

**YAKIMA COUNTY
OFFICE OF THE HEARING EXAMINER**

In the matter of the application by)	File No. CUP2023-00021/SEP2023-00011
)	
Amos Gamache Farms LLC)	
Allen Koreis with Vertical Bridge LLC)	HEARING EXAMINER DECISION
)	
For a Type 3 Review of a 115' Wireless)	
Communication Tower in the AG Zoning)	
District off of McKinley Road)	
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I. INTRODUCTION.

On April 17, 2023, the Yakima County Public Services Department: Planning Division received a conditional use permit application from Allen Koreis on behalf of Vertical Bridge LLC to install a 115' monopole with a 10' lightning rod within a 50' x 50' fenced compound. T-Mobile antennas will occupy the top rad center. An open record hearing on the application was conducted on July 20, 2023. The application was presented at the hearing by Ingrid Lujan on behalf of Yakima County. The applicant was represented by Joel Aro of Powder River Development Services. No members of the public attended the hearing either in person or on the MS Teams on-line streaming service.

II. SUMMARY OF DECISION.

Because the application to establish a wireless communication facility and tower is supported by evidence and analysis allowing favorable consideration of the application under the Unified Land Development Code (ULDC) 19.30.80 and 19.18.490, the Administrative Official recommends Approval of Graham Gamache (Amos Gamache Farms) and Allen Koreis (on behalf of Vertical Bridge, LLC.) application, subject to conditions to assure compliance with **Horizon 2040** and pertinent development criteria, standards and regulation.

III. FINDINGS

Based on the application and a review of the pertinent provisions of *Horizon 2040* (The Yakima County Comprehensive Plan) and the Yakima County Code, including the Unified Land Development Code (Title 19 YCC, referred to as the "ULDC"), the Hearing Examiner makes the Findings set out in this Section III. Any finding more properly determined to be a conclusion is deemed to be such.

1. PROPERTY INFORMATION:

Zoning Designation:	Agriculture (AG)
Future Land Use Designation:	Agricultural Resource
Subject Parcel Number(s):	191136-23001
Property Acreage:	75.72 acres

Property Location: The subject parcel is located on the east side of McKinley Road, approximately ¼ of a mile north of the intersection of McKinley Road with Branch Road, and about 3.3 miles south of the City of Wapato.

Property Owner: Graham Gamache with Amos Gamache Farms Inc

Mailing Address: 2131 Fort Road
Toppenish, WA 98948

Applicant/Agent: Allen Koreis
On behalf of Vertical Bridge LLC

Mailing Address: 2606 67th Way NW
Olympia, WA 98502

Applicant/Agent: Joel Aro
With Powder River Development Services

Mailing Address: 5927 California Ave SW
Seattle, WA 98136

2. PROPERTY DESCRIPTION:

The subject property is rectangular in shape and is currently about 75.72 acres in size within the Agricultural (AG) zoning district. The parcel does not appear to have previously been subdivided. The parcel is currently being used for agricultural purposes. McKinley Road, a County maintained gravel-surfaced road runs along the west property line. The parcel contains three small residential structures in the southwest corner. The Assessor lists two of these homes dating from the 1930's with the third dating from the 1920's. The east, west, and north side of the property borders Yakama Nation Tribal land. The property is surrounded by land that is currently in agricultural production. Properties to the northwest contain single-family residential units.

3. PROJECT DESCRIPTION:

The applicants are proposing to establish a new wireless communication facility along the southern property line of the parcel. The wireless tower will be 115' within a 50' x 50' fenced compound. In addition, the tower will include a 10-foot lightning rod. T-Mobile antennas will occupy the top rad center. The applicants are also proposing to store ground equipment within the leased area. Power and fiber will be brought to the site along the existing access road. Access to the wireless tower will be via a 20' wide easement.

The facility is proposed to operate 24 hours a day, seven days a week. The applicants are proposing two new gravel parking spaces. A technician will visit the site for maintenance by 1-2 vehicle trips per month.

4. ZONING AND COMPREHENSIVE PLAN DESIGNATION:

The site is within the Agriculture (AG) zoning district, and within the Agricultural Resource designation of the Yakima County Comprehensive Plan (Horizon 2040). "The purpose of the Agriculture (AG) district is to preserve and maintain areas for the continued practice of agriculture by limiting the creation of small lots, permitting only those new uses that are compatible with

agricultural activities, protection of agricultural lands of long-term commercial significance, and providing measures to notify and separate especially sensitive land uses from customary and innovative agricultural land management practices. The AG district implements the Comprehensive Plan that calls for the preservation of agricultural lands.” (YCC 19.11.010(1)(b)).

Surrounding parcels are either within the Agriculture (AG) zoning district or within Yakama Nation Tribal Land jurisdiction and vary in size from 70.45 acres to 2.58 acres in size. Parcels to the west, south, and east are within the Yakima Nation boundary. The area is generally in agricultural production with pockets of smaller residential lots.

Horizon 2040 Goals and Policies that support a communication tower and associated findings are set forth as follows:

POLICY NS 6.5: Encourage new telecommunications towers to be located and designed to minimize visual and land use impacts.

As proposed, the tower is to be located at the northeast corner of the subject parcel. The surrounding parcels are currently in active agricultural produce with orchards. According to the SEPA checklist, the applicants are proposing a grey tower that will blend into the sky as much as possible. The proposed tower height is the minimum necessary to fill the coverage gap and provide adequate service in the area. The facility will be fenced with a 7’ chain-link fence. The new communication facility is unlikely to impact the agricultural activity on these parcels.

GOAL UT 18: Promote reliable and cost-effective telecommunication systems to facilitate communication among members of the public, public institutions, and business.

According to the submitted application and statements made at the hearing, this proposed facility will meet T-Mobile coverage objectives to provide excellent outdoor, in-vehicle, and in-building wireless coverage, improving their existing wireless network infrastructure. In particular, the facility will close a significant cell phone coverage gap in the area.

POLICY UT 18.2 Minimize visual impacts when authorizing the siting of new telecommunication facilities by requiring low visibility technology, including:

- *Reduced heights;*
- *Low mass/slender profile poles;*
- *Use of existing towers and buildings;*
- *Co-locating multiple users on a single site/facility; and,*
- *Requiring removal of abandoned telecommunication sites when new replacement site approvals are authorized.*

The tower itself is proposed to be a monopole, which will minimize visual impacts. The development standards of YCC 19.18.490 require towers and support structures to be removed within a year of ceasing use or operation.

5. HEARING EXAMINER JURISDICTION:

The proposal is subject to the ULDC. (Title 19 YCC). According to YCC 19.01.070(3), a “communication tower” is defined as “any tower, pole, mast, whip or antenna or any combination thereof used for transmitting electronic communication through the air. This definition includes towers erected for use in the amateur radio service.”

Per YCC Table 19.11.010-2, the maximum building height in the AG zoning district is not specified. YCC 19.18.490(1) defines the levels of review for communications towers that are located in zoning districts with height limitations. YCC 19.18.490(2)(c) states that “Towers that are 100 feet or greater in height shall be subject to Type 3 review.” As the proposed tower is over 100 feet in height, it is subject to Type 3 review.

Type 3 applications are quasi-judicial actions which require an open record hearing by the Hearing Examiner. The Examiner’s written decision constitutes the final decision. Public notice will be provided on Type 3 actions. YCC 16B.03.030(1)(c).

6. NOTICE OF APPLICATION:

A Notice of Application, Notice of Completeness, Notice of State Environmental Policy Act (SEPA) Environmental Review, and Notice of Public Hearing and Threshold Determination – Determination of Non-Significance (DNS) was mailed to adjoining property owners within 300 feet of the property and to agencies having jurisdiction or interest in the proposal on May 17, 2023, with the comment period ending on May 31, 2023.

The Final DNS was issued on June 23, 2023.

SEPA and hearing notice were provided in accordance with the applicable ordinance requirements in the following ways:

Notice of Application/Notice of Completeness/Notice of Environmental Review/Threshold Determination/	
Notice of Public Hearing:	May 17, 2023
Publishing of SEPA Threshold Determination and Hearing	
Notice in the Yakima Herald Republic:	May 17, 2023
Issuance of SEPA Final Determination and Notice of Hearing:	June 23, 2023
Posting of hearing notice on the property:	July 3, 2023

7. COMMENTS:

No comments were received during the comment period.

8. ENVIRONMENTAL REVIEW:

The Yakima County SEPA Responsible Official conducted a review of the application under the provisions of SEPA under County File Number SEP2023-00011. A Final DNS was issued on June 23, 2023.

9. REVIEW CRITERIA AND THEIR APPLICATION TO THE PROPOSAL:

a. YCC ULDC 19.30.080(7) Application Review Procedures

For Type 3, the Administrative Official is charged to prepare written findings and conclusions stating specific reason, upon which the decision or recommendation to approve, approve with conditions or deny the application is based. The minimum criteria required to be considered under ULDC 19.30.080(7) are set out and analyzed in turn below.

- i. The present and future needs of the community will be adequately served by the proposed development and the community as a whole will be benefited rather than injured;*

The proposed tower height is the minimum necessary to fill the coverage gap and provide adequate service in the area. Additionally, the proposed height allows improved public safety and first responder service via e-911. The proposed location of the tower allows for the least visually intrusive location on the parcel.

- ii. The proposed use is compatible with neighborhood land uses, the goals, objectives and policies of the Comprehensive Plan, and the legislative intent of the zoning district;*

No public comment was received indicating any local concerns about compatibility. The County's regulations addressing the design and placement of the tower are intended to promote the compatibility of the proposed use with surrounding land uses. The goals, objectives, and policies of the comprehensive plan and the intent of the zoning district are discussed in Section 4 above.

- iii. The site of the proposed use is adequate in size and shape to accommodate the proposed use;*

The subject 75.72-acre parcel is large enough to accommodate the 2,500-square-foot lease area and access easement.

- iv. All setbacks, spaces, walls and fences, parking, loading sitescreening, landscaping, and other features required by this Title;*

Section 9c below under the "YCC ULDC 19.10.040 General Development Regulations" reviews the application of these standards to the proposed tower. According to Yakima County Code 19.21 Sitescreening and Landscaping, AG parcels do not require sitescreening or landscaping.

- v. The proposed use complies with other development and performance standards of the zoning district and this Title;*

Sections 9b. YCC ULDC 19.18.490 "Towers" and 9c. YCC ULDC 19.10.040 General Development Regulations" below reviews the application of these standards to the proposed tower.

- vi. *The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use;*

The site is accessed off McKinley Road, which is a county gravel roadway. The facility is an unmanned facility that will receive monthly visits from a field technician to check on the condition and status of the tower and associated equipment. The Yakima County Roads Department stated that they have no concerns for off-site impacts to the transportation system from this type of land use. Therefore, in the absence of any evidence to the contrary, the existing facilities are adequate for the proposed use.

- vii. *The proposed use will have no substantial adverse effect on abutting property or the permitted use thereof;*

As part of the Type 3 conditional use permit process, neighboring property owners within 300' of the subject property were notified of the project, as were various agencies. No comments were received from the neighboring residences. Provided all of the conditions of the decision are met, the proposed expansion will have no substantial adverse effect on abutting properties.

- viii. *In the case of residential uses, the housing density of the development is consistent with the existing zoning densities, or the Comprehensive Plan, and that all other aspects of the development are consistent with the public health, safety, and general welfare for the development and for adjacent properties...*

The proposed communication tower facility does not involve residential development. Provided the conditions of the decision are met and the project conforms to the application material, the project will be consistent with the health, safety, and general welfare of the area.

- ix. *The development complies with all criteria in Chapter 19.18 applicable to the proposed use, unless otherwise administratively adjusted. The following provisions govern the placement of towers and support structures, as outlined in YCC 19.18.490:*

The next section assesses Ch.19.18 YCC review criteria and related findings.

b. YCC ULDC 19.18.490 "Towers"

The following provisions govern the placement of communication towers and support structures as defined in Section 19.01.070:

- i. Towers and support structures that are located in the AG zoning district (which has no height limitation) but are taller than 100 feet are subject to Type 3 review.
- ii. *Setbacks. All towers and items affixed thereto, guy wires, or supports shall meet the setback standards of the zoning district in which they are located. Greater setbacks may be required by the Reviewing Official.*

The proposed location of the communication tower lies outside of the required setbacks of the AG zoning district.

iii. *Visual Compatibility. With consideration to engineering and structural requirements, towers shall be subject to the following visual compatibility standards:*

(a) Location. Towers, rotors/turbines, and antenna should reflect the visual characteristics of the structure to which it is attached, or the surrounding environment in which it is placed. This should be achieved through the use of colors and materials, as appropriate. When located on structures such as buildings or water towers, the placement of the antenna or rotor/turbine on the structure should reflect the following order of priority to minimize visual impact:

(i) A location close as possible to the center of the structure;

(ii) Along the outer edges or side-mounted; provided, that in this instance, additional means, such as screens, should be considered and may be required on a case-by-case basis; and

(iii) When located on the outer edge or side-mounted, be placed on the portion of the structure less likely to be seen from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

(b) Design. To the extent that there is no conflict with the color and lighting requirements of the Federal Communications Commission and the Federal Aviation Administration for aircraft safety purposes, transmission support structures shall be designed to blend in with existing surroundings to the extent feasible. This should be achieved through the use of compatible colors and materials, and alternative site placement to allow the use of topography, existing vegetation or other structures to screen the proposed transmission support structure from adjacent lands containing, in descending order of priority: existing residences, public parks and open spaces, and public roadways.

(c) Modifications. The requirements of Subsection 19.18.490(4) may be modified by the Reviewing Official to achieve greater levels of screening than that which would be available by using the stated setback during the review process.

According to the SEPA checklist submitted with the application materials, the applicants are proposing a grey tower that will blend into the sky as much as possible. The design of the monopole will be conditioned to not conflict with the color or lighting required of the Federal Communications Commission and the Federal Aviation Administration for aircraft safety and shall be designed to blend in with the existing surroundings to the extent feasible.

- iv. *Towers no Longer Operational. Towers and support structures shall be removed within a year of ceasing use or operation. Antenna shall be removed from support structures within one hundred eighty days after the antenna is no longer operational.*

Any approval is conditional on the removal of the antennas and tower should they discontinue being operational for the permitted purpose.

Personal Wind Energy Towers. Turbines on personal wind energy towers shall be designed,

- v. *Proximity to Roadways. Towers will be located not nearer than 50 feet from an edge of right-of-way or easement of a public or private road.*

The proposed location of the tower is greater than 50 feet from the Right of Way for McKinley Road, meeting this standard.

- vi. *Limit of Towers Per Parcel. No more than two towers, arrays, or per parcel in the AG zoning district shall be permitted.*

This application is for a single tower on the parcel.

- vii. *Equipment Storage. Support structures and towers may include an equipment enclosure, structure, shelter, cabinet, box, or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation, or auxiliary electricity generators.*

The applicants are proposing a 50' x 50' fenced compound that will also include accessory equipment.

c. YCC ULDC 19.10.040 General Development Regulations

The development standards that generally apply for the type of project being proposed are as follows:

- i. *Conformity with All Regulations Required: (YCC 19.10.040(1)) "Any development, structure, or part shall conform to all of the regulations specified in this Title for the situation and zoning district in which they are located in order to be authorized, erected, constructed, reconstructed, moved or structurally altered."*

This project complies with the standards of the AG Zoning District through project design and conditions of approval.

- ii. *Yards, Lots, Open Space and Off-Street Parking and Loading Spaces: (YCC 19.10.040(2)(a)) "Yards or lots created after the effective date of this Title shall meet at least the minimum requirements established by this Title and shall not be smaller than the minimum standards established in Chapters 19.10 through 19.18. The lot size, width, depth, shape and orientation shall be in accordance with the applicable zoning laws."*

Minimum yard size is defined by the required setbacks, plus any open space requirements. As proposed, this project will comply with the yard standards of YCC 19.10.040(2)(a).

- iii. Access Required: (YCC 19.10.040(3)) “All new development shall have a minimum of 20 feet of lot frontage upon a public road or be served by an access easement conforming to the dimensional requirements of Sections 19.23.040 and 19.23.050 to provide for access to the development. The approach location shall be reviewed by the County Engineer for compliance with YCC Chapter 10.08. Approach connections to other public roads are subject to review by the applicable agency. Verification of legal access and a valid road approach permit shall be required prior to final approval of any permit granted under this Title.”

The Transportation Division provided the following comments:

“Yakima County Roads has no record of a Road Approach Permit for the parcel associated with this project. Per title 10.08.020 and 19.10.040 (3) of the Yakima County code the applicant shall obtain a RAP from the Yakima County Transportation Division for all existing vehicle accesses to the county roadway system. The fact that the road approach application is in conjunction with a CUP must be disclosed to the applicant at the time of application. No future building permits can be issued without the completion and approval of a RAP.

SEPA - Yakima County Roads has no concerns for off-site impacts to the transportation system. Unmanned telecommunications facilities do not add to the daily average of vehicle trips on the surrounding public roads. Traffic to and from site will be intermittent.”

Staff Finding: The applicant will be required to obtain a Road Approach Permit (RAP) from the Yakima County Roads Department. If you have any questions, please contact the Yakima County Roads Department at (509)575-4040. The applicant will be required to provide proof of legal access via the access easement to the Planning Division.

- iv. Land Uses: (YCC 19.10.040(4)) “Uses allowed within a zoning district are listed as permitted, administrative or conditional uses in the Allowable Land Uses Table 19.14-1 within Chapter 19.14.”

Staff Finding: Table 19.14-1 refers to 19.18.490 for determining levels of review based on the zoning district and the height of the tower. In the AG Zoning District, a 100-foot communication tower is a Type 3 Review.

- v. *Building and Fire Safety Permits Required: (YCC 19.10.040(5)) “No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Building Official under RCW 19.27 and YCC Title 13. No building permit shall be issued except in conformity with this Title.”* The Yakima County Building and Fire Safety Division had the following comments:

“Based upon the information submitted, all new construction and modifications to existing structures require building permits. All construction is required to comply with all applicable provisions of the current adopted International Building Codes with Washington State Amendments and Washington State Energy Codes at time of building permit submittal.

Building permits and Building Codes are based upon the buildings use and construction type. A complete building code compliance plan review will be performed when construction drawings are submitted for building permits.

The proposed Cell Tower will require a building permit with Yakima County Building & Fire Safety. Please contact the building division at buildinginfo@co.yakima.wa.us or 509-574-2300.

FIRE: Based upon the information submitted, all new construction and modifications to existing structures and all fire safety systems require fire permits. All construction or change of use is required to comply with all applicable provisions of the current adopted International Fire Codes with Washington State Amendments and the current adopted Yakima County Ordinances. Fire Permits and Fire Codes are based upon the building's use and construction type."

All necessary Building and Fire Safety permits must be obtained as a condition of approval. The Building and Fire Safety Division can be contacted at (509) 574-2300.

- vi. *Setbacks, Easements and Right-of-Way: (YCC 19.10.040(6) & Table 19.11.010-2) Front setbacks from McKinley Road, designated a Local Access Road, shall have a structural setback of 50 feet from the centerline. According to YCC 19.18.490(4), towers shall meet the setback standards for the zoning district in which they are located. Primary structures within the AG Zoning District have a 10-foot interior side setback and a 10-foot rear setback from property lines.*

The proposed lease area and tower meet these setback requirements.

- vii. *Vision Clearance Triangles at Intersections and Driveways: (YCC 19.10.040(7)) "A vision clearance triangle shall be maintained at all driveways and curbcuts, and the intersection of an alley with a public street for vision and safety purposes. The vision clearance triangle shall measure 15 feet along the perpendicular street curb lines or pavement edge, or travel lane of the public street and 15 feet along the driveway or alley. The third side of the triangle shall be a straight line connecting the 15-foot sides described above. No sign or associated landscaping shall be placed within this triangle so as to materially impede vision between the heights of two and one-half and ten feet above the centerline grade of the streets."*

As a condition of approval, the applicant must ensure that a vision clearance triangle as described in YCC 19.10.040(7)(b) is maintained at the access point of the private easement and McKinley Road.

- viii. *Maximum Lot Coverage and Building Height: (YCC 19.10.040(8)(a) & Table 19.11.010-2) Building height is considered to be the vertical distance from grade plane to the average height of the highest roof surface. The maximum building height is intended to maintain building and structure heights that are compatible with the character and intent of the zoning district.*

Lot coverage is the percentage of the area of a lot covered by buildings, accessory structures, or other impervious surfaces. Maximum building height and the maximum lot coverage are not specified for the AG Zoning District in Table 19.11.010-2. Towers can exceed the listed height limit, subject to the appropriate level of review. As there is no specified maximum lot coverage, this project will not exceed those standards.

- ix. *Fences, Walls, and Recreational Screens: (YCC 19.10.040(9)) The provisions of YCC 19.10.040(9) "shall govern the location and height of fences and walls, to allow access to properties by utility employees and emergency response personnel and to maintain good appearance of residential areas and visual access along residential streets and between lots." In the AG Zoning District, all uses do not have a maximum fence height.*

The fencing proposed for this project is a 7' chain-link fence, meeting this standard.

- x. *Exterior Lighting: (YCC 19.10.040(10)) "Exterior lighting is regulated to minimize light pollution to neighboring properties and encourage true-color, full-spectrum light rendition in projects. Exterior lighting for all uses and signs shall be directed downward and otherwise arranged, fully shaded, screened, shielded, and of a design that results in the light being directed onto the site and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent or nearby residential use or interfere with the safe operation of motor vehicles."*

Figures 19.10.040-3 and -4 of the Yakima County Code contain examples of exterior lighting sources and fixtures. According to the application, no new lighting is proposed. The applicants must ensure that any exterior lighting installed for the proposal meets the requirements as outlined above and in 19.10.040(10).

- xi. *Floodplain Development: (YCC 19.10.040(11)) "A pre-application meeting and a Flood Hazard Permit application is required for all new development in floodplains in order to minimize and mitigate potential adverse impacts to property and infrastructure while reducing risks to public health and safety."*

The Building Division provided the following comment:

"Based on current FEMA mapping and GIS overlay, the entire parcel is outside the 100yr floodplain/floodway. Flood resistive materials and construction methods are not required."

The property is located outside of the FEMA Floodplain; therefore, no review is necessary.

- xii. *Stormwater Requirements: YCC 19.10.040(12) "is intended to ensure public and private development projects comply with the National Pollution Discharge Elimination System (NPDES) permit requirements under the Federal Clean Water Act (CWA) where applicable."*

Yakima County Water Resources provided the following comments:

"Ongoing Conditions:

* Stormwater must be retained on site.

* Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250.”

These are ongoing conditions of approval. For questions regarding stormwater information, contact the Water Resources Division at (509)574-2300.

d. YCC ULDC 19.22 Parking and Loading

According to YCC 19.22.020, no off-street parking or loading spaces shall be placed, constructed, located, relocated or modified after adoption of this Title without first receiving a development permit from the Reviewing Official. YCC 19.22.050(2) allows the Reviewing Official to make a determination to evaluate a proposed land use based closely on similar land uses listed in Table 19.22-2. The closest land use to communication towers that is listed in Table 19.22-2 is “Utility Services.” According to Table 19.22-2 “Utility Services” require one space for each 800 square feet of gross floor area. All off-street parking and vehicle storage must be in conformance with Ch. 19.22 YCC.

In the application, the applicants have proposed two parking spaces. However, in the SEPA checklist, the applicants have proposed one parking space. The material also states that there will be 1-3 trips per month. Due to the nature of the land use, one parking space is sufficient.

Parking facilities shall be surfaced with a minimum of screened gravel or crushed rock, or better. Parking must be graded and drained, so all surface water is disposed of on-site and any grading and drainage facilities are to be designed according to accepted engineering standards, YCC 12.10, and the Stormwater Management Manual for Eastern Washington.

e. YCC ULDC 19.20 Signs

According to YCC 19.20.030(1), “All on-premises signs are accessory uses and shall be subject to the same procedural and review requirements as the principal use, except that new signs accessory to existing or approved uses may be reviewed as modifications to existing or approved uses under Section 19.35.030.” All proposed signs are subject to the review procedures of Title 19 and the standards of Chapter 19.20, which include Table 19.20-1 Type of Signs Permitted, Table 19.20-2 Number of Signs Permitted, Table 19.20-3 Maximum Area per Sign Face, and Table 19.20-4 Sign Height and Setbacks.

The application states does not mention any signage. According to YCC 19.20.040(8), “directional, warning, or information signs or structures required or authorized by law, or by federal, state, county or city authority” are non-reviewed signs. Any signs of this nature would not require land use review. All other signs would need to meet the requirements of Ch.19.20 YCC.

f. YCC ULDC 19.25 Sewer and Water

According to YCC Table 19.25-1 and YCC Table 19.25-2, new structures in the AG zoning district require connection to either an existing public water system or an individual well and a County sewer system or an individual on-site septic system. Yakima Health District commented that they have no issues with the proposed project.

This proposal is for a 115-foot-tall wireless communication tower and facility on a 75.72 -acre parcel. The facility is proposed to be uninhabited, unplumbed, and unstaffed. As the water and sewer options under YCC Tables 19.25-1 and 19.25-2 are required only if a proposed structure requires potable water and sewage disposal, no additional water or sewer requirements are needed at this time.

10. CONSISTENCY ANALYSIS (YCC 16B.06.020)

As part of project review, the reviewing official will determine if a proposed project is consistent with Yakima County's applicable development regulations or, in the absence of applicable regulations, the adopted Yakima County Comprehensive Plan. Consistency should be determined in the project review process by considering four factors found in applicable plans and regulations (RCW 36.70B.040). They are as follows:

a. *The type of land use;*

A communication facility with a 115' tall tower is considered a Type 3 use in the AG zoning district. Type 3 uses are considered not generally appropriate throughout a zoning district and therefore require a Hearing Examiner review. With Type 3 uses, an open record public hearing is required to provide agencies and neighboring property owners with an additional opportunity to present issues or concerns that can be evaluated by the Hearing Examiner. No external comments on the proposal have been received. This land use has been reviewed for consistency with the surrounding area and can be determined consistent with the Comprehensive Plan and with Title 19, provided the conditions of approval are met.

b. *The level of development, such as units per acre or other measures of density;*

This proposal does not involve increasing residential density. The proposed communication facility will be within a 50' x 50' lease area on a lot that is currently 75.72 acres. This parcel is zoned AG and is primarily used for agricultural purposes. As proposed, the communication facility will be consistent with the Comprehensive Plan, the current development standards of the zoning district, and the special standards of YCC 19.18.490.

c. *Infrastructure, including public facilities and services needed to serve the development;*

The communication facility will access the county road via an access easement. As demonstrated in the findings above, the county road is adequate to serve the proposed development.

d. *The characteristics of the development, such as development standards.*

As appropriately conditioned, the character of the development will be consistent and compatible with applicable development standards and the purpose and intent of the AG zoning district.

IV. CONCLUSIONS.

1. The application materials with no comments received on the proposal include evidence and analysis that supports a conclusion that the proposed Land Use, if appropriately conditioned, is consistent with the identified Horizon 2040 Goal and Policies and sections of YCC Title 19.30.080.
2. Except, as otherwise expressly provided, a Reviewing Official is authorized by YCC Title 19 19.30.100 to impose conditions on an approval to assure compliance with Title 19 YCC and other relevant provisions of Yakima County Code. A set of conditions developed by County staff largely serves this purpose. Any approval should include those conditions, subject to adjustment based on the results of the open record hearing. Similarly, conditions that mitigate for material impacts identified in the Findings should also be included in the approval.
3. The Findings above and these Conclusions support approval of the CUP2023-00021/ SEP2023-00011 application.

V. RECOMMENDATION.

Based on the findings, analysis, and conclusions above, the application by Allen Koreis, on behalf of Vertical Bridge LLC, to establish the proposed wireless communication facility, which consists of a 115' tall unlit, monopole communication tower in a 50' x 50' fenced facility, as described in application CUP2023-00021 /SEP2023-00011 is APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

The following conditions must be met prior to the issuance of the Building Permits. Failure to comply with these conditions can result in the revocation of this permit.

Time Limit:

1. The conditions of approval must be completed within (3) three years of the date of the Hearing Examiner's decision. *Please note that the Hearing Examiner's decision and time limit pertains to this conditional use action authorized for this approved land use only and does not include timelines associated with other permits (for example building permits).* Failure to comply with all conditions will result in the revocation of this permit. The Hearing Examiner's Final Decision includes the following conditions and the above findings as described.

Building:

2. The applicants shall apply for all Building and Fire Life Safety permits for the proposed and existing structures. All permits for the proposed and existing structures must be issued, inspected, and finalized prior to occupancy. Please contact the Yakima County Public Services Department: Building and Fire Safety Division at (509) 574-2300.

Tower Standards:

3. The applicant shall ensure that the tower will reflect the visual characteristics of the surrounding environment in which it is placed, using colors and materials as appropriate, in accordance with YCC 19.18.490(7). Transmission support structures shall be designed to blend in with existing surroundings to the extent feasible, provided there is no conflict with FCC and FAA color and lighting requirements for aircraft safety purposes.
4. The applicant shall obtain all necessary local, state, and federal permits relevant to the construction and operation of the communication tower prior to commencement of construction.
5. The applicant shall ensure that the tower will not be located closer than 50 feet from the edge of the right-of-way of McKinley Road.
6. The applicants shall provide proof of legal access via the proposed access easement to the Planning Division.
7. Per YCC 10.08.020 and YCC 19.10.040(3) of the Yakima County Code the applicant shall obtain a Road Approach Permit (RAP) from the Yakima County Roads Department for all existing vehicle accesses to the county roadway system. Please contact the Yakima County Roads Department at (509)574-2300.

The following conditions must be met prior to commencement of use or Final Inspection. Failure to comply with these conditions can result in the revocation of this permit.

Misc.:

8. Fencing, walls, and recreational screens that are installed shall meet the requirements of YCC 19.10.040(9). Fences can be placed on or behind a property line and fence height include the fence and all attachments, including posts, barbed wire installed at the top of the fence, etc., but excluding ornaments 12 inches or less in height.
9. The applicants shall provide at least one gravel parking space for the proposed communication facility. This parking space shall be established prior to occupancy or commencement of use. The applicants shall ensure that the parking facilities are designed under YCC Table 19.22-3.
10. The owners, their grantees and assignees in interest will abide by the Compliance, Extension, Expiration and Reinstatement requirements as outlined in YCC 16B.07.050 (Attachment A). The applicants shall complete all required conditions, submit documentation that all conditions were met and request County inspection or review to determine that the requirements have been fulfilled within the timeframe specified in the decision and any authorized extensions.

The following are ongoing conditions that apply to the project for the life of the permitted use. Failure at any time to comply with these conditions can result in the revocation of this permit.

11. The project shall be completed in conformance with the project description and site plan submitted with the application referenced as file number CUP2023-00021/SEP2023-00011. Any changes may require a modification to this authorization. If changes are planned in the future,

please contact the Yakima County Public Services Department: Planning Division at (509) 574-2300 for assistance with the permitting process.

12. The applicants shall ensure that a vision clearance triangle as described in YCC 19.10.040(7)(b) is maintained at the access onto McKinley Road.
13. Exterior lighting shall be directed downward and otherwise arranged, shaded, screened, shielded, and of a design that results in the light being directed downward and of an intensity or brightness that does not reflect or cause glare or light intrusion into any adjacent residential use or interfere with the safe operation of motor vehicles.
14. Stormwater must be retained on site. Any natural drainageways must not be altered or impeded. Upland drainage, if any, must be conveyed through the property in accordance with criteria found at YCC 12.10.250.
15. Should the tower ever become non-operational, the tower and the support structures shall be removed within a year of ceasing use or operation. Antennas shall be removed from support structures within one hundred eighty days after the antenna is no longer operational.

DATED THIS 3RD DAY OF AUGUST 2023



PATRICK D.SPURGIN
HEARING EXAMINER *PRO TEM*