

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

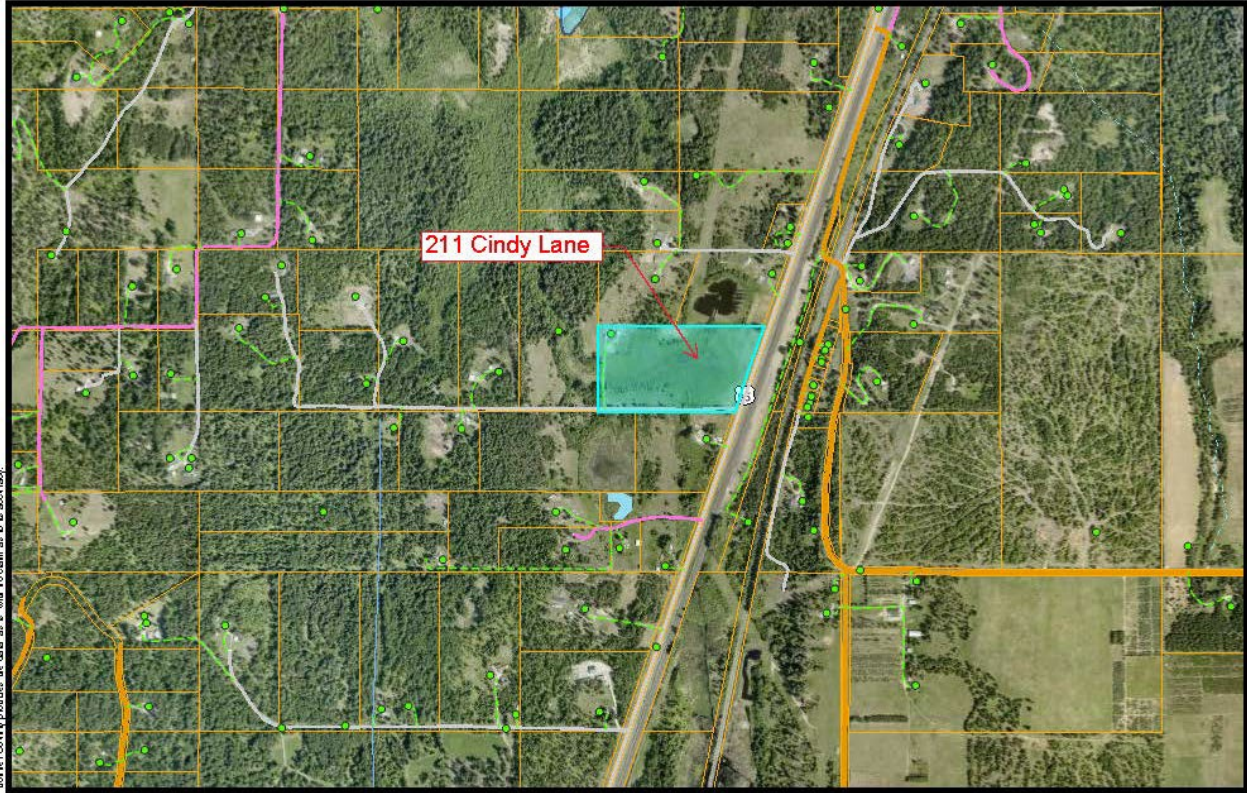


BOARD OF COUNTY COMMISSIONERS STAFF REPORT FOR APRIL 18, 2024

Project Name:	Communication Tower
File Number, Type:	CUP0022-23, Conditional Use Permit
Request:	Appealed - The applicant is requesting a Conditional Use Permit to establish and operate a communication tower.
Legal Description:	9-59N-1W TAX 19 1995 FUQUA 25 X 67 RP
Location:	The project is located at 211 Cindy Lane, Sandpoint in a portion of Section 9, Township 59 North, Range 1 West, Boise-Meridian, Bonner County, Idaho.
Parcel Number:	RP59N01W097510A
Parcel Size:	Approximately 20.0 AC
Applicant and Property Owner:	Dolyniuk Family Trust and James A. & Sandy J. Dolyniuk Trustees 211 Cindy Lane Sandpoint, ID 83864 Harmoni Towers/Verizon Wireless 2450 NW 144 th Ave Beaverton, OR 97006
Project Representative:	Paul Slotemaker/Tilson 2450 NW 144 th Ave Beaverton, OR 97006
Application filed:	December 7, 2023
Notice provided:	Mail: January 10, 2024 Published in newspaper: January 12, 2024 Site Posting: January 18, 2024 Mail: April 1, 2024 Published in newspaper: April 3, 2024 Site Posting: April 3, 2024
Enclosure:	Annex A – Comprehensive List of Agencies Routed

VICINITY MAP

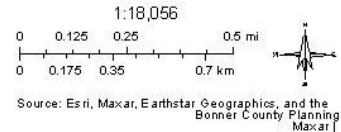
Bonner County Map



BONNER COUNTY PROVIDES THE DATA FOR THIS MAP TO GAIN AN UNDERSTANDING OF THE GEOGRAPHY.

1/26/2024, 2:40:28 PM

- | | | | |
|--------------------|------------------------------|---------------------|------------------|
| FIRM Panels | Stream or River-Intermittent | Ownership | Road Centerlines |
| Flood Hazard Zone | Lakes | Bonner County | Primary |
| A | Site | Unknown | Secondary |
| Streams and Rivers | Driveway | <all other values > | Local; Ramp |
| Other | | | Parcels |



Project Summary:

The applicant is requesting to construct and operate a 140' self-supporting cellular tower and ground equipment. The tower will be housed in a 50' x 50' fenced area. The proposed site is located at 211 Cindy Lane off U.S. Hwy 95 in Sandpoint, Idaho. The parcel contains 20.0-acres and is currently zoned Agricultural/Forestry 10 (A/F-10) with a land use designation of Ag/Forest Land (10-20 AC). 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
BRCR 12-262: Appeals from Final Decision of Commission/Hearing Examiner
BCRC 12-322, Agricultural/Forestry 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 12-4.88, Communication Towers
BCRC 12-7.2, Grading, Stormwater Management and Erosion Control
BCRC 12-7.3, Wetlands

Background:

A. Site data:

- The subject parcel is currently utilized for residential purposes.
- Site exists as an unplatted parcel of land.
- Area of the property is approximately 20.0-acres.
- Site is zoned Agricultural/Forestry 10 (A/F-10).
- Site has a land use designation of Ag/Forest Land (10-20 AC).

B. Access:

- The site will be accessed from Cindy Lane, a privately owned and maintained road.

C. Environmental factors:

- The site contains minimal slopes in excess of 30% grade. (United States Geological Survey)

- The site contains PEM1C Freshwater Emergent Wetlands. (United States Fish and Wildlife Services/National Wetlands Inventory). The applicant has provided a wetlands delineation showing that the tower site is excluded from the wetlands.
- The majority of the site contains Pywell-Hoodoo complex soils with a farmland classification of "Prime farmland if drained" and a drainage classification of "Very poorly drained." The eastern portion of the site contains Selle-Elmira complex soils with a farmland classification of "Farmland of statewide importance" and a drainage classification of "Well drained." The southeastern portion of the site contains Colburn very fine sandy loam soils with a farmland classification of "Prime farmland" and a drainage classification of "Somewhat poorly drained."
- 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 16017C0505E, 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.
- Sewage: The proposed communication tower is not required to be serviced by a sewer system.
- Fire: Northside Fire District
- Power: Avista Utilities
- School District: Lake Pend Oreille School District #84
- Ambulance District: Bonner County Ambulance District
- Hospital District: Pend Oreille Hospital District

E. Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Use & Density
Site	Ag/Forest Land	Ag/Forest 10	Residential, 20.0-acres
North	Ag/Forest Land	Ag/Forest 10	Residential, 10.0-acres; Residential, 10.253-acres
East	Rural Residential	Rural 5	Residential, 1.2-acres
South	Ag/Forest Land	Ag/Forest 10	Residential, 10.0-acres
West	Ag/Forest Land	Ag/Forest 10	Residential, 20.0-acres

Agency Review and Public Comments

The application was routed to the following agencies on January 9, 2024 for comment:

Panhandle Health District	Bonner County Road and Bridge Department
Northside Fire District	State Historical Society
Avista Utilities	Idaho Department of Environmental Quality
U.S. Fish and Wildlife Service	Idaho Department of Water Resources
U.S. Forest Service	Lake Pend Oreille School District #84 - Admin
U.S. Army Corps (Newport)	Lake Pend Oreille School District #84 - Transportation
Idaho Department of Fish and Game	Bonner County Sheriff
	Bonner County Ambulance District

The application was routed to the agencies noted in Annex A on March 26, 2024.

The following agencies commented:

Idaho Department of Fish and Game – January 12, 2024

"The Idaho Department of Fish and Game recommends that the 40' wetland setback, as noted in the wetland delineation, be adhered to."

Idaho Department of Water Resources – January 9, 2024

"Based upon our understanding of the project, the Idaho Department of Water Resources determined it is non jurisdictional."

Idaho Department of Transportation – January 29, 2024

"If access is from Cindy Ln as the site plan indicates, ITD has no objection. Cindy Ln is a public road and does not need a permit."

Idaho Department of Transportation – March 26, 2024

Access must come from Cindy Ln and recorded easement to cross RP5901W097510A must be proven.

No other agencies replied.

Public comments were received as of the date of this staff report.

Standards Review and Analysis:

BCRC 12-223 specifies that the Commission shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Commission 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 December 7, 2023. The completed application was then routed to agencies for their review on January 9, 2023.

- **BCRC 12-262: Appeals from final decision of Commission/Hearing Examiner**

A. Presentation Of Appeal: Any "affected person", as defined by Idaho Code title 67, chapter 65, may appeal to the Board any final decision by the Zoning Commission/hearing examiner.

B. Filing Time Limit; Fee: Any affected person may file an appeal of the final decision of the Zoning Commission/hearing examiner with the Planning Director within twenty eight (28) days after the final written decision of the Zoning Commission/hearing examiner has been issued. The appellant shall pay the fee required by this title upon filing the appeal. An appeal shall not be considered to be filed until such fee has been paid. Failure to file the appeal within the time limits shall cause automatic dismissal of the appeal.

C. Notice Of Appeal Contents: The notice of appeal shall be detailed in writing and shall provide the grounds for the appeal. The grounds for appeal shall be that the decision of the commission or hearing examiner was at a minimum one of the following:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the commission or hearing examiner;
3. Made upon unlawful procedure;
4. Arbitrary, capricious or an abuse of discretion; or
5. Not supported by substantial evidence on the record as a whole.

D. Procedures For Consideration Of Appeal:

1. Within sixty (60) days of the receipt of the appeal, the Board shall conduct a public hearing. The hearing shall be conducted in the same manner using the same standards, as if the Board had original jurisdiction to hear the application.

2. Upon consideration, the Board may affirm, reverse, or modify the decision of the Zoning Commission/hearing examiner, after compliance with applicable procedural standards.

3. The decision of the Board shall be final, and any further recourse shall be as provided by law.

E. Applicability: The appeal process shall be coordinated with administration of land use ordinances. The procedures for appeal set forth herein shall be applied in a manner which is consistent with the zoning, subdivision and related land use ordinances of Bonner County. (Ord. 559, 1-4-2017; amd. Ord. 661, 3-18-2022; Ord. 681, 10-12-2022; Ord. 682, 10-12-2022)

Staff: The February 7, 2024 decision by the Hearing Examiner was appealed by email from Joan Esnayra, as an affected party. The appellants submitted their appeal documents and paid the required fee on March 12, 2024, which was within the appeal period. The basis of Joan’s appeal meets 12-262 (C), and that the decision was not supported by substantial evidence on the record as a whole by stating “Harmoni has failed to proffer probative evidence sufficient to support its claim that the proposed tower will be compatible with the surrounding community”. The subsequent appeal hearing was scheduled within 60 days of the receipt of the appeal. All requirements for appealing the file have been met.

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

Staff: Communication towers are conditionally permitted in the Agricultural/Forestry zoning Districts, subject to the following conditions.

- **BCRC 12-335 (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:** Communication towers are conditionally permitted in the Agricultural/Forestry zoning districts. The site plan, as presented by the applicant, illustrates that the tower will be accessed by a 26’ gravel ingress/egress easement off of Cindy Lane. Cindy Lane is a privately owned and maintained road.

- **BCRC 12-420 General Standards**

Staff: Improvements with an area of 2,500 square feet as part of the proposed communication tower. The proposed structure shall meet the required setbacks including the fall distance.

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 a Communication Tower. If required, the site has sufficient area to accommodate parking for the proposed use.

- **BCRC 12-4.4, Sign Standards**

Staff: This section of the code is not applicable to this application as no signage other than required FAA or safety signage has been proposed as part of this proposal.

- **BCRC 12-4.5 Design Standards**

- **BCRC 12-451 Applicability:** The standards in section 12-453 of 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: The proposal to construct and operate a communication tower constitutes a public use, but not a public development. Thus, the design standards in BCRC 12-4.5 do not apply; communication towers have specific design standards – refer to BCRC 12-488.

- **BCRC 12-4.6 Landscaping and screening standards**

Applicant: While some timber and underbrush clearing is required for the Communication Tower, the area will be replanted, screened with native grasses and shrubs, as well as trees along the right-of-way. Additionally, the site will be surrounded by a 6' security fence with a barbed wire top guard.

- **Staff:** The proposed development is situated in the Agricultural/Forestry zoning district. Thus, a landscaping plan is not required.

- **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.

Staff: Per the site plan provided by the applicant, the communication tower will be enclosed by a fence not less than 6' in height with a barbed wire top guard (see Sheet A2.0).

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

Staff: Per the site plan provided by the applicant, the communication tower will be setback a distance equal to or greater than the height of the tower (see Sheet A1.0).

C. The 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.

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.

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 communication tower will be designed and built to meet building code requirements. An engineer's stamped structural report will be provided as part of the building permit application.

Staff: The applicant's response is adequate and meets the code.

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

Applicant: The proposed tower will be designed to accommodate the collocation of future wireless communications equipment.

Staff: The applicant's response is adequate and meets the code.

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

Applicant: The proposed tower will meet all FAA required operational, construction and lighting standards. The FAA determination can be provided as a condition of approval.

Staff: The applicant's response is adequate and meets the code.

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: According to the attached TOWAIR Determination in Exhibit B (TOWAIR is a service of the FCC to identify impacts of towers on aircraft and

airports), there are no airports within 5 miles of the proposed communication tower and does not require registration with the FAA. The FAA determination can be provided as a condition of approval.

Staff: The applicant's response is adequate and meets the code.

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: As stated in the provided tower removal letter, the tower will be removed upon termination of use.

Staff: The applicant's response is adequate and meets the code.

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

Applicant: The applicant agrees any flammable material storage will be in accordance with International Fire Code standards.

Staff: The applicant's response is adequate and meets the code.

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. (Ord. 501, 11-18-2008; amd. Ord. 661, 3-18-2022)

Applicant: The applicant agrees the proposed tower will not be used for signage (beyond FCC identification signage at the fenced compound), 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.

Staff: The applicant's response is adequate and meets the code.

- **BCRC 12-7.2, Grading, Stormwater management and erosion control**

Staff: A grading, stormwater management and erosion control plan was not submitted by the applicant. A grading, stormwater management and erosion control plan may be required at the time of application for a building location permit pursuant to these standards. If required, approval of these plans shall be obtained from Bonner County prior to initiation of any land disturbing activities on the site.

- **BCRC 12-7.3, Wetlands**

- **BCRC 12-731(B)(2)** The following developments are exempt from this requirement: Conditional use permit applications where the applicant can demonstrate on a site plan that the proposed building site is not within a wetland as determined from the U.S. Fish and Wildlife Service National Wetland Inventory maps or where the development will not create additional impervious surface.

Staff: The site contains PEM1C Freshwater Emergent Wetlands. However, the applicant has provided a wetland delineation letter showing that the communication tower site will not be within 40' of the wetland.

ANALYSIS AGAINST THE COMPREHENSIVE PLAN OBJECTIVES:

1. Property Rights:

- a. Objective:** Private property shall not be taken for public uses without just compensation or due process of law.

Analysis: Not Applicable.

- b. Objective:** Impacts to other properties shall be taken into account when considering land use proposals, policies and codes.

Analysis: Any potential impacts to other properties have been accounted for. The facility is unlikely to result in any significant noise, light, glare, smoke, odor, dust, particulate matter or vibrations as the facility will be designed in accordance with applicable state and federal standards.

2. Population:

- a. Objective:** Bonner County shall keep current with county census data, population estimates and projections and shall use the data to analyze community needs and project impacts.

Analysis: Not Applicable.

3. School Facilities and Transportation:

- a. Objective:** Ensure that the proposed developments and county land use decisions do not adversely impact the local school districts and their ability to provide adequate school facilities and transportation systems.

Analysis: Not Applicable.

- b. Objective:** The county should encourage school districts to proactively review development applications to determine particular school needs and concerns.

Analysis: Not Applicable.

c. Objective: Bonner County roads, trails and bicycle paths should be designed and maintained to allow safe passage of students to schools.

Analysis: Not Applicable.

d. Objective: Long-term consequences of land use proposals should be considered, including the adequacy of existing facilities and the siting of future schools.

Analysis: Not Applicable.

4. Economic Development:

a. Objective: Support small businesses such as markets, restaurants, recreational activities, campgrounds, and marinas that provide services which support resort residents and visitors in their local communities.

Analysis: Not Applicable.

b. Objective: Enable development of small scale cottage industries and home based occupations while protecting the surrounding areas from adverse impacts.

Analysis: Not Applicable.

c. Objective: Policies regarding economic development activities should seek to mitigate the impacts of such factors as noise, light glare, odors, fumes and vibrations on the surrounding community.

Analysis: Not Applicable.

d. Objective: Support local economic development by increasing support for outdoor recreation in Bonner County. Encourage and protect public access to public lands and water, campgrounds, and recreational areas.

Analysis: Not Applicable.

e. Objective: Support local businesses by enabling development of workforce housing in proximity to commercial, industrial and agricultural uses.

Analysis: Not Applicable.

5. Land Use:

a. Objective: Bonner County should develop and maintain a future land use map and land use codes that acknowledge and protect its agricultural, timber and mining lands, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.

Analysis: Bonner County Revised Code was adopted in accordance with the Comprehensive Plan Land use objectives. The code permits Public Utility Facility as a Conditional Use in areas zoned Commercial. This request upholds the land use objectives of the Comprehensive Plan.

b. Objective: Encourage clustered development for medium and large scale commercial and industrial uses.

Analysis: Not Applicable.

c. Objective: Commercial and industrial uses should be located and operated in a manner to ensure the protection of our natural resources including clean air and water, dark skies, and overall environmental quality and rural character of Bonner County.

Analysis: Not Applicable.

6. Natural Resources:

a. Objective: Bonner County's system of lakes and waterways is one of its greatest assets, and Bonner County should strive to preserve both the quality and quantity of its water resources.

Analysis: Not Applicable.

b. Objective: Bonner County values its productive agricultural lands and forests, mining lands, its fisheries, wildlife, wetlands and aquifer recharge areas and should provide measures to protect and maintain these natural features.

Analysis: Not Applicable.

c. Objective: Bonner County should protect its water resources by requiring adequate sewer treatment systems based on soil, density, and intensity of use to reduce impacts to water resources.

Analysis: Not Applicable.

7. Hazardous Areas:

a. Objective: Bonner County intends to regulate the location and density of new development in floodplain to reduce the potential for the loss of lives and property within flood hazard areas.

Analysis: The proposed site is not located within a floodway or floodplain.

b. Objective: Future development should be designed to reduce exposure to wildland fire and to provide for emergency and escape routes for residents.

Analysis: Not Applicable.

c. Objective: Development within areas of excessive slopes, unstable areas and avalanche zones shall be discouraged.

Analysis: The site does not contain any significant slopes.

8. Public Services, Facilities and Utilities:

a. Objective: New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance, power and emergency services, water and other public or private services.

Analysis: This section does not apply as the application is for an unmanned communication tower facility.

b. Objective: Require the developers to provide infrastructure, utilities or financial support to offset the capital costs of expansion of services, required by the proposed development.

Analysis: This section does not apply as the unmanned communication tower does not require infrastructure other than power.

c. Objective: Bonner County shall require adequate provisions for future utility services in areas of commercial, industrial, residential or other similar uses.

Analysis: The application supports this objective by providing communication services for a rural residential area.

9. Transportation:

a. Objective: Future development shall not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.

Analysis: Not Applicable.

b. Objective: Roads within new development shall be built to county standards and at the expense of the developer.

Analysis: Not Applicable.

c. Objective: Roads within new development shall provide adequate access for fire and emergency vehicles and routes of escape.

Analysis: Not Applicable.

d. Objective: Future access roads shall be developed to integrate with the state and county system of roads without overburdening the transportation system.

Analysis: Not Applicable.

e. Objective: To reduce transportation costs, road building and environmental impacts, cluster development shall be encouraged.

Analysis: Not Applicable.

f. Objective: Bonner County intends for certain intense land use developments to provide paved roads.

Analysis: Not Applicable.

g. Objective: Bike ways and pedestrian paths shall be considered in development plans to provide an integrated community transportation system wherever possible.

Analysis: Not Applicable.

h. Objective: To communicate and work cooperatively with other jurisdictions within the county to ensure the best possible flow of traffic county-wide.

Analysis: Not Applicable.

10. Recreation:

a. Objective: Ensure public legal recreational access and amenities are not obstructed or adversely impacted by future development.

Analysis: Not Applicable.

11. Special Areas or Sites:

a. Objective: Future developments shall not adversely affect or destroy culturally or ecologically sensitive sites.

Analysis: Not Applicable.

12. Housing:

a. Goal/Objective: Provide an environment that enables opportunities for diverse housing needs.

Analysis: Not Applicable.

13. Community Design:

a. Objective: New development should be located in areas with similar densities and compatible uses.

Analysis: Not Applicable.

b. Objective: The adverse impacts of new development on adjacent areas should be minimized.

Analysis: Not Applicable.

c. Objective: Consider the protection of natural resources, rural features and surrounding uses of the community in the design and location of new development.

Analysis: Not Applicable.

14. Agriculture:

a. Objective: Protect the rural character and agricultural heritage of Bonner County by retaining large and small scale commercial agriculture and hobby farms as viable uses.

Analysis: Not Applicable

b. Objective: Support the local economy by encouraging production, distribution, and retail sales of locally grown food and other agricultural products.

Analysis: Not Applicable

- c. **Objective:** Develop policies to discourage fragmentation of very large productive agricultural lands.

Analysis: Not Applicable.

Staff concluded this project **is** consistent with the Bonner County Revised Code. This conclusion is demonstrated by the Standards Review, Conclusions of Law, Findings of Facts and Conditions of Approval. Conditions of Approval have been added to facilitate the project's conformance to Bonner County Revised Code.

Planner's Initials: **RW** Date: **April 10, 2024**

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

Hearing Examiner Decision: APPROVE

Date: February 7, 2024

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

On March 12, 2024, the planning department received a request to appeal this file, CUP0022-23. See appeal documents.

Motion by the Governing Body:

BOARD OF COUNTY COMMISSIONERS

MOTION TO AFFIRM: I move to affirm the Hearing Examiner’s decision to approve this project, FILE CUP0022-23 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.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further move to adopt the findings of fact and conclusions of law as set forth in the Staff Report, or as amended during the hearing and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, and transmit to all interested parties. 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 Agricultural/Forestry with a land use designation of Ag/Forest Land.
3. The site is accessed off Cindy Lane, a privately owned and maintained road.
4. Public Utility Facilities are conditionally permitted in the Agricultural/Forestry zoning districts.
5. The applicant is proposing construction of a 140’ 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 for emergency purposes will be located on the site.
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 or emergency maintenance.
9. The facility will provide telecommunications service to residential properties within the vicinity 24 hours per day year-round.
10. The Hearing Examiner approved this application on February 7, 2024.
11. On March 12, 2024, the planning department received a request to appeal this file, CUP0022-23.

Conditions of Approval:

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

1. The use shall be developed and shall be operated in accordance with the approved site plan.
2. The Conditional Use Permit shall not supersede deed restrictions.
3. All County setbacks shall be met.
4. 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, or board, may consider such request for extension at any regular meeting. The extension request must be approved or denied prior to the expiration date of the Conditional Use Permit.
5. The applicant shall provide a recorded easement to cross RP5901W097510A from Cindy Lane to the project site per the Idaho Department of Transportation's comment.

MOTION TO REVERSE: I move to reverse the Hearing Examiner's decision, and deny this project, FILE CUP0022-23 for a Communications Tower, based upon the following conclusions of law:

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/ will not** 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 move to adopt the findings of fact and conclusions of law as set forth in the Staff Report, or as amended during the hearing, and direct planning staff to draft written findings and conclusions to reflect this motion, have the Chairman sign, 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

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 scheduled hearing at www.bonnercountyid.gov Bonner County Revised Code (BCRC) is available at the Planning Department or online.

ANNEX A
RECORD OF MAILING

Page 1 of 1

File No.: CUP0022-23

Record of Mailing Approved By:

Hearing Date: April 18, 2024

Robert Winningham, Planner

I hereby certify that a true and correct copy of the "Notice of Public Hearing" was digitally transmitted or mailed (postage prepaid) on this **1st** day of **April 2024**.



Jenna Crone, Hearing Coordinator

Assessor - Email	Avista Utilities - Email
Bay Drive Recreation District - Email	Bayview Water & Sewer - Email
Bonner County Airport Manager - Email	BONNER COUNTY DAILY BEE - U.S. Mail
Bonner County EMS - Email	Bonner County Floodplain Review - Email
Bonner County Road & Bridge - Email	Bonner County Sheriff - Email
Bottle Bay Water & Sewer District - Email	City of Clark Fork - Email
City of Dover - Email	City of East Hope - Email
City of Hope - Email	City of Kootenai - Email
City of Oldtown - Email	City of Ponderay - Email
City of Priest River - Email	City of Sandpoint - Email
City of Spirit Lake - Email	Coolin Sewer District - Email
Coolin-Cavanaugh Bay Fire District - Email	Drainage District #7 - Email
East Bonner Library - Email	East Priest Lake Fire District - Email
Ellisport Bay Sewer - Email	Garfield Bay Water & Sewer District - Email
GEM STATE MINER - U.S. Mail	Granite Reeder Water & Sewer District - Email
Idaho Department of Environmental Quality (DEQ) - Email	Idaho Department of Fish & Game - Email
Idaho Department of Lands - CDA - U.S. Mail	Idaho Department of Lands - Coolin - Email
Idaho Department of Lands - Navigable Waters & Mining - Email	Idaho Department of Lands - Sandpoint - Email
Idaho Department of Water Resources - IDWR - Email	Idaho Transportation Department (Aeronautics) - U.S. Mail
Idaho Transportation Department- District I - Email	Independent Highway District - Email
Kalispel Bay Sewer & Water - U.S. Mail	Kootenai-Ponderay Sewer District - Email
KPBX-FM 91 SPOKANE PUBLIC RADIO - U.S. Mail	KSPT-KPND-KIBR RADIO - U.S. Mail
Laclede Water District - Email	Lake Pend Oreille School District, #84 (Admin Office) - Email
Lake Pend Oreille School District, #84 (Transportation) - Email	Lakeland Joint School District, #272 - Email
Lakes Highway District - U.S. Mail	Little Blacktail Ranch Water Association - U.S. Mail
North of the Narrows Fire District - Email	Northern Lights, Inc. - Email
Northside Fire District - Email	Outlet Bay Sewer District - Email
Panhandle Health District - Email	Pend Oreille Hospital District - Email
Priest Lake Public Library District - Email	Priest Lake Translator District - Email
Sagle Valley Water & Sewer - Email	Sam Owen Fire District - Email
Schweitzer Fire District - Email	SELKIRK ASSOCIATION OF REALTORS - U.S. Mail
Selkirk Fire, Rescue & EMS - Email	Selkirk Recreation District -Email
Southside Water & Sewer District - Email	Spirit Lake Fire District - Email
Spokesman-Review - U.S. Mail	State Historical Society - Email
Swan Shores Sewer District - U.S. Mail	Syringa Heights Water Association - Email
Tamarack Village Water & Sewer - U.S. Mail	Timber Lake Fire District - Email
Trestle Creek Sewer District - Email	U.S. Army Corps of Engineers - Email
U.S. Fish & Wildlife Service - Email	U.S. Forest Service - U.S. Mail
West Bonner County Cemetery District - Email	West Bonner County School District, #83 - Email
West Bonner Library - Email	West Bonner Water & Sewer District - Email
West Pend Oreille Fire District - Email	West Priest Lake Fire District - Email