

**BINGHAM COUNTY PLANNING AND ZONING COMMISSION
SECOND REASON AND DECISION**

APPLICATION OF: Conditional Use Permit and Variance Request for an existing monopole tower/wireless communication facility

PROPERTY OWNER: Darrell Marcus Oler

APPLICANT: Vision Wifi, Inc. (c/o Josh and Audrey Preston)

Requested Action: Vision WiFi Inc. (owned and operated by Josh and Audrey Preston), on behalf of property owner Darrell Marcus Oler, submitted a Conditional Use Permit Application to allow the placement of an existing 98-foot-tall monopole tower/wireless communication facility to remain on Mr. Oler's property in a Residential/Agriculture Zoning District and a Variance Application to sections of the Specific use Performance Standards of Bingham County Code Section 10-7-35.

The Applications were heard by the Planning and Zoning Commission on March 13, 2024 but the Commission tabled action to a subsequent meeting in order to allow the applicable canal company to meet and discuss the placement of the erected tower in relation to its water source. The Reason and Decision as well as the Minutes from March 13, 2024 Public Hearing are included herein for reference.

On May 20, 2024, a letter from the Blackfoot Slough Manager was received indicating the tower's location is acceptable. Therefore, the Conditional Use Permit and Variance Applications were timely for further consideration with testimony limited to the canal company's position.

Property Location: Approx. Location: 75A E Rich Lane, Blackfoot, ID. Parcel No. RP0447613, Township 3 South, Range 36 East, Section 6, consisting of approx. 3.20 acres

Applicable Regulations: Bingham County Comprehensive Plan, Dated November 20, 2018
Bingham County Zoning Ordinance 2012-08

Limited Public Hearing Date: July 10, 2024



I. PLANNING AND ZONING COMMISSION PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Planning and Zoning Commission:
 - a. Application;
 - b. Staff Report; and
 - c. Testimony presented prior to the Public Hearing which included:
 - (T-10) Spencer Larsen, Blackfoot Slough Manager
 - (T-11) Bingham County Surveyor;
 - (T-12) Bingham County Public Works; and
 - (T-13) Idaho Department of Environmental Quality.
2. After the Staff Report was presented, Commissioner Adams sought clarification on the statement provided by Mr. Oler and Vision Wifi, Inc. to if the use of the tower was temporary for 180 days or if it was if/when the tower is no longer necessary that the tower be taken down to which Assistant Director/Lead Planner Jackman agreed it was the later.
3. Applicant Vision Wifi, Inc., represented by Mr. Josh Preston, voiced from the audience he had no new information to add to the record and declined testifying on behalf of the Application. Chairman Aullman ensured the Commissioners didn't have any questions for the Applicant and testimony was requested from those in attendance.
4. With no testimony being received, the Public Hearing portion for this item was closed.
5. The Commission moved to discussion where Commissioner Bingham stated the request was straight forward and there was no further discussion or concerns offered by the Commissioners thereafter.

II. REASON

The Planning and Zoning Commission found:

1. the Applicant and the property owner failed to provide information if the subject Canal Company had been contacted regarding the placement of the existing tower in a location that will not meet Bingham County Code, Section 10-6-5, *Setback from Waterways* and if the Canal Company would be willing to approve a lesser setback than the required 50 feet from the high-water mark at the March 13, 2024 Public Hearing and therefore the Application was tabled for additional information; and
2. When questioned, Spencer Larsen, Blackfoot Slough Manager, provided testimony on behalf of the Board of the Blackfoot Slough who considered the location of the internet and communications tower near the Blackfoot Slough on the Oler property South of Rich Lane and East of Blackfoot and stated the tower is approximately 43 feet from the water with a guy wire approximately 38 feet from the water. This location should give the Blackfoot Slough sufficient room to access the canal with equipment if necessary for maintenance and

operations. The testimony concluded with the Board of the Blackfoot Slough does not object to the location of the tower so far as their easement is concerned; and

3. with the Blackfoot Slough's written permission to be closer than 50 feet to the high-water mark of the waterway, Bingham County Code, Section 10-6-5, *Setback from Waterways*, has been met.

III. DECISION

Based on the record, Commissioner Bingham moved to approve the request by Darrell Marcus Oler and Vision Wifi, Inc. for a Conditional Use Permit to allow a 98' monopole/wireless communication facility located on his property at approx. 75A E Rich Lane, Blackfoot, ID, in a Residential/Agricultural Zoning District subject to the following condition:

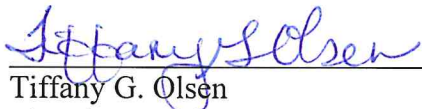
1. to grant a variance for all regulations under 10-7-35 due to undue hardship for the reason of the previous construction of this tower with a special regulation that they apply for and obtain a Building Permit; and
2. in the event the tower is no longer required, Vision Wifi will remove it within 180 days of cessation.

Commissioner Adams seconded the motion. Commissioners Bingham, Adams, Butler, Carroll, Jewett, Johns, and Jolley voted in favor and the motion carried.



William Aullman, Chairman
Bingham County Planning and Zoning Commission

July 25, 2024
Date



Tiffany G. Olsen
Planning & Development Director

July 25, 2024
Date