



## 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](mailto:planning@bonnercountyid.gov) - Web site: [www.bonnercountyid.gov](http://www.bonnercountyid.gov)

January 21, 2025

Robert Custer  
34754 Highway 41  
Oldtown, ID 83822

Vertical Bridge REIT LLC  
Dbas The Towers LLC  
750 Park of Commerce Dr., Ste 200  
Boca Raton, FL 33487

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

Encl: (1) File CUP0012-24 Hearing Examiner Approved Site Plan

Dear Applicant,

The Bonner County Hearing Examiner, during the allowed 5 business days following the January 15, 2025, Hearing, approved the above referenced application with conditions. The Hearing Examiner found that it is 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.

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### Conclusions of Law:

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**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 in BCRC Title 12, Chapter 2, Sub-chapter 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. Examiner Rucker further adopted the Findings of Fact and Conclusions of Law as set forth in the Staff Report and directed 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.

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## Findings of Facts:

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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.
10. Per 47 U.S.C. Sect 332(c)(7)(B)(i)(II)- (i)The regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof-
  - I. shall not unreasonably discriminate among providers of functionally equivalent services; and
  - II. shall not prohibit or have the effect of prohibiting the provision of personal wireless services.
11. Verizon will be the Anchor Tenant for the proposed unmanned wireless telecommunications facility.
12. Per the Biwabkos Consultants, LLC, Vertical Bridge, ID-5108 Fish Creek/Verizon FISH-CREEK Site, SCANNER DRIVE TEST REPORT, dated 08/15/2024, the proposed coverage area shows a significant gap in Verizon service of approximately 3 miles along Highway 41 as well as the rural area around the proposed area. Low, Mid and High band do not provide acceptable quality coverage for any of the carriers in the area South of Newport.
13. The FCC is required by the National Environmental Policy Act of 1969, among other things, to evaluate the effect of emissions from FCC-regulated transmitters on the quality of the human environment.
14. EMI emissions are regulated by the FCC per 47CFRPart15.
15. A new tower construction requires:
  - Compliance with FCC rules implementing NEPA, which includes separate procedures for
    - ESA; and,
    - NHPA (including Section 106).
16. The FCC treats the construction and registration of towers and facilities intended to host FCC licensed services as major actions that trigger agency

NEPA obligations. Consequently, FCC rules impose enforceable duties on licensees and applicants in order to meet the agency's NEPA obligations.

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## **Conditions of Approval:**

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### **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 and 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 its 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. (i.e. 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 airfields as set for in sub-chapter 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 applying for a 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.

Bonner County Revised Code, Section 12-262, provides an opportunity for affected persons to appeal Hearing Examiner decisions with the Planning Director within 28 days after the final written decision of the Hearing Examiner has been issued. Any such appeal must be submitted in accordance with the referenced code section no later than **5:00 p.m., [28 days from the date of the decision letter]**. **AN APPEAL SHALL BE ACCOMPANIED BY A FILING FEE IN ACCORDANCE WITH THE APPROVED FEE SCHEDULE. THE FEES ARE PAYABLE TO THE BONNER COUNTY PLANNING DEPARTMENT.**

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

Please contact the Planning Department if you have any questions.

Sincerely,



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Jacqueline Rucker  
Hearing Examiner