



Planning and Zoning Staff Report Maverick Towers – Easter, PH2017-77

Hearing Date: April 19, 2018

Development Services Department

<p><u>Applicant:</u> Maverick Towers - Nadine Bostwick</p> <p><u>Owner:</u> Howard & Shirley Easter</p> <p><u>Staff:</u> Dan Lister, Planner II (208) 455-5959 dlister@canyonco.org</p> <p><u>Tax ID:</u> R29514</p> <p><u>Current Zone:</u> “A” (Agriculture)</p> <p><u>2020 Comprehensive Plan:</u> Residential</p> <p><u>Lot Size/Project Area:</u> Lot Size: 1.98 acres Lease Area: 3,600 square feet</p> <p><u>Current Uses:</u> Residential</p> <p><u>Applicable Zoning Regulations:</u> CCZO §07-02-03, 07-07-05, §07-10-27</p> <p><u>Notification:</u></p> <ul style="list-style-type: none">• 2/26/2018: Agencies• 2/26/2018: JEPA• 3/22/2018: Publication• 4/2/2018: Property Owners• 4/10/2018: Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1) FCOs2) Project Information:<ol style="list-style-type: none">a) Letter of Intent;b) Land Use Worksheet;c) Site & Elevation Plans;d) Network and Coverage Analysis with FCC Guidelines regarding radio frequency emissions; ande) Towair data3) Maps<ol style="list-style-type: none">a) Small Air Photo;b) Vicinity;c) Contour;d) Zoning & Classification;e) Future Land Use;f) City of Nampa Land Use;g) Subdivision and Report;h) Case Map & Report; andi) Farmland & Report	<p><u>Request</u> Maverick Towers, on behalf of Howard and Shirley Easter, is requesting a Conditional Use Permit to allow the installation and operation of an unmanned telecommunications co-location facility. The subject parcel (R29514) is zoned “A” (Agricultural). The property is located at 4309 Happy Valley Road, Nampa; also known as the NE Quarter of Section 12, Township 2N, Range 2W; Canyon County, Idaho.</p> <p>The proposed facility includes a 110 foot tall monopole, utility rack, 336 square foot equipment shelter, and two (2), 100 square foot, future equipment shelter pads within a 3,600 square foot lease area. Chain-link fencing will be installed along the perimeter of the lease area. The project will use the existing property access by means of a 20 utility easement. See <i>Exhibit 2</i> for more details.</p> <p><u>Background</u> The subject parcel is 1.98 acres and zoned “A” (Agricultural). The parcel was created by an approved land division in 1995 (LS2002-533). The parcel currently contains an existing house and accessory structures dating back to 1967. The parcel in <u>not</u> located within a mapped floodplain (FIRM Panel No. 16027C0395F).</p> <p>The parcel is located within City of Nampa’s Impact Area. Nampa’s Comprehensive Plan designates the future land use of the parcel as “Medium Density Residential” (Exhibit 3f). See <i>City of Nampa’s comment letters (Exhibits 4a and 4b)</i>.</p> <p>Access to the subject parcel is from Happy Valley Road; a public road. Happy Valley Road is identified as a major collector road. See <i>comment letters from ITD, Exhibit 4d; Nampa Highway District, Exhibit 4c; and City of Nampa Engineering Division, Exhibit 4b</i>.</p> <p>The parcel is located within Nampa Highway District #1, Nampa Fire District, Nampa School District #131 and the irrigation district is Boise Project Board of Control.</p> <p>Majority of the surrounding properties are zoned “A” (Agricultural) with a total of seven properties in the general area zoned “R-1” (Single Family Residential, 1 acre minimum average lot size). Subdivisions within the general area include McFadden Estates Subdivision (created in 2005) and Kestrel Estates Subdivision (created in 2007). See <i>related maps (Exhibit 3)</i>.</p> <p><u>Analysis</u> <u>§07-02-03 Definitions:</u> Telecommunications Facility: Public or private cellphone, broadcast, communication or wireless internet towers and associated facilities.</p> <p><u>§07-10-27 Land Use Matrix</u> A telecommunications facility is allowed by Conditional Use Permit in the “A” (Agricultural) zone.</p>
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- 4) Agency Comments
- a) City of Nampa;
 - b) City of Nampa Engineering Division;
 - c) Nampa Highway District;
 - d) Idaho Transportation Department (ITD); and
 - e) Idaho Department of Environmental Quality (DEQ)
- 5) Large Aerial

Required Findings (CCZO §07-07-05)

The proposed use is consistent with multiple goals and policies of the 2020 Comprehensive Plan including but not limited to:

- Section 1 - Property Rights Policy No. 1: “No person shall be deprived of private property without due process of law”.
- Section 2 – Population Policy No. 1: “Provide the planning base for an anticipated population of 225,503 by the year 2015, and 242,908 by the year 2020. As the population increases, the need for dependable cellular and data service is needed.
- Public Services, Facilities and Utilities Policy No. 3- “Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”
- Public Services, Facilities, and Utilities Policy No. 5: “Encourage the co-location and joint use of utility corridors and facilities.”

Character/Setting: The proposed 110 foot monopole will be visible within the rural residential and agricultural setting. However, the setting has many tall utility poles along the public road and surrounding properties. The City of Nampa did not find the use to be an impact to the area; and therefore, does not oppose the use at the proposed location (Exhibit 4a).

According to Exhibit 2d, the project location was determined based on existing network locations and coverage needs. Existing coverage maps identified a coverage gap in the area. The facility will provide spacing for up to 4 carriers. The use will provide better coverage and data usage in the area.

Potential Neighborhood Impact: Telecommunications facilities generate radio frequency (RF) emissions. However, the Federal Communications Commission (FCC) regulates RF emissions. Each vendor that co-locates at the facility must demonstrate to the FCC that the use is consistent with FCC RF emission standards. See **Exhibit 2d** for *FCC Consumer Guide – Human Exposure to Radio Frequency Fields: Guidelines for Cellular and PCS Sites*.

Towair data was provided by the applicant demonstrating that the facility is over 5477 meters from the nearest airport and would not encroach into any airspace (Exhibit 2e). However, FAA approval will still be obtained prior to building permit submittal.

Necessary services: The unmanned facility does not require water or wastewater services or connection to existing drainage or irrigation.

Access: According to Exhibit 2c, the facility will use the existing access point as the residential use from Happy Valley Road. A 20 foot utility easement will be established for utility lines and access. City of Nampa Engineering Division requires the use to meet Nampa Highway #1 access requirements (Exhibit 4b). Nampa Highway #1 requires the facility to use the existing point of access and upgrade the access to meet Highway District Standards (Exhibit 4c). ITD (Exhibit 4d), Nampa Highway District and City of Nampa did not identify any impacts related to the use; and therefore, does not oppose the location or use of the facility.

Essential services: Comments were not received from schools or emergency services. However, the use will provide coverage within an area identified to have poor cellular coverage (Exhibit 2d). Therefore, the use will assist essential services (responders) by ensure cellular service and data coverage in the area.

Comments

Public Comments

On April 2, 2018, subject to Idaho Law §67-6512(b), property owners within 330 feet of the subject parcel were noticed. At the time this staff report was written, staff had not received any letters or comments from the public regarding the proposed telecommunications tower on the subject property.

Agency Comments

Affected agencies were notified on February 26, 2018. The following agency responded:

- Nampa Highway District (Exhibit 4c)
- City of Nampa (Exhibit 4a & 4b)
- ITD (Exhibit 4d)
- DEQ (Exhibit 4e)

Decision Options

The Planning and Zoning Commission may **approve** the conditional use permit as conditioned and/or amended; The Planning and Zoning Commission may **deny** the conditional use permit and direct staff to make findings of fact to support this decision; or

The Planning and Zoning Commission may **continue the discussion** and request additional information on specific items.

Recommendation

Staff recommends the Planning and Zoning Commission open a public hearing and discuss the proposed Conditional Use Permit. Staff recommends that the Planning and Zoning Commission **approve** this application subject to the conditions of approval as provided in the findings of fact, conclusions of law and order (Exhibit 1).



Canyon County Planning and Zoning Commission

Maverick Towers (Easter) - PH2017-77

Development Services Department

April 19, 2018

Findings of Fact, Conclusions of Law, Conditions of Approval and Order

Findings of Fact

1. The applicant, Maverick Towers, is requesting a Conditional Use Permit to allow the installation and operation of an unmanned telecommunications co-location facility. The subject parcel (R29514) is zoned "A" (Agricultural). The property is located at 4309 Happy Valley Road, Nampa; also known as the NE Quarter of Section 12, Township 2N, Range 2W; Canyon County, Idaho.
2. The subject property is 1.98 acres owned by Howard and Shirley Easter. The parcel contains residence use and related structures.
3. The subject property is currently zoned "A" (Agricultural). The parcel is not located within a floodplain (FIRM Panel No. 16027C0395F).
4. The Canyon County Comprehensive Plan Future Land Use designation is "Residential".
5. The subject property is located within Nampa's City Impact Area. Nampa's future use map designates the parcel as "Medium Density Residential".
6. The subject property is located within the Nampa Highway District #1, Nampa Fire District, Nampa School District #131, and Boise Project Board of Control Irrigation District.
7. The record includes all hearing documents, testimony, and documents within the case file CU-PH2017-77.
8. Notice of the public hearing was provided in accordance with CCZO §07-05-01 and Idaho Law §67-6512(b). Agency notice was provided on February 26, 2018. Newspaper notice was provided on March 22, 2018, property owners within 300' were notified by mail on April 2, 2018, and the property was posted on April 10, 2018.

Conclusions of Law

For this request, the Planning and Zoning Commission finds and concludes the following regarding the Standards of Review for Conditional Use Permit (§07-07-05):

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The subject property is zoned agricultural. A telecommunications facility is allowed by conditional use permit (CUP) in the agricultural zone.

Finding: The subject property is zoned agricultural and the proposed use is permitted in the Agricultural zone by conditional use permit. CCZO §07-10-27.

2. What is the nature of the request?

The applicant is requesting a Conditional Use Permit to allow the installation and operation of an unmanned telecommunications co-location facility. The proposed facility includes a 110 foot tall monopole, utility rack, 336 square foot equipment shelter, and two (2), 100 square foot, future equipment shelter pads within a 3,600 square foot lease area. Chain-link fencing will be installed along the perimeter of the lease area. The project will use the existing property access by means of a 20 utility easement.

3. Is the proposed use consistent with the Comprehensive Plan?

Conclusion: The proposed use is consistent with multiple goals and policies of the 2020 Canyon County Comprehensive Plan.

Finding: The proposed use is consistent with multiple goals and policies of the Comprehensive Plan including but not limited to:

- Section 1 - Property Rights Policy No. 1 - *“No person shall be deprived of private property without due process of law”*.
- Section 2 – Population Policy No. 1 – *“Provide the planning base for an anticipated population of 225,503 by the year 2015, and 242,908 by the year 2020. As the population increases, the need for dependable cellular and data service is needed.*
- Public Services, Facilities and Utilities Policy No. 3- *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”*
- Public Services, Facilities, and Utilities Policy No. 5 – *“Encourage the co-location and joint use of utility corridors and facilities.”*

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: As conditioned, the proposed use will not be injurious to other properties or property owners in the immediate vicinity. The proposed use will not change the essential character of the area.

Finding: The immediate vicinity is comprised of agricultural and rural residential uses. The proposed 110 foot monopole will be visible within the rural residential and agricultural setting. However, the setting has many tall utility poles along the public road and surrounding properties. Many mature trees are located at the front of the subject parcel surrounding the existing dwelling and accessory structures. The existing trees and residential structures will obscure views of the project site and lower half of the tower from Happy Valley Road. Upon review, City of Nampa did not find the use to be an impact to the area; and therefore, does not oppose the use at the proposed location (Exhibit 4a).

Towair data was provided by the applicant demonstrating that the facility is over 5477 meters from the nearest airport and would not encroach into airspace (Exhibit 2e). As conditioned, FAA approval must be obtained prior to building permit submittal.

Pursuant to Exhibit 2d, the location was determined based on poor service and data coverage in the area. The proposed use will provide better coverage to the area. Vendors co-locating onto the facility are required to meet applicable FCC requirements which include RF emission standards.

5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?

Conclusion: The unmanned telecommunications tower does not require water, sewer, irrigation, or drainage facilities. Power is in the vicinity and will be provided to the facility.

Finding: Maverick Towers has included a 20 foot easement to the telecommunications site for access and to bring power to the facility as required by Idaho Power.

6. Does legal access to the subject property for the development exist or will it exist at the time of development?

Conclusion: Legal access exists to the subject property via Happy Valley Road, a public road.

Finding: City of Nampa Engineering Division commented requiring the use meet Nampa Highway #1 access requirements (Exhibit 4b). Nampa Highway #1 requires the facility to use the existing point of access and upgrade the access to meet Highway District Standards (Exhibit 4c). The use is conditioned to meet Nampa Highway District access requirements.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: There will not be undue interference with existing or future traffic patterns.

Finding: The proposed telecommunications facility once constructed will be an unmanned facility with infrequent maintenance visits required. Traffic patterns will not be affected.

8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?

Conclusion: Essential services will be provided to accommodate the use.

Finding: Agencies were notified of the intended use. No response was received from the agencies regarding the proposed use. However, the use will assist essential services (emergency responders) by providing better cell service and data coverage within an area currently providing poor coverage.

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the subject property and the proposed use.
2. A building permit is required for construction of the facility. The telecommunications facility shall be constructed in substantial conformance with the site plans. (Exhibit 2c, as attached to the Findings of Fact, Conclusions of Law, Conditions of Approval and Order)
3. Prior to submittal of a building permit, FAA (Federal Aviation Administration) approval shall be submitted to the Development Services Department.
4. The applicant shall comply with applicable Nampa Fire District requirements. The applicant shall obtain a fire district permit prior to construction of the telecommunications tower. A copy of the permit shall be provided at the time of building permit submittal.
5. The applicant shall comply with applicable Nampa Highway District access requirements. The applicant shall obtain a permit prior to construction of the telecommunications tower. A copy of the permit shall be provided at the time of building permit submittal.
6. The lease area shall be enclosed by a minimum six foot chain link fence. Lighting, if installed, shall be downward facing and directed inward to the enclosure to minimize impact to the surrounding properties.
7. The lease area site and fencing shall be maintained and kept in good repair. The lease area and surrounding fence line shall be kept weed free and/or maintained with weeds being 6" in height or less.
8. The applicant shall not impede, disrupt, or otherwise disturb the existing irrigation structures on and adjacent to the subject property.

Order

Based upon the Findings of Fact, Conclusions of Law, Conditions of Approval and Order contained herein, the Planning and Zoning Commission **approves** Case # CU-PH2017-77, to allow the installation and operation of a telecommunications co-location facility on parcel R29514 located at 4309 Happy Valley Road, Nampa, Idaho.

APPROVED this _____ day of _____, 2018.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Richard Hall, Chairman

State of Idaho)

SS

County of Canyon County)

On this _____ day of _____, in the year 2018, before me _____, a notary public, personally appeared _____, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same.

Notary: _____

My Commission Expires: _____