



**Planning and Zoning Staff Report**  
**Maverick Towers – Vanscoy, CU2018-0024**

Hearing Date: February 7, 2019

Development Services Department

<p><b><u>Applicant:</u></b> Maverick Towers - Nadine Bostwick</p> <p><b><u>Owner:</u></b> Leonard and Kathleen Vanscoy</p> <p><b><u>Staff:</u></b> Dan Lister, Planner II</p> <p><b><u>Tax ID:</u></b> R32687</p> <p><b><u>Current Zone:</u></b> "A" (Agriculture)</p> <p><b><u>2020 Comprehensive Plan:</u></b> Commercial</p> <p><b><u>Area of Impact:</u></b> Caldwell</p> <p><b><u>Lot Size/Project Area:</u></b> Lot Size: 1.94 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>• 12/12/2019: Agencies</li> <li>• 12/12/2019: JEP A</li> <li>• 1/20/2019: Publication</li> <li>• 1/10/2019: Property Owners</li> <li>• 1/29/2019: 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) Site &amp; Elevation Plans;</li> <li>c) Neighborhood Meeting; and</li> <li>d) Coverage Analysis</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 Caldwell - Future Land Use;</li> <li>g) Subdivision;</li> <li>h) Farmland; and</li> <li>i) Soils</li> </ol> </li> <li>4) Agency Comments             <ol style="list-style-type: none"> <li>a) Canyon Highway District;</li> <li>b) Idaho Transportation Department (ITD); and</li> </ol> </li> </ol>	<p><b><u>Request</u></b> Maverick Towers, on behalf of Leonard and Kathleen Vanscoy, is requesting a Conditional Use Permit to allow the installation and operation of an unmanned telecommunications co-location facility. The subject parcel (R32687) is zoned "A" (Agricultural). The 1.94 acre property is located at 16338 Farmway Road, Caldwell; also described as the SW<sup>1</sup>/<sub>4</sub> of Section 9, Township 3N, Range 3W; Canyon County, Idaho.</p> <p>The proposed facility includes a 140 foot tall lattice tower with equipment within a fenced 3,600 square foot lease area. The project will use the existing property access by means of a 15' utility easement. See <i>Exhibit 2</i> for more details.</p> <p><b><u>Background</u></b> The subject parcel is zoned "A" (Agricultural). The parcel was created in 1977; and therefore, considered an original parcel. The parcel consists of a dwelling with outbuildings. The parcel is not located within a mapped floodplain (Zone X).</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.</p> <p><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> <p><b><u>§07-10-21(3) Note 1:</u></b> No structure shall exceed the zone height, except structures permitted up to 100 feet or a height greater as allowed by the federal aviation administration (FAA).</p> <p><b><u>Required Findings (CCZO §07-07-05)</u></b> 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>• <b><u>Section 1 - Property Rights Policy No. 1:</u></b> "No person shall be deprived of private property without due process of law".</li> <li>• <b><u>Section 2 – Population Policy No. 1:</u></b> "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.</li> <li>• <b><u>Public Services, Facilities and Utilities Policy No. 3-</u></b> "Encourage the establishment of new development to be located within the boundaries of a rural fire protection district."</li> <li>• <b><u>Public Services, Facilities, and Utilities Policy No. 5:</u></b> "Encourage the co-location and joint use of utility corridors and facilities."</li> </ul>
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c) Southwest District Health  
5) Large Aerial

Potential Impact

- Visibility: The 140 foot lattice tower will be highly visible to the nearby surrounding area as well as from a distance. The nearest towers approximately the same height or greater are 1) Vallivue Middle School (100' tall lattice tower, CU2018-16) approximately 5,300 feet east; and 2) Parcel R32823010 along HWY 55 (106' monopole, PH2013-48) approximately 15,000 feet east. However, the setting has many utility poles and transmission lines along the public roads and agricultural properties (see photos below). Canyon County does not have design regulations specific to telecommunications facilities.



- Health concerns: RF emissions related to telecommunication facilities are regulated by the Federal Communications Commission (FCC). Local government cannot deny a telecommunications facility based on health risks due to RF emissions (Telecommunications Act of 1996; 47 U.S.C. §332(c)). Each vendor that co-locates at the facility must demonstrate to the FCC that the use is consistent with FCC RF emission standards.

Character/Setting

The subject property is zoned “A” (Agricultural) and surrounded by properties of the same zone. The setting is a mix of rural residential and agricultural lands. Canyon County’s Comprehensive Plan designates the future land use designation as “commercial” which may provide future commercial uses around the intersection of Karcher Road and Farmway Road (Exhibit 3e).

The surrounding area includes three older subdivisions that are located near the subject parcel: 1) Drakes Landing Subdivision (four lot subdivision, 400 feet west of the project site); 2) Yoder 1<sup>st</sup> Subdivision (23 lot subdivision, 700 feet north of the project site); and 3) Maverick Subdivision (20 lot subdivision, 1,400 feet north of the project site).

The parcel is located within City of Caldwell's Impact Area. Caldwell's Comprehensive Plan designates the future land use of the parcel as "Low Density Residential" (Exhibit 3f). No comments were received from City of Caldwell regarding the conditional use permit request. Upon review of Caldwell's City Code, the use within residential zoning districts (1 acre lot sizes or less), would not be able to extend more than 100' in height and would require 140' setback from residential parcels (Caldwell City Code §10-02-11). According to §9-01-01 of the Canyon County Code, the requested use is not required to meet City of Caldwell Zoning Ordinance.

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

The application does include approval by the FAA. As a condition of approval, FAA must review and approve the facility. All conditions required by the FAA shall be met prior to commencement of use.

Necessary services: The unmanned facility does not require water or wastewater services or connection to existing drainage or irrigation. However, Southwest District Health requires review prior to construction to ensure the existing septic system is not impacted (Exhibit 4c).

Access: According to Exhibit 2b, the facility will use an existing access location from Farmway Road, a principal arterial. A 15 foot utility easement will be established for utility lines and access. Comments from ITD (Exhibit 4b) or Canyon Highway District #4 (Exhibit 4a) found that the use would not create traffic impacts.

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.

## **Comments**

### **Public Comments**

On January 10, 2019, subject to Idaho Law §67-6512(b), property owners within 420 feet of the subject parcel were noticed. No comments were received.

### **Agency Comments**

Affected agencies were notified on December 12, 2018. The following agency responded:

- Canyon Highway District (Exhibit 4a)
- ITD (Exhibit 4b)
- Southwest District Health (Exhibit 4c)

## **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 (Vanscoy) – CU2018-0024

Development Services Department

February 7, 2019

### 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 (R32687) is zoned “A” (Agricultural). The property is located at 16338 Farmway Road, Caldwell; also known as the SW Quarter of Section 9, Township 3N, Range 3W; Canyon County, Idaho.
2. The subject property is 1.94 acres owned by Leonard and Kathleen Vanscoy. The parcel contains a dwelling and accessory structures.
3. The subject parcel is not located within a mapped floodplain (Zone X on floodplain map, Firm Panel Number 16027C0375F).
4. The Canyon County Comprehensive Plan Future Land Use designation is “Commercial”.
5. The subject property is located within Caldwell’s City Impact Area. Caldwell’s Future Land Use map designates the parcel as “Low Density Residential”.
6. The subject property is located within the Canyon Highway District #4, Caldwell Rural Fire District, Vallivue School District #139, and Wilder Irrigation District.
7. The record includes all hearing documents, testimony, and documents within the case file CU2018-0024.
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 December 12, 2018. Newspaper notice was provided on January 20, 2019. Property owners within 420’ were notified by mail on January 10, 2019. The property was posted on or before January 29, 2019.

#### 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 140 foot lattice tower will be visible to the surrounding area. The nearest towers are 1) Vallivue Middle School (100’ tall lattice tower, CU2018-16) approximately 5,300 feet east; and 2) Parcel R32823010 along HWY 55 (106’ monopole, PH2013-48) approximately 15,000 feet east. However, the setting has many utility poles and transmission lines along the public roads and agricultural properties (approximately 100’ or less in height). Therefore, the tower would not significantly change the setting or character of the area.

The subject property is zoned “A” (Agricultural) and surrounded by properties of the same zone. The setting is a mix of rural residential and agricultural lands. Canyon County’s Comprehensive Plan designates the future land use designation as “commercial” which may provide future commercial uses around the intersection of Karcher Road and Farmway Road (Exhibit 3e). The surrounding area includes three older subdivisions that are located near the subject parcel: 1) Drakes Landing Subdivision (four lot subdivision, 400 feet west of the project site); 2) Yoder 1<sup>st</sup> Subdivision (23 lot subdivision, 700 feet north of the project site); and 3) Maverick Subdivision (20 lot subdivision, 1,400 feet north of the project site).

The parcel is located within City of Caldwell’s Impact Area. Caldwell’s Comprehensive Plan designates the future land use of the parcel as “Low Density Residential” (Exhibit 3f). No comments were received from City of Caldwell regarding the conditional use permit request. Upon review of Caldwell’s City Code, the use within residential zoning districts (1 acre lot sizes or less), would not be able to extend more than 100’ in height and would require 140’ setback from residential parcels (Caldwell City Code §10-02-11). According to §9-01-01 of the Canyon County Code, the requested use is not required to meet City of Caldwell Zoning Ordinance.

According to Coverage Analysis provided by the applicant (Exhibit 2d), the project site was chosen based on existing network locations, coverage needs and lease agreement. Existing coverage maps identified a coverage gap in the area. The facility will provide spacing for up to four (4) carriers. The result will provide better coverage and data usage in the area.

The application did not include approval by the FAA. Pursuant to Canyon County Code §07-10-21(3) Note 1, structures over 100 feet in height require approval by the Federal Aviation Administration (FAA). As a condition of approval, FAA must review and approval the facility. All conditions required by the FAA shall be met prior to commencement of use.

**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 15 foot easement to the telecommunications site for access and to bring power to the facility as required by Idaho Power. Southwest District Health requires review of the tower location to ensure the facility does not impact existing septic system.

**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 Farmway Road, a public road.

Finding: The parcel has existing access from Farmway Road. Farmway Road is a principal arterial. Canyon Highway District #1 finds the use will not impact the existing access subject to the submittal and approval of an approach permit (Exhibit 4a).

**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: Existing access to the property is from Farmway Road, a principle arterial. The use will access the site using the existing access by means of a 15' utility easement. Once constructed, the proposed telecommunications facility will be an unmanned facility requiring infrequent maintenance visits. Traffic patterns will not be affected by the use. Canyon Highway District and ITD do not oppose the requested use (Exhibit 4a & 4b).

**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 school facilities or irrigation facilities. The use will benefit emergency services (emergency responders) by providing better cell service and data coverage within the area.

**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 2b, as attached to the Findings of Fact, Conclusions of Law, Conditions of Approval and Order). The following shall be provided with the building permit submittal:
  - a. Southwest District Health approval;
  - b. FAA (Federal Aviation Administration) review and approval. All conditions required by the FAA shall be met prior to commencement of use; and
  - c. Canyon County Highway District permit approval.
3. The lease area shall be enclosed by a minimum six foot chain link fence. Fencing over seven feet in height requires a building permit.
4. All exterior lighting shall be downward facing and directed away from surrounding properties.

