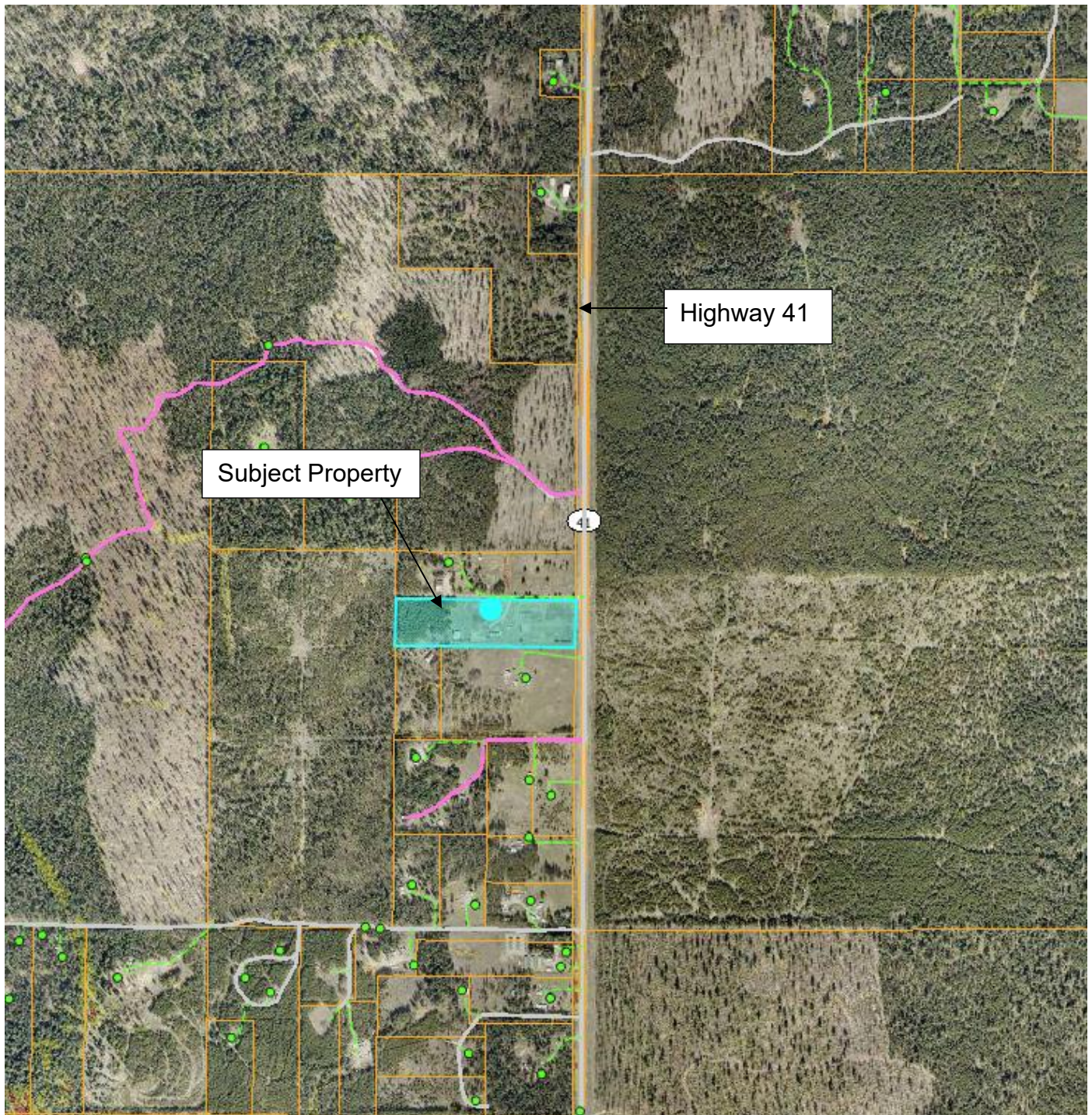
Email: planning@bonnercountyid.gov - Web site: www.bonnercountyid.gov



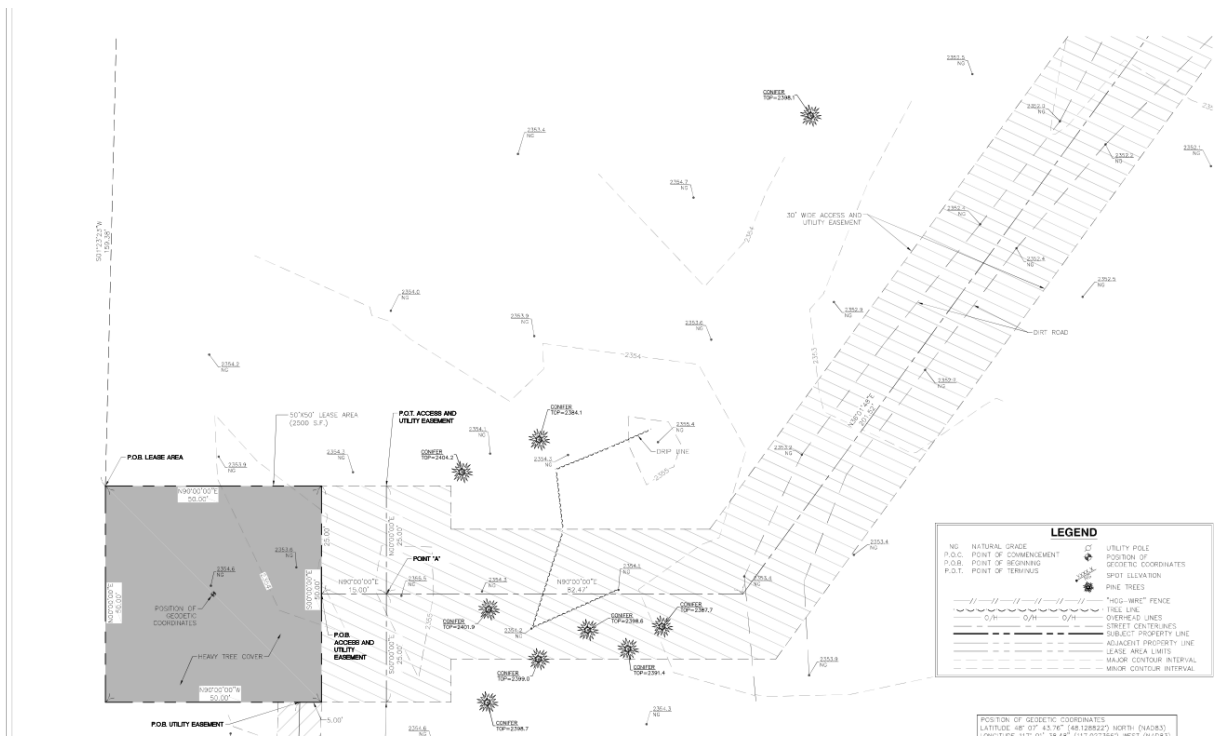
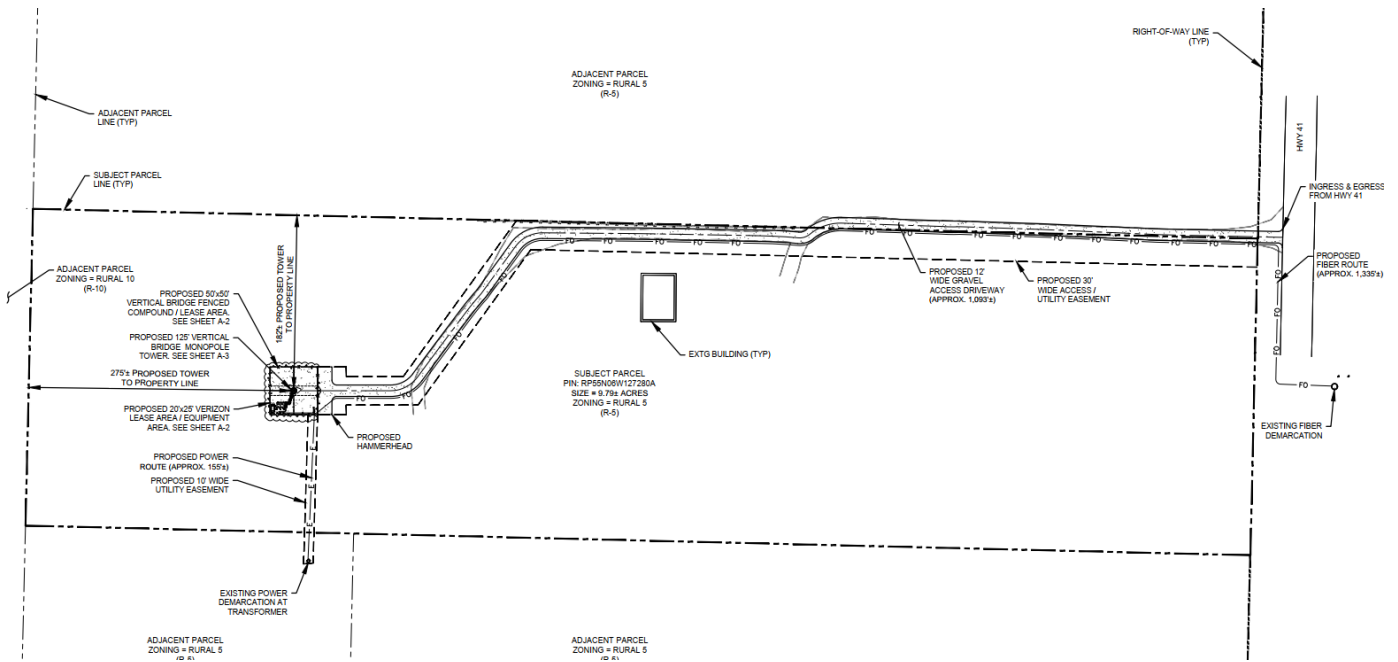
HEARING EXAMINER STAFF REPORT FOR JANUARY 15, 2025

Project Name:	Communication Tower
File Number, Type:	CUP0012-24, Conditional Use Permit
Request:	The applicant is requesting a Conditional Use Permit to establish and operate a communication tower.
Legal Description:	12-55N-6W S2N2NESE 1979 NASHUA 14 X 68 MH
Location:	The project is located at 5310 Dickensheet Road in a portion of Section 10, Township 59 North, Range 4 West, Boise-Meridian, Bonner County, Idaho.
Parcel Number:	RP55N06W127280A
Parcel Size:	Approximately 9.794 AC
Applicant and Property Owner:	Robert Custer 34754 Highway 41 Oldtown, ID 83822 Vertical Brisge REIT LLC, dba The Towers LLC 750 Park of Commerce Drive Suite 200 Boca Raton, FL 33487
Project Representatives:	The Smartlink Group 621 114 th Ave E Edgewood, WA 98372
Application filed:	October 30, 2024
Notice provided:	Mail: December 17, 2024 Published in newspaper: December 17, 2024 Site Posting: January 7, 2025
Enclosure:	Annex A – Complete List of Agencies Routed

VICINITY MAP



SITE MAP



Project Summary:

The applicant is requesting to construct and operate a 125' self-supporting tower with communication equipment and supporting ground equipment for a final above ground level of 135 feet. The tower is proposed to be housed in a 50' x 50' fenced area. The proposed site is located in Oldtown, Idaho. The parcel contains approximately 9.8-acres and is currently zoned Rural 5 (R-5). Communications towers are conditionally permitted in this zone.

Applicable Laws:

The following sections of BCRC, Title 12, apply to this project:

BCRC 12-220, et seq, Conditional Use Permit, Application and Standards
BCRC 12-323, Rural District
BCRC 12-335, Public Use Table, Communication Towers
BCRC 12-4.2, Performance Standards For All Uses
BCRC 12-4.3, Parking Standards
BCRC 12-4.4, Sign Standards
BCRC 12-4.5, Design Standards
BCRC 12-4.6, Landscaping and Screening Standards
BCRC 12-488, Communication Towers
BCRC 12-7.2, Grading, Stormwater Management and Erosion Control

Background:

A. Site data:

- Residential.
- Unplatted.
- Parcel Size: Approximately 9.794-acres.
- Zoning: Rural 5.
- Land Use Designation: Rural Residential.

B. Access:

- The property will be accessed from Highway 41, a State of Idaho owned and maintained public right-of-way.

C. Environmental factors:

- The site contains minimal slopes of 15% grade or less. (United States Geological Survey)
- The site does not contain wetlands. (National Wetlands Inventory/United States Fish and Wildlife Services).
- The site does not contain frontage on a river/stream/frontage on a lake. (National Hydrography Dataset)
- Parcel is located within SFHA Zone X, per FIRM Panel 16017C0850E, Effective Date 11/18/2009.

- The site does not contain any critical wildlife areas as identified by any local, state or federal agencies.

D. Services:

- Water: The proposed communication tower is not required to be serviced by a water system. Site is served by individual well.
- Sewage: The proposed communication tower is not required to be serviced by a sewer system. Site is served by an individual septic system.
- Fire: Spirit Lake Fire District
- Power: Inland Power
- School District: West Bonner School District #83

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Use & Density
Site	Rural Residential	Rural 5	Residential, 9.794-acres
North	Rural Residential	Rural 5	Residential, 9.789-acres
East	Ag/Forest Land	Agricultural/Forestry 20	Forest Land, 640.16-acres
South	Rural Residential	Rural 5	Residential, 5-acres and 15-acres
West	Rural Residential	Rural 10	Forest Land, 80-acres

Agency Review and Public Comments

The application was routed to the agencies listed in Annex A for review and comment.

The following agencies replied with a comment:

Idaho Transportation Department (1.6.25)

The following agencies replied with "No comment":

Idaho Department of Environmental Quality
Idaho Transportation Department (1.3.25)
Kootenai-Ponderay Sewer District
Spirit Lake Fire District

All other agencies routed did not reply.

Public Comments:

Three public comments were received as of the date of this staff report, all indicated they were opposed to the project.

Standards Review and Analysis:

BCRC 12-223 specifies that the Zoning Commission or Hearing Examiner shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Zoning Commission or Hearing Examiner must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

ANALYSIS AGAINST THE BONNER COUNTY REVISED CODE:

- **BCRC 12-220, et seq., conditional use permit, application and standards**

Staff: The application was received on October 30, 2024. The completed application was then routed to agencies for their review on December 17, 2024.

- **BCRC 12-335 Public Use Table**

Staff: Communication towers are conditionally permitted in the Rural district.

Use	Zoning District								
	F	A/F	R	S	C	I	RSC	REC	AV
Communication towers	C (3)	C (3)	C (3)	C	C	C	C	C	C

(3) Where access to the site is by road, the road shall be located within a recorded easement or public right-of-way, and constructed to the appropriate standard set forth in title 2 of this Code or [appendix A](#) of this title, except where subject to the terms of an approved special use permit issued by a State or Federal agency.

Staff: Per the applicant, the project site is accessed via Highway 41, a State of Idaho owned and maintained public right-of-way. The applicant provided an encroachment permit for a shared driveway between the project site and the parcel to the north. Idaho Transportation Department was notified of this project and provided a comment on the status of the encroachment permit, stating that it is permitted as a joint encroachment with the subject parcel and their neighbor to the north. It should be noted that it appears that the encroachment is located on the northern property. The applicant has provided a site plan showing that a portion of the driveway is on their property. However, there appears to be no documentation provided by the applicant that their property is subject to an easement from the northern property. The applicant shall provide a recorded easement document granting them access over the property to the north. Alternatively, the applicant shall be granted a separate encroachment permit off Highway 41 from the Idaho Transportation Department that would allow access to the project site. **SEE CONDITIONS OF APPROVAL**

BCRC 12-420 General Standards

Staff: The proposed structure shall meet the required setbacks including the fall distance of the communication tower. No other subsections in BCRC 12-420 are relevant to this project.

BCRC 12-421, Performance Standards for all Uses:

Staff: The requested use is unlikely to result in fire hazards, radioactivity or electrical disturbance, noise, vibration, air pollution or water pollution.

BCRC 12-4.3, Parking standards

Staff: There is no requirement of minimum off-street parking spaces for communication towers. If required, the site has sufficient area to accommodate parking for the proposed use.

BCRC 12-4.4, Sign standards:

Staff: The applicant has not proposed any signage as part of this application. Any future additions of signage in conjunction with this Conditional Use Permit would require the applicant to request a modification per BCRC 12-266 of this Conditional Use Permit. **See Conditions of Approval**

BCRC 12-4.5, et seq, Design standards:

The standards in this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and rural service center districts and all other commercial, multi-family, public and industrial development in other zoning districts unless otherwise noted

Staff: This standard does not apply to this project

BCRC 12-452: Site and building plans:

Staff: A building location permit will be required for any new structures. The new communication tower will need to meet the standards found in BCRC Title 11, and the approved setbacks found on the approved site plan. **See Conditions of Approval**

BCRC 12-453 (F): Lighting Standards:

Staff: The applicant does not propose any exterior lighting. No lighting is required for this use.

BCRC 12-4.6, Landscaping and screening standards:

BCRC 12-461: The standards in this subchapter shall apply to all new development in the commercial, industrial and rural service center districts and all other commercial, multi-family, public and industrial development in other districts

unless otherwise noted. For remodels or additions, the standards in this subchapter shall apply where the value of the additions equals or exceeds fifty percent (50%) of the market value of the existing structure and/or site improvements as determined by the Bonner County assessor's office over any five (5) year time period. For other additions or remodels, the landscaping standards shall only apply to the specific areas being improved. For instance, if a commercial use is adding additional parking, the new parking area must feature landscaping per the standards in this subchapter.

Staff: This standard applies to this project. The applicant has provided a landscaping plan around the perimeter of the fencing of the communications tower site. Additionally, per the applicant, the tower will be painted to match the surrounding landscape. **See Conditions of Approval.**

BCRC 12-488, Communication Towers

A. Communication towers and attendant facilities shall be enclosed by a fence not less than six feet (6') in height.

Applicant: *The proposed tower and ancillary equipment will be enclosed within a 6' fenced compound, as shown in the zoning drawings submitted with this application.*

Staff: The applicant's proposal meets the requirement for a 6-foot high fence with additional privacy and security measures. **See Conditions of Approval.**

B. The base of any tower shall not be closer to any property line than a distance equal to the tower height.

Applicant: *The base of the proposed tower location will exceed the 1':1' setback requirement set forth by Bonner County.*

Staff: Per the site plan provided by the applicant, the 135-foot proposed tower will be setback from the Northern property line 187 feet, the western property line 275 feet; the applicant did not supply measurements from the southern property line and the eastern property line. The eastern property line appears to be well within the 135-foot requirement. However, there is no measurement given from the tower to the southern property line. Per GIS data, the southern parcel is owned by the applicant; there has been no deviation from the southern parcel setback requested. The applicant shall provide an additional site plan showing distances to all property line. **See Conditions of Approval.**

C. The Hearing Body (Hearing Examiner or Zoning Commission) shall consider the public convenience and necessity of the communication tower and any adverse effect the facility would have upon properties in the vicinity and may require such reasonable restrictions and conditions of development as to uphold the purpose and intent of this title and the comprehensive plan.

Applicant: *The convenience and necessity of the proposed tower facility is outlined thoroughly within this application and its supporting documents, to include the health and safety benefits of the same. The proposed tower facility will have no adverse effect on the properties in the vicinity*

Staff: Communication towers are conditionally permitted in all zoning districts in Bonner County. The proposed wireless facility will improve public health and safety for customers living, working and traveling through the coverage area by improving reliable access to emergency services and 911. The applicant has provided further information in their "Compliance and Safety" narrative.

Adverse effects by a stationary communication tower on other properties in the vicinity appear to be negligible. There is no evidence that staff could find that shows the communication tower would adversely affect other properties in the vicinity.

D. Communication towers shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.

Applicant: *The proposed tower shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.*

Staff: At the time of Building Location Permit (BLP), the Bonner County Planning Department shall require plans that meet the specifications of telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures. **See Conditions of Approval.**

E. Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation").

Applicant: *The proposed tower shall be constructed for collocation, so as to accommodate at least two additional carrier's antenna arrays without the need for structural upgrades, as shown in the zoning drawings submitted with this application*

Staff: It appears that the plans submitted by the applicant accommodate collocation for future communication services. **See Conditions of Approval.**

F. Communication towers shall meet all operational, construction and lighting standards of the federal aviation administration.

Applicant: *The proposed tower shall be in full compliance with all rules, regulations and standards set by the Federal Aviation Administration (FAA), and all other federal, state and local governmental agencies.*

Staff: The proposed tower shall meet all FAA required operational, construction and lighting standards. A FAA No Hazard Determination shall be provided by the applicant. **See Conditions of Approval.**

G. Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth at subchapter 5.2 of this title.

Applicant: *The proposed tower will not penetrate any airspace surface as set forth at subchapter 5.2. of this title.*

Staff: An FAA No Hazard Determination is a requirement of the FAA to identify impacts of towers on aircraft and airports. As stated above, the FAA No Hazard Determination shall be provided. **See Conditions of Approval.**

H. Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation.

Applicant: *Vertical Bridge REIT, LLC dba The Towers, LLC understands and will comply with this provision.*

Staff: See Conditions of Approval.

I. Flammable material storage shall be in accordance with international fire code standards.

Applicant: *The only flammable material that will be utilized at this facility is diesel fuel for the backup power generator, which will be stored in accordance with international fire code standards*

Staff: The proposal to store flammable material in accordance with fire code standards and provide necessary documentation is adequate and meets the code. **See Conditions of Approval.**

J. Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency.

Applicant: *No signage, symbols, flags, banners or other devices or objects shall be attached to or painted or inscribed upon any portion of the proposed communications facility, except that which might be required by any federal, state, or local governmental agency.*

Staff: See Conditions of Approval.

BCRC 12-7.2, Grading, stormwater management and erosion control:

BCRC 12-720.2 Applicability

The provisions of this subchapter shall be applicable:

- C. All public projects, including road construction, undertaken by Bonner County, or undertaken by any other political subdivision of the state of Idaho or public agency over which Bonner County asserts jurisdiction through this title and title 11 of this code, as amended

Staff: A grading, stormwater management and erosion control plan may be required at the time a Building Location Permit is submitted, pursuant to BCRC 12-720.2(C).

See Conditions of Approval

COMPREHENSIVE PLAN ANALYSIS:

Comprehensive Plan Analysis:

Property Rights

Policies:

1. Bonner County should follow the attorney general's checklist, proscribed at Idaho Code §67-8003 and provided in the "Property Rights" component of the county's comprehensive plan, for all land use decisions.
2. For all land use decisions, findings of fact and conclusions of law should be adopted that reflect the justifications for exactions, conditions and restrictions and should confirm that a taking of private property has not occurred.
3. The property rights of the applicant, adjoining and nearby landowners and future generations should be considered, as well as the short-term and long-term consequences of decisions.
4. Bonner County should review all rezoning requests (down-zoning and up-zoning) pursuant to the Idaho State Code, Title 67, Chapter 65 – Local Land Use Planning Act. The approval of conditional rezoning or denial of a request for rezoning may be subject to the regulatory taking analysis provided for by Idaho Code Section 67-8003.

Staff: The application was routed to neighbors 300' from the property line, informing neighbors of the proposed zone change. As of the date of this staff report, Bonner County has received public comments in opposition. This proposal has been reviewed for compliance with Bonner County Revised Code and findings of fact will be adopted with the decision of this project. This proposal does not appear to be in conflict with the policies of this component.

Population

Policies:

1. Population projections should be analyzed regularly to determine if changes need to be made to the Comprehensive Plan goals, objectives and policies and/or the Zoning Ordinance to ensure that the public and community needs are being met through land use decisions.
2. Population forecasts and census data should be used to evaluate housing and school needs, and impacts to the transportation system and other county services.
3. Bonner County should cooperate with its incorporated cities and neighboring counties to address growth challenges within the ACI areas and coordinate planning efforts whenever possible.

Staff: Bonner County, according to 2022 population estimates census data, has seen a 9.1% increase in population since the 2020 census was performed; increasing from 47,105 to an estimated 51,414. With the increase in the population, there is upward pressure on housing needs in Bonner County, both in the unincorporated portion of the County, and in the incorporated cities. This proposal is not within any Areas of City Impact and does not appear to be in conflict with the policies of this component.

School Facilities & Transportation

Policies:

1. Current data regarding school capacity and transportation issues as provided by the School Districts will be included in the assessment of all land use proposals.
2. Bonner County should examine the impacts of land use proposals to the school system and should seek mitigation from developers such as providing facilities, safety features, fees or other measures as permitted by Idaho Code, to address the impact of the proposals.

Staff: The Lake Pend Oreille School District #84 and Lake Pend Oreille School Transportation that serves the property were notified of the proposed Conditional Use Permit. Lake Pend Oreille School District did not comment as to how an increase in density and development would or would not adversely impact the district's ability to provide adequate school services (and facilities) for new and existing students. The Transportation department did not provide a comment. This project does not appear to conflict with this component.

Economic Development

Policies:

1. Small scale cottage businesses and home occupations should be allowed in all areas of the county. Reasonable conditions on such uses should be set to minimize

adverse impacts to the neighborhood based on factors including, but not limited to, hours of operation and traffic volume generated by the business.

2. Develop land use regulations to allow Bonner County's agricultural heritage to be maintained by enabling local food production, distribution, congregation, and retail sales. Examples include community gardens, school gardens, farm related education programs, farmers or public markets, and other small-scale, collaborative initiatives.
3. Develop standards for commercial and industrial development that are appropriate for the surrounding community, including: appropriate site sizes, use types, buffering and design standards that encourage both attractive and efficient function, while protecting the environment.
4. Review and update land use regulations for employee housing to support the goal of enabling this use in proximity to commercial, industrial and agricultural uses.

Staff: The proposed Conditional Use Permit does not appear to conflict with policies of this component.

Land Use

Policies:

1. Commercial and industrial uses, in areas identified in the Comprehensive plan suitable for such development, should be unconditionally permitted. Evaluation of suitability should be based on availability of urban services, adequate access to hard surfaced publicly maintained roads and other factors that may impact the surrounding community.
2. Commercial and industrial uses may be conditionally permitted in areas not identified for such uses in the Comprehensive Plan if a critical review of the proposed use determines that with appropriate conditions the use will not adversely impact the surrounding area.

Staff: The proposed Conditional Use Permit does not appear to conflict with the policies of this component. The Rural zone does allow for some commercial and industrial uses, either unconditionally or conditionally permitted, per BCRC 12-3.3. The proposed use is considered a "public use".

Natural Resources

Policies:

1. Watershed standards should be employed in land use codes to protect water quality.
2. Best management practices for waterway setbacks should be instituted to reduce erosion and sedimentation into waterways.

3. Development standards should be designed to encourage clustered development resulting in the preservation of open space and wildlife habitat.
4. Bonner County should recognize its critical wildlife habitat and create development standards to protect these areas and mitigate development impacts to these habitats.
5. Protect water quality by creating standards for development in close proximity to shorelines.
6. Productive farmland, timberland and mining lands should be identified and protected from adverse effects of adjoining developments.

Staff: Impacts to natural resources were not identified by any agency. Agricultural uses exist on the land and anticipated to be maintained. The Rural Residential land use designation encourages small-scale agricultural uses and residential development. Both are protected and maintained with this proposal.

Hazardous Areas

Policies:

1. Flood mitigation standards should be adopted that meet or exceed the National Flood Insurance Program minimum requirements.
2. Residential, commercial or industrial development within the floodway should be discouraged.
3. Fill within the floodplain should be discouraged.
4. The county's wildland fire, urban/wildland interface policies and plans should be integrated into development standards.
5. Excessive slopes should be identified and development discouraged by providing lower densities within these areas.
6. Multiple points of ingress/egress should be considered for large developments
7. Development should be avoided in avalanche zones.

Staff: The subject property is not located in a mapped floodplain. Potential damage to property or people due to soil erosion or avalanches are minimal. Furthermore, the property is provided with emergency services. This project does not appear to be in conflict with the policies of this component.

Public Services, Facilities & Utilities

Policies:

1. Encourage high-density development to take place within the boundaries of existing sewer and water areas.
2. Bonner County should seek comment from existing service providers on their ability to serve future developments without adversely impacting the ability of the utility providers to serve current users.
3. Bonner County should provide adequate facilities for responsible disposal of solid waste to protect the health and welfare of the public as well as the County's natural resources.

Staff: Any future development to this parcel should not affect service as currently there is a well and septic system. The parcel has services, including electricity provided by Inland Power, Bonner County EMS & Sheriff, and Spirit Lake Fire District; all of which were routed for comment and did not respond as to how this Conditional Use Permit could affect their services. Any expansions to these services or others, the applicant will need to obtain proper permitting through the appropriate agencies that govern these services.

Transportation

Policies:

1. A long-term transportation system plan should be developed and regularly updated to ensure reasonable levels of service can be maintained in the future, and that needs for future road extensions or transportation corridors are identified as early as possible.
2. Development in areas that are not served by county standard roads or where transportation is inadequate should be discouraged.
3. Bike and pedestrian trails should be considered in development proposals to connect the communities with existing and planned bike and walking paths wherever possible.

Staff: The proposal does not appear to be in conflict with the policies of this component.

Recreation

Policies:

1. Bonner County is encouraged to develop a waterways and park access program to preserve and develop access to public recreational lands and waterways. The program should include retaining access parcels that may be acquired from tax sales or private donations.

2. A plan for a system of green belts and pathways (bike and pedestrian) should be considered as areas develop, so that a connected system can be developed and preserved.

3. Under no circumstances, will Bonner County require access easements on private property as a condition of development. This policy does not preclude providing voluntary incentives to developers in return for access easements.

Staff: Current recreational opportunities for the general public that are available in Bonner County are anticipated to remain the same with this zone change.

Special Areas or Sites

Policies:

1. A generalized map of the known pre-historic and historic sites should be developed so that future developments are aware of special areas of concern and are connected with the historical society and Native American tribes for appropriate preservation and protection.
2. Bonner County should implement road side development standards for recognized scenic byways to protect the view sheds.
3. Special areas should be recognized and addressed when development is proposed in these areas.

Staff: The project appears to not conflict with the policies of this component.

Housing

Policies:

1. Encourage development of a variety of housing options including mobile home parks, tiny home communities and recreational vehicle parks located in areas that are compatible with their density.
2. Work with municipalities and private parties to find solutions for all types of housing projects and developments.
3. Clustering of housing in developments to save on infrastructure and transportation costs should be encouraged through mechanisms such as density bonuses.
4. Bonner County recognizes opportunities should be made for assisted living and group shelters.
5. Enable workforce housing in direct proximity to agricultural, commercial and industrial uses.

Staff: This proposal does not appear to conflict with the policies of this component.

Community Design

Policies:

1. To promote and preserve the natural features and rural atmosphere of the community, the county should enact development standards that address development within scenic byways and design standards that account for waterfront setbacks, wildlife corridors, commercial and industrial landscaping, requirements for reduced lighting, cluster development, rural rather than urban setback standards and other design objectives aimed at preserving the rural, natural character of the community.
2. Allow unique and flexible design standards such that new development within older neighborhoods and historic settlements is compatible with those unique neighborhoods.
3. Allow particularized design standards to address waterfront and mountaintop developments which may differ from standard design objectives.

Staff: This proposal does not appear to conflict with the policies of this component.

Agriculture

Policies:

1. Residential uses should continue being permitted in Agricultural zoning districts.
2. Protect agricultural uses and activities from land use conflicts or interference created by residential, commercial or industrial development
3. Land use regulations should support home occupations, cottage industries and farm-based family businesses on agricultural parcels. Examples include farm stands and other agri-business pursuits.
4. Bonner County acknowledges the provisions of Idaho State's Right to Farm Act. Those shall be considered in the land use decisions.

Staff: This proposal does not appear to conflict with the policies of this component, as farming and agricultural pursuits remain viable and are encouraged in the Rural zoning districts.

Planner's Initials: **AF** Date: **January 10, 2025**

Note: The final decision rests with the hearing examiner/governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Decision by the Governing Body:

HEARING EXAMINER

DECISION TO APPROVE: I approve this project, FILE CUP0012-24, a Conditional Use Permit for a Communications Tower, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following conclusions of law:

Conclusion 1: The proposed conditional use permit **is** in accord with the general and specific objectives of 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** in accord with the Bonner County Revised Code.

Conclusion 3: The proposed use **will not** create a hazard or **will not** 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. I further adopt the findings of fact 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. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

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 has an approved joint encroachment permit 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 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.

HEARING EXAMINER

DECISION TO DENY: I 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/is not** in accord with the general and specific objectives of 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/is not** in accord with the Bonner County Revised Code.

Conclusion 3: The proposed use **will not/will** create a hazard or **will/will not** 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. I further 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

RECOMMENDATION TO THE ZONING COMMISSION

I recommend that the Zoning Commission conduct a public hearing for FILE CUP0012-24, requesting a conditional use permit for a Communication Tower, pursuant to the public hearing noticing requirements and procedures of Chapter 2, Subchapter 2.6 of Title 12, based upon the extent of public comment and other contested factors in the case which warrant a hearing in front of the Zoning Commission.

Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** Per BCRC 12-226.C, the Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Zoning Commission at any regular meeting, or board at any regular meeting, may consider the request for extension. The extension request must be approved or denied prior to the expiration date of the conditional use permit.
- A-4** The hours of operation will be continuous and may be accessed at any time for maintenance as needed.
- A-5** Per BCRC 12-420, all structures located on site in conjunction with this Conditional Use Permit will meet the required street and property line setback standards of BCRC Title 12.
- A-6** Per BCRC 12-420, all architectural projections such as canopies, eaves, balconies, platforms, decks, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into any required setback.
- A-7** Per BCRC 12-420, temporary buildings, construction trailers, equipment and materials used in conjunction with construction work for the proposed project may be permitted during the period the construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work.
- A-8** Per BCRC 12-432, Parking Standards, the project does not need to designate parking spaces; the parcel has an adequate area for parking.
- A-9** Per BCRC 12-452, any structures or development on site permitted through this Conditional Use Permit is required to obtain appropriate Building Location Permits or other approvals from the Bonner County Planning Department prior to the development on site.
- A-10** All structures shall meet the standards set forth in Title 11, Bonner County Revised Code.
- A-11** Per BCRC 12-453.F, any lighting on site shall meet the standards of this section of the ordinance.

- A-12** Per BCRC 12-453.G, any development on site permitted through this Conditional Use Permit shall meet the standards of this section of the ordinance.
- A-13** Per BCRC 12-453.J, any outdoor storage of commercial and industrial materials on site is required to meet the standards of this section of the ordinance.
- A-14** Per BCRC 12-4.6, all landscaping shall be in accordance with the approved site plan. The Communication Tower and it's appurtenances shall be painted to match the surrounding landscape, as proposed by the applicant.
- A-15** Per BCRC 12-488.A, Communication towers and attendant facilities shall be enclosed by a fence not less than six feet (6') in height.
- A-16** Per BCRC 12-488.B, the base of any tower shall not be closer to any property line than a distance equal to the tower height.
- A-17** Per BCRC 12-488.D, Communication towers shall be built to telecommunication industry association/electronic industry association (TIA/EIA) 222 revision F standards, or as amended, for steel antenna support structures.
- A-18** Per BCRC 12-488.E, Communication towers shall be constructed to accommodate other future communication services where technically feasible ("collocation").
- A-19** Per BCRC 12-488.F, Communication towers shall meet all operational, construction and lighting standards of the federal aviation administration.
- A-20** Per BCRC 12-488.G, Communication towers shall not penetrate any airspace surface on or adjacent to any public or private airfields as set forth at [subchapter 5.2](#) of this title.
- A-21** Per BCRC 12-488.H, Upon termination of use of a communication tower for a period of not less than one year, the landowner and/or tower operator/applicant shall remove the tower along with all supporting equipment, apparatus and foundation.
- A-22** Per BCRC 12-488.I, Flammable material storage shall be in accordance with international fire code standards.
- A-23** Per BCRC 12-488.J, Communication towers shall not be used for signage, symbols, flags, banners or other devices or objects attached to or painted or inscribed upon any communication facility for the purposes of displaying a message of any kind, except as required by a governmental agency.
- A-24** At the time of Building Location Permit, a Grading, Stormwater, and Erosion Control plan may be required, in accordance with BCRC 12-7.2.

Conditions to be met prior to the issuance of this Conditional Use Permit:

- B-1** A supplemental site plan shall be submitted showing setbacks from all property lines.
- B-2** An FAA No Hazard Determination shall be provided to the Planning Department.

- B-3** A recorded easement granted to the applicant over the northern property that shares the approved approach from Idaho Transportation Department shall be provided. Alternatively, a new encroachment and access shall be permitted by the Idaho Transportation Department.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available online prior to the hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.

ANNEX A-NOTICE OF PUBLIC HEARING RECORD OF MAILING

RECORD OF MAILING

Page 1 of 1

File No.: C U P 0 0 1 2 - 2 4

Record of Mailing Approved By:



I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **17th** day of **December, 2024**.



Jessica Montgomery, Hearing Coordinator

Assessor - Email

Bay Drive Recreation District - Email

Bonner County Airport Manager - Email

Bonner County EMS - Email

Bonner County Road & Bridge - Email

Bottle Bay Water & Sewer District - Email

City of Dover - Email

City of Hope - Email

City of Oldtown - Email

City of Priest River - Email

City of Spirit Lake - Email

Coolin-Cavanaugh Bay Fire District - Email

East Bonner Library - Email

Ellisport Bay Sewer - Email

GEM STATE MINER - U.S. Mail

Department of Environmental Quality (DEQ) - Email

Department of Lands - CDA - U.S. Mail

Department of Lands - Navigable Waters & Mining - Email

Idaho Department of Water Resources - IDWR - Email

Transportation Department- District I - Email

Kalispel Bay Sewer & Water - U.S. Mail

KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail

Laclede Water District - Email

Pend Oreille School District, #84 (Transportation) - Email

Little Blacktail Ranch Water Association - U.S. Mail

Northern Lights, Inc. - Email

Northside Fire District - Email

Panhandle Health District - Email

Priest Lake Public Library District - Email

Sagle Valley Water & Sewer - Email

Schweitzer Fire District - Email

Selkirk Fire, Rescue & EMS - Email

Southside Water & Sewer District - Email

Spokesman-Review - U.S. Mail

Swan Shores Sewer District - U.S. Mail

Tamarack Village Water & Sewer - U.S. Mail

Trestle Creek Sewer District - Email

U.S. Fish & Wildlife Service - Email

West Bonner County Cemetery District - Email

West Bonner Library - Email

West Pend Oreille Fire District - Email

Avista Utilities - Email

Bayview Water & Sewer - Email

BONNER COUNTY DAILY BEE - U.S. Mail

Bonner County Floodplain Review - Email

Bonner County Sheriff - Email

City of Clark Fork - Email

City of East Hope - Email

City of Kootenai - Email

City of Ponderay - Email

City of Sandpoint - Email

Coolin Sewer District - Email

Drainage District #7 - Email

East Priest Lake Fire District - Email

Garfield Bay Water & Sewer District - Email

Granite Reeder Water & Sewer District - Email Idaho

Idaho Department of Fish & Game - Email Idaho

Idaho Department of Lands - Coolin - Email Idaho

Idaho Department of Lands - Sandpoint - Email

Idaho Transportation Department (Aeronautics) - U.S. Mail Idaho

Independent Highway District - Email

Kootenai-Ponderay Sewer District - Email

KSPT-KPND-KIBR RADIO - U.S. Mail

Lake Pend Oreille School District, #84 (Admin Office) - Email Lake

Lakeland Joint School District, #272 - Email

North of the Narrows Fire District - Email

Northland/Vyve Cable Television - Email

Outlet Bay Sewer District - Email

Pend Oreille Hospital District - Email

Priest Lake Translator District - Email

Sam Owen Fire District - Email

SELKIRK ASSOCIATION OF REALTORS - U.S. Mail

Selkirk Recreation District -Email

Spirit Lake Fire District - Email

State Historical Society - Email

Syringa Heights Water Association - Email

Timber Lake Fire District - Email

U.S. Army Corps of Engineers - Email

U.S. Forest Service - U.S. Mail

West Bonner County School District, #83 - Email

West Bonner Water & Sewer District - Email

West Priest Lake Fire District - Email