



**Planning and Zoning Staff Report**  
**Maverick Towers – Van Wassenhove, PH2018-17**

Hearing Date: April 19, 2018

Development Services Department

<p><b><u>Applicant:</u></b> Maverick Towers - Nadine Bostwick</p> <p><b><u>Owner:</u></b> Paul Van Wassenhove</p> <p><b><u>Staff:</u></b> Dan Lister, Planner II (208) 455-5959 <a href="mailto:dlister@canyonco.org">dlister@canyonco.org</a></p> <p><b><u>Tax ID:</u></b> R34007</p> <p><b><u>Current Zone:</u></b> “A” (Agriculture)</p> <p><b><u>2020 Comprehensive Plan:</u></b> Commercial/Residential</p> <p><b><u>Lot Size/Project Area:</u></b> Lot Size: 4 acres Lease Area: 3,600 square feet</p> <p><b><u>Current Uses:</u></b> Residential</p> <p><b><u>Applicable Zoning Regulations:</u></b> CCZO §07-02-03, 07-07-05, §07-10-27</p> <p><b><u>Notification:</u></b></p> <ul style="list-style-type: none"><li>• 2/26/2018: Agencies</li><li>• 2/26/2018: JEPA</li><li>• 3/22/2018: Publication</li><li>• 4/2/2018: Property Owners</li><li>• 4/10/2018: Posting</li></ul> <p><b><u>Exhibits:</u></b></p> <ol style="list-style-type: none"><li>1) FCOs</li><li>2) Project Information:<ol style="list-style-type: none"><li>a) Letter of Intent;</li><li>b) Land Use Worksheet;</li><li>c) Site &amp; Elevation Plans;</li><li>d) Network and Coverage Analysis with FCC Guidelines regarding radio frequency emissions; and</li><li>e) Towair data</li></ol></li><li>3) Maps<ol style="list-style-type: none"><li>a) Small Air Photo;</li><li>b) Vicinity;</li><li>c) Contour;</li><li>d) Zoning &amp; Classification;</li><li>e) Future Land Use;</li><li>f) City of Middleton - Future Land Use;</li><li>g) Subdivision and Report;</li><li>h) Case Map &amp; Report;</li></ol></li></ol>	<p><b><u>Request</u></b> Maverick Towers, on behalf of Paul Van Wassenhove, is requesting a Conditional Use Permit to allow the installation and operation of an unmanned telecommunications co-location facility. The subject parcel (R34007) is zoned “A” (Agricultural). The property is located at 22245 Can Ada Road, Star; also known as the SE Quarter of Section 12, Township 4N, Range 2W; Canyon County, Idaho.</p> <p>The proposed facility includes a 110 foot tall monopole with utility rack 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 30 utility easement. See <b><i>Exhibit 2</i></b> for more details.</p> <p><b><u>Background</u></b> The subject parcel is 4 acres and zoned “A” (Agricultural). The parcel is an original parcel that was adjusted into its current configuration in 1992. The parcel currently contains an existing house and accessory structures dating back to 1977.</p> <p>The parcel is located within City of Middleton’s Impact Area. Middleton’s Comprehensive Plan designates the future land use of the parcel as “Special Area - Residential” (Exhibit 3f). The special area identifies potential development and insurance requirement due to flood hazards. See <i>City of Middleton’s comment letters (Exhibits 4a)</i>.</p> <p>A portion of the parcel is located within a mapped floodplain (FIRM Panel No. 16027C0259F, Zone AE). However, the facility is proposed within an area mapped as “X” (outside of the floodplain) and “2% chance flood hazard”. (Exhibit 3j). Floodplain development requirements do not apply within these areas.</p> <p>Access to the subject parcel is from Can Ada Road; a public road. Can Ada Road is identified as a minor arterial. See <i>comment letters from ITD, Exhibit 4d; and Canyon Highway District, Exhibit 4b</i>.</p> <p>The parcel is located within Canyon Highway District #4, Star Fire District, West Ada School District #2 and Middleton Mill Ditch Company (Irrigation District).</p> <p>The property is surrounded by properties zoned “A” (Agricultural). The nearest subdivisions are River Ranch Subdivision #1 and #2 (created in 2007) and Saddleman Ranch Subdivision (created in 2003). See <i>related maps (Exhibit 3)</i>.</p> <p><b><u>Analysis</u></b> <b><u>§07-02-03 Definitions:</u></b> Telecommunications Facility: Public or private cellphone, broadcast, communication or wireless internet towers and associated facilities. <b><u>§07-10-27 Land Use Matrix:</u></b> A telecommunications facility is allowed by Conditional Use Permit in the “A” (Agricultural) zone.</p>
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<p>i) Farmland &amp; Report; and j) FEMA FIRM-ette</p> <p>4) Agency Comments a) City of Middleton; b) Canyon Highway District; c) Idaho Transportation Department (ITD); d) Idaho Department of Environmental Quality (DEQ); and e) Star Fire District</p> <p>5) Large Aerial</p>	<p><u>Required Findings (CCZO §07-07-05)</u> The proposed use is consistent with multiple goals and policies of the 2020 Comprehensive Plan including but not limited to:</p> <ul style="list-style-type: none"> <li>• <u>Section 1 - Property Rights Policy No. 1:</u> <i>“No person shall be deprived of private property without due process of law”.</i></li> <li>• <u>Section 2 – Population Policy No. 1:</u> <i>“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.</i></li> <li>• <u>Public Services, Facilities and Utilities Policy No. 3-</u> <i>“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”</i></li> <li>• <u>Public Services, Facilities, and Utilities Policy No. 5:</u> <i>“Encourage the co-location and joint use of utility corridors and facilities.”</i></li> </ul> <p><u>Character/Setting</u> The proposed 110 foot monopole will be visible within the rural residential and agricultural setting. However, the setting has many tall utility poles and mature trees along the public road and surrounding properties. The City of Middleton 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).</p> <p>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 result will provide better coverage and data usage in the area.</p> <p><u>Potential Neighborhood Impact</u> 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. <i>See Exhibit 2d for FCC Consumer Guide – Human Exposure to Radio Frequency Fields: Guidelines for Cellular and PCS Sites.</i></p> <p>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.</p> <p><u>Necessary services:</u> The unmanned facility does not require water or wastewater services or connection to existing drainage or irrigation.</p> <p><u>Access:</u> According to Exhibit 2c, the facility will use an existing access location from Can Ada Road. A 30 foot utility easement will be established for utility lines and access. Canyon Highway #1 requires that the approach meet Ada County access standards (Exhibit 4b). ITD (Exhibit 4c) and Canyon Highway District did not identify any impacts related to the use; and therefore, does not oppose the location or use of the facility.</p>
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Essential services: 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. Star Fire District commented approving the use within the location (Exhibit 4e).

## **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:

- Canyon Highway District (Exhibit 4b)
- City of Middleton (Exhibit 4a)
- ITD (Exhibit 4c)
- DEQ (Exhibit 4d)
- Star Fire District (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 (Van Wassenhove) - PH2018-17

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 (R34007) is zoned "A" (Agricultural). The property is located at 22245 Can Ada Road, Star; also known as the SE Quarter of Section 12, Township 4N, Range 2W; Canyon County, Idaho.
2. The subject property is 4 acres owned by Paul Van Wassenhove. The parcel contains residence use and related structures.
3. A portion of the parcel is located within a mapped floodplain (FIRM Panel No. 16027C0259F, Zone AE). However, the facility is proposed within an area mapped as "X" (outside of the floodplain) and "2% chance flood hazard". Floodplain development requirements (CCZO §07-10-29) do not apply within these areas.
4. The Canyon County Comprehensive Plan Future Land Use designation is "Residential" and "Commercial".
5. The subject property is located within Middleton's City Impact Area. Middleton's future use map designates the parcel as "Special Area - Residential". The special area identifies potential development and insurance requirement due to flood hazards.
6. The subject property is located within the Canyon Highway District #4, Star Fire District, West Ada School District #2, and Middleton Mill Ditch Company Irrigation District.
7. The record includes all hearing documents, testimony, and documents within the case file CU-PH2018-17.
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 with utility rack 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 30 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 as well as properties north and south of the subject parcel.

Upon review, City of Middleton 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). However, the City requests that the owner convey 50 feet of right-of-way to the applicable road jurisdiction consistent with city ordinance. However, there is no nexus to require the conveyance because the use does not impact existing or future traffic patterns on Can Ada Road, nor does the use increase the population or housing density in the area to warrant the conveyance.

Towair data was provided by the applicant demonstrating that the facility is over 8 kilometers 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 30 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 Can Ada Road, a public road.

Finding: Canyon Highway #1 requires that the approach meet Ada County access standards (Exhibit 4b). The use is conditioned to meet Ada County Highway District access requirements prior to construction.

**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: The use will not impact existing essential services. The use will assist essential services (emergency responders) by providing better cell service and data coverage within an area currently providing poor coverage. Star Fire District commented approving the use.

**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). Related equipment shelters shall require building permit approval prior to construction.
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 Star 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 Ada County Highway District access and approach requirements per agreement with Canyon Highway District (Exhibit #4b). 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 so weeds are 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-PH2018-17, to allow the installation and operation of a telecommunications co-location facility on parcel R34007 located at 22245 Can Ada Road, Star, Idaho.

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

PLANNING AND ZONING COMMISSION  
CANYON COUNTY, IDAHO

\_\_\_\_\_  
Richard Hall, Chairman

State of Idaho )

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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: \_\_\_\_\_