

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

APPLICATION OF: Modification to a Conditional Use Permit for an Existing Monopole Tower/Wireless Communication Facility

PROPERTY OWNERS: Vision Technology LLC
APPLICANTS: Vision WiFi, Inc. (c/o Josh and Audrey Preston)

Requested Action: Applicant, Vision WiFi, Inc., received a Conditional Use Permit with conditions by the issuance of the Planning and Zoning Commission's Reason and Decision on June 10, 2024, for the placement of an existing 98' monopole/wireless communication facility on property owned by Vision Technology, LLC, located at approximately 417 N 700 W, Blackfoot, ID. The Applicant requested that Condition No. 1 of the Reason and Decision be removed; it states, "to provide documentation confirming that the nearby Vision WiFi incorporated monopole tower wireless communication facility has been decommissioned and removed." The basis for the request is that the Applicant currently does not have ownership, legal access to, or equipment on the tower to be decommissioned and removed. The subject tower is located on property identified as 398 W 700 N, Blackfoot, ID, currently owned by Susan Richardson.

According to Bingham County Code Section 10-8-12, *Modification of Approved Permit*, a request may be made by the property owner and follow the same hearing procedures as defined in Title 10, Chapter 3.

Applicable Regulations: Bingham County Comprehensive Plan, dated November 20, 2018, and Bingham County Zoning Ordinance 2012-08, as amended

Public Hearing Date: August 14, 2025

I. PUBLIC HEARING RECORD AND INFORMATION

1. The following was reviewed by the Commission:
 - a. Application and materials submitted by the Applicant; and
 - b. Staff Report and supplemental maps, notice, and other materials.
2. At the Public Hearing, Planning and Development Services Director Tiffany Olsen presented the Staff Report for the Application. She reviewed the requested action and

acknowledged that before the Public Hearing, the Commissioners were provided the record of written testimony received, which included:

(T-1) Bingham County Surveyor submitted testimony in a neutral position stating no comments or concerns.

(T-2) Bingham County Public Works submitted testimony in a neutral position of the Application, stating they have no objections or concerns at this time.

(T-3) Susan Richardson, 398 N 700 W, Blackfoot, submitted testimony in a neutral position on the Application. A summary of her testimony is:

- She and her ex-husband were the owners of the parcel where the tower is conditioned to be removed from 2004 to 2024. However, she is the current sole owner of the parcel.
- She stated she suggested to Vision WiFi to have a 3rd party remove the tower, but that the suggestion was rejected and the tower has since been abandoned.
- Ms. Richardson requested that Vision WiFi be responsible for hiring a 3rd party to dismantle the tower, and once it is on the ground, she will proceed with disposal.
- If the decision is made that the existing tower must be taken down by, and no agreement is reached with Vision WiFi, she requests time to comply, as she doesn't have the equipment, expertise, or financial means to dismantle the communication tower.
- If it became her responsibility to remove it, she requested a deadline extension until April 2026 to ensure it can safely and legally be removed.

3. With no further questions from the Commission for Staff, testimony was given by (T-4) the Applicant, Joshua Preston, of 977 W100 N, Blackfoot, ID. Mr. Preston testified that Vision WiFi, Inc. does not have access to the subject tower, before, during, or after the divorce between Brian and Susan Richardson. Mr. Preston stated that Vision WiFi, Inc. did not put the tower up (that was done by Richardson Fabrication, which is a company owned by Brian Richardson, the former property owner), but that since the tower's erection, all of the equipment had been removed.

Chairman Adams stated he was at the original Vision WiFi, Inc. Conditional Use Permit Public Hearing and remembered talking through certain stipulations for approval of the Vision Technology tower. Chairman Adams questioned Mr. Preston at what point in time Vision WiFi had access to the property, and at what point was access no longer available? Mr. Preston replied that he didn't think that they had access, but couldn't remember at the point in time the Public Hearing was held. He added that Vision WiFi didn't have equipment on the Richardson pole at that time either. Mr. Preston clarified that if they did, the tower was not in operation because they had already constructed a new tower on the Hubler property. Mr. Preston then added that he was trespassed from the Richardson property and had to go to Court to resolve the issue. Chairman Adams questioned why Mr.

Preston failed to mention the trespass order during the Public Hearing in his testimony given at that time. Mr. Preston didn't have a response to that question, but added to his testimony that a lot of the issues came from the Richardson's divorce, which occurred after the Conditional Use Permit Public Hearing and placement of the condition.

4. With no further questions for the Applicant, Chairman Adams called for testimony from the public. There was no testimony provided in a position of support, neutral, or opposition. After Mr. Preston's testimony, the Public Hearing for the Application was closed.
5. Bingham County Civil Attorney Paul Rogers advised that one of the reasons the condition was placed in the first place was based on Bingham County Ordinance Section 10-7-35(F), which requires that abandoned and unused towers, if not used within 180 days, be removed. Mr. Rogers stated that the Commission discussed that in the original Public Hearing, and that is why it was added as a condition of approval.

Mr. Rogers said that it was his understanding that the misdemeanor charge against Mr. Preston had been dismissed, and that there may still be a Temporary Restraining Order or Civil Protection Order between Mr. and Ms. Richardson, which prevents access to the tower on the Richardson property. Mr. Rogers summarized that it would not be the Planning and Zoning Commission's authority to require Vision WiFi or Brian Richardson to remove the tower.

Mr. Rogers reviewed Bingham County Code Section 10-8-12(B) pertaining to a modification of an existing Conditional Use Permit and stated for the Commission that the Commissioners can only grant the modification and find that the condition should be removed, does it change the Plan, or does the Plan still remain consistent with the public, the general public health, safety, and welfare? Mr. Rogers encouraged the Commissioners to include in their discussion that Ms. Richardson is in control of the subject property and that under the existing Conditional Use Permit, the Commission does not have authority over Ms. Richardson or her property, which includes the abandoned tower.

6. Commission discussion included Commissioner Bingham, who stated that it seemed obvious that if Vision WiFi can't access the Richardson property, there's not much of a public nuisance or public hazard imposed on the Applicant on someone else's private property. Chairman Adams agreed, adding that if Vision WiFi doesn't have a lease for the tower on the Richardson property, it prevents access to the property, which supports the request to remove the condition. Commissioner Carter asked, because he wasn't a Commission member during the original proceedings, who owned the equipment on the tower? Chairman Adams advised that the tower was owned by the property owner, and the equipment and operation of the tower were leased by Vision WiFi.

II. REASON

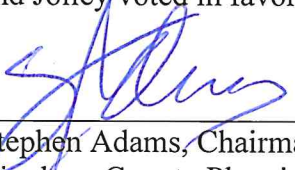
The Planning and Zoning Commission found:

1. the Applicant requested to modify a previously issued Conditional Use Permit following Bingham County Code Section 10-8-12; and
2. that Joshua Preston, on behalf of Vision WiFi, Inc., provided evidence that he lacks legal authority and permission to remove the monopole tower located on Susan Richardson's private property located at 398 N 700 W, Blackfoot, ID; and
3. it is appropriate to remove Condition No. 1 from Vision WiFi, Inc.'s Reason and Decision for a Conditional Use Permit dated July 10, 2024; and
4. the requested modification to the existing Conditional Use Permit, by removing Condition Number 1, is consistent with the provisions of the Comprehensive Plan and would not be a detriment or cause harm to the general public health, safety, or welfare.

III. DECISION

Based on the record, Commissioner Bingham moved to approve the request by Vision Technology LLC and Vision WiFi, Inc. for a modification to the Conditional Use Permit to remove Condition No. 1 of the Reason and Decision, *to provide documentation confirming that the nearby Vision WiFi Inc. monopoles Tower/Wireless Communication facility be decommissioned or removed*, located on Parcel No. RP0176308, at 419 N 700 W, Blackfoot, ID, in an Agricultural/Natural Resources Zoning District.

Commissioner Winder seconded the motion. Commissioners Bingham, Winder, Carter, Johns, and Jolley voted in favor. The motion passed.



Stephen Adams, Chairman
Bingham County Planning and Zoning Commission

9.5.25
Date