

City of Cle Elum
119 West First Street
Cle Elum, WA 98922



Phone: (509) 674-2262
Fax: (509) 674-4097
www.cityofcleelum.com

September 10, 2019

Following the August 20, 2019 open record public hearing for a proposed wireless communication tower, the City of Cle Elum Planning Commission reviewed and voted on September 3, 2019 on the outcome of the Conditional Use Permit (CUP-2019-002). Cle Elum Municipal Code (CEMC) 17.100.080(D) requires a notice of decision to be sent to the applicant, the applicant's representative, property owner, and parties of record within seven (7) days of the decision date. As a party of record to the Vertical Bridge proposed wireless communication tower, we have enclosed the notice of decision.

The complete record may be viewed at City Hall or online at: <http://cityofcleelum.com/city-services/administrative-services/public-notices/proposed-wireless-communication-facility/>

Lucy Temple
City Planner
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119 West First Street
Cle Elum, WA 98922



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September 10, 2019

Vertical Bridge Development, LLC
8880 Cal Center Drive, Ste #130
Sacramento, CA 95826

RE: Conditional Use Permit for proposed Wireless Communication Facility

Dear Applicant,

Your Conditional Use Permit (CUP) for the proposed unmanned wireless communication facility was denied by the City of Cle Elum Planning Commission on September 3rd. The denial is on the basis of zoning, as described in the enclosed document.

Kindest Regards,

A handwritten signature in blue ink, which appears to read "Lucy Temple". The signature is fluid and cursive.

Lucy Temple
City Planner

Enclosures

Cc: Cle Elum Planning Commission
Jay McGowan, Mayor
Cle Elum City Council
Robert Omans, Administrator/Building Official
Kathi Swanson, City Clerk

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CITY OF CLE ELUM
Conditional Use Permit / Variance
NOTICE OF DECISION

PROJECT: Vertical Bridge US-WA-5105 Cle Elum / T-Mobile SE09034J Cle Elum DT-VB, CUP-2019-002

APPLICANT: SAC Wireless on behalf of: Vertical Bridge Development, LLC and T-Mobile West LLC, 8880 Cal Center Drive, Suite 130, Sacramento, CA 95826

DESCRIPTION: Proposed unmanned Wireless Telecommunications Facility in City Owned parcel (CEMC 17.100). Site and Design Review (CEMC 17.76) for site development and construction. Conditional Use Permit (CEMC 17.16.030 - zoning, CEMC 17.80 - CUP) for a Conditional Use within the Residential zone.

LOCATION: East of 5th Street, Cle Elum, WA 98922
Parcel 621534, Map # 20-15-26050-2401
Parcel 950421, Map # 20-15-26050-2403

LOT DESCRIPTION: CD. 4304; CLE ELUM, HILLCREST ADDITION LOTS 1 & 2; BLOCK 24; CLE ELUM, HILLCREST ADDITION LOT 3, BLOCK 24

ZONING: Residential (CEMC 17.16)

SEPA: Checklist and DNS

APP. TYPE: Type III

PREPARED BY: Lucy Temple, Planner
(per September 3, 2019 Planning Commission decision)

DATE: August 10, 2019

DECISION: **CUP-2019-002 is denied on the basis of zoning.**

APPEAL: The appeal process for Type III decisions is found in CEMC 17.100.130. Appeals must be filed within 14 days of the decision issuance. Appeals shall be in writing and shall contain, at a minimum, the following information:
1. The case number assigned by the city and the name of the application. 2. The name and signature of the party or parties filing the appeal including an address and phone number of a contact person. 3. The specific aspects of the decision which are the subject of the appeal, the legal basis of the appeal based on adopted standards and policies, and the evidence relied on to prove the error. 4. The appeal fee as set forth by resolution of the city council.

FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR CUP-2019-002 & VAR-2019-001

Background information can be found in the August 6, 2019 Staff Report

- At the September 3, 2019 City of Cle Elum Planning Commission meeting, the Commission voted unanimously against the Conditional Use Permit (CUP-2019-002) for the SAC Wireless/Vertical Bridge proposed wireless communication facility. Note: *VAR decision N/A, SDR N/A (administrative)*.

Following are the Findings of Facts and Conclusions of Law related to the permit denial:

- The project is proposed within an area zoned Residential District (CEMC 17.16)
- Residential District zoning allows as a Conditional Use (CEMC 17.16.030(E)): *“Telephone exchanges, electric substations and similar installations for public service”*
- Other zones described in CEMC Title 17 Zoning include *“wireless communication facilities”*, as follows:

CEMC	Zoning District	Permitted/Cond. Use
17.24.030(4)	Old Town Commercial	Conditional Use*
17.28.030(3)	Entry Commercial	Conditional Use
17.34.010(L)	Business Park	Permitted Use
17.36.020(O)	Industrial	Permitted Use

**when not fronting on First St, and when installed on existing buildings and screened from direct view of adjacent streets*

- Therefore, the Planning Commission concluded that since the *“wireless communication facilities”* use is specifically stated in other City zones and not in the Residential District, wireless communication facilities were not intended to be placed in the Residential District. The Commission voted to deny CUP-2019-002 *“on the basis that the code is not clear that this is a permitted conditional use in a Residential zone.”*
- Furthermore, the Planning Commission did not vote on the project Variance (VAR-2019-001) on the basis that without an approved Conditional Use Permit the Variance was unnecessary.

Project permit process timeline for the proposed project:

- February 21, 2019:** Application for Pre-Application Review received
- March 13, 2019:** PREAP-2019-002, Pre-Application Review (CEMC 17.100.050)
- March 20, 2019:** PREAP-2019-002 meeting recap distributed (CEMC 17.100.050(D))
- April 19, 2019:** SEPA Checklist (application), Conditional Use Permit (CUP), Variance (VAR), and Site & Design Review (SDR) applications and payment received
- May 8, 2019:** Notice of Application¹ (CEMC 17.100.090(A))
 - Newspaper legal notices: May 9, 2019 & May 16, 2019
- May 14, 2019:** SEPA Checklist & DNS¹, SEPA-2019-002 (CEMC 15.28.200)
 - Newspaper legal notices: May 16, 2019 & May 23, 2019
- July 30, 2019:** Notice of Public Hearing¹ (CEMC 17.100.090(B))
 - Newspaper legal notices: August 1, 2019 & August 8, 2019
- August 6, 2019:** Staff Report issued on CUP, VAR, & SDR (CEMC 17.100.090(C))
- August 20, 2019:** Open Record Public Hearing, (CEMC 17.100.040(3))
- September 3, 2019:** Regular Planning Commission meeting, CUP-2019-002 deliberation and decision, (CEMC 17.100.090(E)).
- September 10, 2019:** CUP-2019-002 Written decision distributed, (CEMC 17.100.090(E))

¹Sent per CEMC 17.100.110(C) requirements.

HEARINGS AND PUBLIC MEETINGS

- August 20, 2019
- September 3, 2019

PLANNING COMMISSION

Agenda

August 20, 2019

6:00 p.m.

MAYOR
JAY MCGOWAN

CITY ADMINISTRATOR
ROBERT OMANS

CITY PLANNER
LUCY TEMPLE

CITY CLERK
KATHI SWANSON



119 W FIRST STREET
CLE ELUM, WA 98922

PLANNING COMMISSION
KERRY CLARK
DEBRA DAVIS
PAMELA HAWK
MATTHEW LUNDH
MATT FLUEGGE

CITIZEN ALTERNATE
VACANT POSITION

1. **Call to Order & Roll Call**
2. **Set Agenda**
3. **Adoption of Minutes**
 - 6 August 2019
4. **Announcements, Appointments, Awards, & Recognition**
5. **Business Requiring Open Hearings**
 - CUP-2019-002 & VAR-2019-001, SAC Wireless/Vertical Bridge Wireless Communication Facility
6. **New Business**
7. **Citizen Comments on Non-Agenda Items (limited to 5 minutes)**
8. **Public Appearances**
9. **Unfinished Business**
10. **Staff Report**
 - Lucy Temple, City Planner
11. **Report of Committees**
12. **Comments from Commissioners and/or Staff**
13. **Adjournment**

Next Regular Commission Meeting: September 3, 2019: (Shoreline Master Program hearing w/ Ecology)

CITY OF CLE ELUM
PLANNING COMMISSION MEETING
Meeting Minutes
20 August 2019 6:00

1. Roll Call and Call to Order

Commissioner Clark called the meeting to order at 6:00pm. All commissioners present.

Set Agenda

None.

2. Review of the minutes

Review minutes from August 6, 2019. No changes.

3. Announcements, Appointments, Awards, & Recognitions

None.

4. Business Requiring Open Hearing

CUP-2019-002 and VAR-2019-001 – Wireless/Vertical Bridge Wireless Communication Facility.

Commissioner Clark read aloud the hearing process and hearing rules, as well as the Commission's review limitations. Commissioner Clark requested Staff's overview of project procedure to date. Applicant Matt Grugan from Vertical Bridge (co-applicant) with SAC Wireless (co-applicant) in audience. Mr. Grugan presented the project to the Commission. Hearing opened at 6:50 pm. Commissioner Clark proceeded to request comments on the statements made by the Commissioners, each citing no conflicts of interest.

In response, the following members of the community stated:

- Michael Lancaster – 519 N Montgomery Ave, concerned that he read on facebook that someone on the board already made up their mind.
 - Commissioner Lundh responded that there were comments made online that he had made up his mind, which he stated were untrue.**
- Lynda Lien – 802 E 3rd St, stated Commissioner Lundh was co-founder of an internet marketing company who relies on the internet commented that his business would be benefitting from better coverage.
 - Commissioner Lundh stated that many small businesses use the internet to conduct business. Due to comment becoming discussion, Planner Temple advised the Commission did not need to discuss, but rather accept the comment and move on.**
- John Kavanagh – 312 W 3rd St, asked Commissioners whether there was any ex parte communication with any City employees promoting this project.
 - Commissioner Clark advised Mr. Kavanaugh to make the comment during the general hearing.*
 - Councilmember Steven Harper asked Commissioner Clark for a point of order.**

Commissioner Clark asked whether the Commissioners had done a site visit. All but Commissioner Davis had performed a site visit. Commissioner Clark opened hearing comments up to general comments.

- Patricia Preston – 906 W 2nd #105, Concerned about wind and fire, people meditate in the park. Discussed radio frequency in towns, desire to preserve land and view. Concerned about whether City is following the contract. Stated health problems, allergen like flu and would like to keep what we have.*

- 1 • Tim Reynolds – 208 W 3rd St, Discussed long-term studies on cell tower
2 radiation, health concerns and permissible distances from towers.
- 3 • James O'Reilly – South Cle Elum, Concerned with giving community away
4 without just, industry-standard compensation (\$100,000/year).
- 5 • Jim Eitemiller – 109 W 3rd St, Discussed his position on Council at time of land
6 donation, intent of donation. Impacts on efforts of community.
- 7 • Kent McCormack – 302 E 4th St, Stated concerns of distance to houses.
8 Reiterated information provided to City during comment period about effects of
9 towers. Discussed insurance Policy and listed some other companies' insurance
10 policies. And cited costs of Taylor Bridge Fire, asking who would pay if their
11 limits were reached.
- 12 • Kate Phillips Pritchard – 315 N Wright, Stated who Council represents. Discussed
13 stats of possible T-Mobile use in Cle Elum. Stated project profits to risks, and
14 stated tower should be 1500+ feet from residents.
- 15 • Greg Barr – 407 E 3rd St, Discussed tower locations. Stated concern with property
16 donation, amount of green spaces in City, and stated concern with potential
17 additional towers.
- 18 • Susan Wilson – 312 E 3rd St, Object to site. Hoping Commission listens to what
19 everyone says. On record object to location.
- 20 • Duane Dobbs – 312 E 4th St, Believes will affect property values.
- 21 • Geraldine Haugen – 720-A E 3rd St, Stated expectation of property as park.
22 Curious about environmental impact and runoff impacts to 4th Street. Stated
23 desire for location to remain rural.
- 24 • John Kavanaugh – 312 W 3rd St, Collected 5 pages of petitions on 300 block of 3rd
25 Street and stated potentially more would be opposed. Stated community would
26 prefer a park. Discussed health, and questioned Commission's engineering
27 credentials. Stated not favorable of 5G.
- 28 • Linda Lien – 802 E 3rd St, Stated concern with property donation and decision to
29 allow cell tower. Concern with finding out about proposal from newspaper.
30 Stated the residents do not deserve to have it.
- 31 • Brad Paige – 112 W 5th St, Stated he lives 1000-ft from site of tower and 1500 ft
32 from tower can be affected. Stated desire to live here another 40 years.
- 33 • Kathy Barr – 407 E 3rd St, Stated concern with people working to make Cle Elum
34 beautiful, and tower going to destroy view of hillside.
- 35 • Mike Miller – Ronald, WA, Stated his family donated the property. Stated that
36 everyone at the City involved with the donation is no longer here. Mr. Miller
37 discussed the donation agreement and ongoing litigation with the City.
- 38 • Jim Schlichting – 310 W 4th St, Stated that LTE coverage not an issue with
39 correct carrier and the land was donated as a park.
- 40 • Michael Lancaster – 519 N Montgomery Ave, Stated working as law enforcement
41 in Issaquah in the 1980s when Issaquah guaranteed to be left green. Concerned
42 that when he purchased his property he was told property next door in Cle Elum
43 was going to stay a park. Concerned about health.
- 44 • Dorothy Olsen – 312 E 3rd St, Concerned that the neighborhood closest to the
45 proposed tower are not in Suncadia and want to see trees.

- Steven Harper – 616 W 2nd, Stated that City passed ordinance Tuesday 8/13 that any monies made on the property to be put into park reserve fund to be used on city parks. Discussed motivations for taking office as Council.
- Raven Hill – South Cle Elum, Concerned with greed. Stated saw newspaper article about hearing about cell tower and didn't feel there was full disclosure. Stated cell tower in park not honoring and concerned about health risks and proximity to people.

Commissioner Clark Closed the Public Hearing at 7:30pm. Commissioner Clark suggested to Commission that based on comments and materials submitted, that Commission consider moving deliberations to next meeting to take time to allow appropriate review of material. Commissioner Lundh made motion to move deliberation to next meeting. Commissioner Davis Seconded. No further discussion, motion passed unanimously. Commissioner Clark thanked everyone for their comments.

5. **New Business**

No new business.

6. **Citizen Comments on Non-Agenda Items (limited to 5 minutes)**

None.

7. **Public Appearances**

None.

8. **Unfinished Business**

None.

9. **Staff Report**

Planner Temple presented staff report. Overview of last Council meeting 8/13 – discussed reorganization of Parks & Recreation Committee and RES-2019-011 amending the Park Reserve Fund use and source of funds. Discussed hiring of on-call planning firm to temporarily assist with planning needs. Informed Commission they would have a hearing at the 9/3 Commission meeting to hear changes to the Shoreline Master Program and listed additional hearings and upcoming permits. Commissioners received staff report in 8/20 packets. Planner Temple explained role of Staff with Planning Commission for permits.

Commissioner Clark Allowed Citizen Comments on Non-Agenda Items

Tim Reynolds – asked a question about how a sign could be moved on a private road. Planner Temple provided general answer, and offered to speak with Mr. Reynolds at City Hall if he had further questions.

10. **Report of Committees**

None.

11. **Comments from Commissioners and/or Staff**

None.

12. **Adjournment**

Motion to adjourn made by Debra Davis seconded by Pam Hawk. Motion carried unanimously. Meeting adjourned 7:45 pm. Next regular meeting Tuesday 3 September 2019, 6:00 pm.

PLANNING COMMISSION

Agenda
September 3, 2019
6:00 p.m.

MAYOR
JAY MCGOWAN

CITY ADMINISTRATOR
ROBERT OMANS

CITY PLANNER
LUCY TEMPLE

CITY CLERK
KATHI SWANSON



119 W FIRST STREET
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PLANNING COMMISSION
KERRY CLARK
DEBRA DAVIS
PAMELA HAWK
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MATT FLUEGGE

CITIZEN ALTERNATE
VACANT POSITION

1. **Call to Order & Roll Call**
2. **Set Agenda**
3. **Adoption of Minutes**
 - 20 August 2019
4. **Announcements, Appointments, Awards, & Recognition**
5. **Business Requiring Open Hearings**
 - Shoreline Master Program – City/Ecology Joint Review Hearing
6. **New Business**
7. **Citizen Comments on Non-Agenda Items (limited to 5 minutes)**
8. **Public Appearances**
9. **Unfinished Business**
 - Vertical Bridge Wireless Communication Tower CUP-2019-002 & VAR-2019-001
10. **Staff Report**
11. **Report of Committees**
12. **Comments from Commissioners and/or Staff**
13. **Adjournment**

Next Regular Commission Meeting: September 17, 2019

CITY OF CLE ELUM
PLANNING COMMISSION MEETING
Meeting Minutes
03 September 2019 6:00

1. Roll Call and Call to Order

Commissioner Clark called the meeting to order at 6:00pm. Commissioner Hawk was absent. Commissioner Davis motioned to excuse Commissioner Hawk, Commissioner Fluegge seconded. Passed unanimously.

Set Agenda

None.

2. Review of the minutes

Review minutes from August 20, 2019. No changes.

3. Announcements, Appointments, Awards, & Recognitions

Planner Temple announced Commissioner application, Steven Malek. Commissioners asked him questions such as his availability to be present at meetings and the role of the Commission.

4. Business Requiring Open Hearing

Shoreline Master Program (SMP) – Joint Review Hearing. Planner Temple and Ecology's Lennard Jordan explained the changes to the SMP. Commissioner Clark opened and closed the hearing at 6:17pm. No comments. Commissioner Davis motioned to recommend the changes for adoption by City Council. Commissioner Lundh seconded. Passed unanimously.

5. New Business

No new business.

6. Citizen Comments on Non-Agenda Items (limited to 5 minutes)

None.

7. Public Appearances

None.

8. Unfinished Business

CUP-2019-002 and VAR-2019-001 – Wireless/Vertical Bridge Wireless Communication Facility.

Commissioner Clark reviewed the August 20th meeting proceedings and announced that there would be no public comment at this meeting.

- Commissioner Clark: *I want to start before we get into this. I went through all the submissions, the presentation, the comments, and so forth and I came back and looked through the municipal code and I want to make sure read this through you guys and I made copies of the municipal code. Here's the residential district code. So this is a Conditional Use Permit ["CUP"] that we are hearing and the Variance is kind of secondary so you have to get through the CUP portion. I remind you that you are the gate keepers here so you the Municipal Code is your Bible so when you read through this, so there are permitted uses, one accessory dwelling per unit, etc., you can go down through them. so those are the permitted uses, would you like me to read through them?...so you get to the CUP and that is where this application kind of gets me it's Telephone Exchanges, Electric Substations and similar installations for public service. The difficulty I'm having is that a telephone exchange is like the Quest operation across from the post office, it's where you connect wires together. So from this I then went through all of the other zoning districts and we have Business Park, Industrial, Old Town Commercial and Entry*

1 *Commercial. All of those districts in their permitted use or conditional uses, but it clearly*
2 *says wireless communications. That's where I'm stumbling on this. I was part of the other*
3 *tower here. I can't exactly remember anything, I just remember kind of vaguely about the*
4 *difference between wireless and an exchange. So I'm just bringing that up before we go*
5 *forward that I'm having trouble with it. I'm having trouble tying that tower, which is a*
6 *cellular communication tower, to a telephone exchange that is wires connected. And I*
7 *think that my concern is that if this isn't right then it should be denied just on that basis.*
8 *And sent back to the applicant and there are other zones where the tower is permitted.*
9 *Several others Industrial, and so forth, but not in residential. I would like to if they are*
10 *stuck on residential then I think they should petition the council for a change in the*
11 *ordinance or adopt a new ordinance. But it seems to be clear that this is the only one that*
12 *has telephone exchanges in it yet the others all have cell towers and its like it was an*
13 *omission...or this was clearly intended and I just have to take it on what it says in the*
14 *municipal code and so I'm assuming it doesn't say anything else but my interpretation is*
15 *that it's not a cell tower it's not cellular communication. So I'll just throw that out.*

- 16 • Commissioner Lundh: *I looked and looked and looked trying to find something and I*
17 *read telephone exchanges as not that they require wires right, its essentially what a*
18 *telephone exchange is what connects a phone to the telephone network and in this case*
19 *wireless is wireless so you could argue that it is the connection point but I'm on board with*
20 *what you're saying because it's not called out specifically, and because it's called out*
21 *specifically in other ones it's troublesome.*
- 22 • Commissioner Clark: *That's my concern is that you on something that has so much*
23 *public input that we need to get this right. if it's not allowed in residential and that's our*
24 *interpretation of the municipal code tonight, then we need to deny it, sent it back, and have*
25 *them either reapply at a different location, there were a few other locations that seemed to*
26 *meet their criteria, both city owned property and both public owned property in zones that*
27 *either allow it as a permitted use, or a conditional use, either or, but there's a few of them.*
28 *but that's my dilemma at this point and I'm looking to you guys to, I've probably been*
29 *through a few more of these [?] than you have but I'm looking at this and seriously I'm*
30 *having a hard time getting over this I'd like to see the language really clear. Tell me that*
31 *it's a cell tower because in Old Town Commercial it allows it on buildings...*
- 32 • [Commissioner Lundh: *asked staff what the Gore Property was zoned. Staff answered*
33 *Industrial, but proposed to be General Commercial in proposed area wide zoning*
34 *amendments]*
- 35 • Commissioner Clark: *There are the zones that it's not allowed in are believe it or not*
36 *General Commercial, Multi Family, Planned Mixed Use and obviously Public Reserve.*
37 *[Staff corrected that Planned Mixed Use allows the uses from other zones] Yes.*
- 38 • Commissioner Lundh: *and that's how it is currently.*
- 39 • Commissioner Clark: *yes, so the zones that allow either through conditional permit or*
40 *permitted use are Business Park, Industrial, and Old Town Commercial or Entry*
41 *Commercial. And in those it clearly states cell tower or cellular communication.*
- 42 • [*Staff clarified that when uses are not specifically stated in the code, the planner has*
43 *the authority to review the proposed use in terms of other permitted or conditional*
44 *uses in the code and make a determination of whether it is a similar use. Staff stated*
45 *Residential Zoning lists telephone exchanges and electric substations and that staff*
46 *made a determination that cellular towers fit into that use.]*
- 47 • Commissioner Lundh: *and that thought was that fits into similar installations for public*
48 *service.*

- 1 • [Commissioners clarified that the zoning code being discussed is the current/2001
2 code, not the proposed zoning code accompanying the comprehensive plan)
- 3 • Commissioner Davis: *so I went in a little bit different direction after the hearing and I*
4 *feel like the citizens should be aware of the FCC tower and antenna siting rules, and I went*
5 *and looked it up and state and local authority over zoning and land use decisions for*
6 *personal wireless service the federal law puts limitations on what we can do we cannot*
7 *consider the health aspect. If we do, if that's an issue that we're making a decision on it's*
8 *against the law. And that seems a little weird to me but that's the law. So I would*
9 *encourage everyone to look at what the FCC says and what authority this group has. I*
10 *think we can't discriminate between companies and we can't prevent prohibit providing*
11 *service and if we deny an application we have to provide substantial written evidence to do*
12 *that. And so I found that a little chilling. That local citizens have...*
- 13 • Commissioner Lundh: *limited say*
- 14 • Commissioner Davis: *yeah exactly. So that's troublesome to me. That the people who live*
15 *here don't have a lot of control. I was also hung up on the conditional use for this after a*
16 *lot of thought and reflection I've... and at the last meeting someone stood up and said they*
17 *didn't know who any of us are. My name is Deb Davis, I work for the Forest Service. I*
18 *have been working on the trails on the Cle Elum Ranger District for 28 years. I have been*
19 *a resident here for 14 years. I started coming to this town before there were any coffee*
20 *stands. So I have watched the changes come. I was recruited to volunteer for this position*
21 *and I thought it would be a good thing because I'm really interested in affordable housing.*
22 *I', really interested in this being a livable town for the people who live here. And after 2*
23 *years of being on this commission, this has been the hardest thing that has come up for me.*
24 *And the first chief of the Forest Service said when there is a decision to be made make sure*
25 *it provides the greatest good for the greatest number over the long run, and that is what I*
26 *am trying to apply to this. What provides the greatest good to the greatest number over the*
27 *long run. And I think as a City of Cle Elum planning commissioner the citizens of this*
28 *town kind of have priority there. So I have a lot of questions about our code, I think its*
29 *behind, I also would like it to be clearly spelled out – what is permitted and what a*
30 *conditional use is in a residential area. I don't know that a cell tower in a residential area,*
31 *especially a 153-foot tall one doesn't quite jive with me. I wish our code said something*
32 *about buffers like what's the distance it has to be away from an occupied building. So just*
33 *thinking it over, I don't feel good about moving forward with this application. But that's*
34 *me. Especially after I counted all the comments, that's 300-plus people who had a say and*
35 *to me for a town of this size that's a lot.*
- 36 • Commissioner Clark: *well I think that aside from going into all the different submissions*
37 *and so forth, I am still stuck on this and having been involved in real estate since I was 16*
38 *years old – multiple lawyers and I can't tell you how much money but issues like this when*
39 *I read that and I'm reading it telephone exchanges, electrical substations, I get the fact*
40 *that if it was your predecessors on the commission that wanted that changed I think they*
41 *would have changed it because the other sections are updated. I just I'm really struggling*
42 *with this. And if I just see flags not that I'm saying anything about whether I'll vote for or*
43 *against it I'm having problems with that just getting over the fact that it doesn't say cell*
44 *tower I'm really having a problem with that so if you can get me beyond that I'm great. But*
45 *I'm really struggling with that. And if I feel we deny it they can change this, I can't we*
46 *can't but if it's that important to them change it and bring it back or go to one of the other*
47 *locations that was identified as equal to that location which the waste water treatment*
48 *plant, the dog park, those were two of the city properties there was I think a few others. As*
49 *much as I'd like to move this forward, you know, I'm just I'm stuck. I'm literally stuck on*
50 *this language because when I read that I'm reading that it's not a cell tower. They're*

1 *talking about telephone exchanges where you're connecting hard wires or electric*
2 *substations. I know what a substation looks like – it doesn't look like a 153 foot tower.*

- 3 • Commissioner Lundh: *It'd be one thing if it wasn't called out in other places but because*
4 *it's called out specifically in other places...*
- 5 • Commissioner Clark: *that's my tripping point is that it's called out specifically in other*
6 *districts but not this one. And so I'm trying to I can't telepathically communicate with your*
7 *predecessors to figure out what they were thinking but it's that's what it says to me and*
8 *that's my feelings on it. I just I'm having trouble getting beyond that. I don't know how*
9 *you guys feel...*
- 10 • Commissioner Davis: *Well I was looking because I have questions about conditional use*
11 *permits in this land use goal Conditional Use Permits, street vacations, variances and other*
12 *special applications shall only be permitted when there is an overriding permanent public*
13 *benefit consistent with the goals and policies of this Comp Plan. I don't know about the*
14 *overriding permanent benefit.*
- 15 • Commissioner Lundh: *I think that argument could be made, not only because it expands*
16 *the amount of carriers available but also because as I understand it AT&T is very*
17 *interested in piggybacking on this tower shortly after and Governor Brown and Governor*
18 *Inslee just signed some legislation or an agreement like an RFP agreement with AT&T*
19 *that they are going to be the primary provider of whatever the E911 EMS System is so I*
20 *think you could make a big argument that there's an overriding need to have expanded*
21 *AT&T coverage if that's what our first responders are going to rely on , but that said I've*
22 *spent about I don't know 25 hours on this this week, I took a hike with Kate up to the*
23 *property and we hiked around for a couple hours and had a great conversation and then*
24 *we went down and checked out the gore property I was trying to get Greg Barr because I*
25 *know he was interested in that but we never hooked up. But I certainly have some big*
26 *concerns about the location as well and I think this is an opportunity to perhaps ask that*
27 *question. And certainly this is a this is troubling to me as well I was looking around trying*
28 *to see if there was an inconsistency and this is one that didn't pop out to me because I kind*
29 *of made an assumption assuming what telephone exchanges meant but it being called out*
30 *is an important thing to note.*
- 31 • Commissioner Clark: *well I would like to see that changed if you guys are saying you*
32 *need to be specific if you are going to deny it on just this because otherwise we need to go*
33 *further. I'm just having I'm having difficulty getting over the conditional use part in the*
34 *zoning for Residential. If that was cleaned up we could have the hearing all day long as*
35 *long as it takes, but I just if we approve and or deny either it could be challenged by the*
36 *applicant or*
- 37 • Commissioner Lundh: *anybody on record*
- 38 • Commissioner Clark: *yeah that's the concern I have and it looks to me let's get it right.*
- 39 • Commissioner Lundh: *can we play that out? How does that all go down? So we deny it...*
- 40 • Commissioner Clark: *Then it goes back to the applicant. This particular thing is difficult*
41 *I can say difficult. The City of Cle Elum is the property owner the city of cle Elum did a*
42 *site design review application. The applicant is Vertical Bridge. And if we deny it they*
43 *could appeal it and it would go to City Council. The City Council would have to look at that*
44 *based off of our decision that hey we the language isn't clear enough for us it's not telling*
45 *us cell towers in this case, my case that I'm trying to that I'm having trouble with here.*
46 *Then they would either approve it or agree with our denial. Then the to me next step the*
47 *proper step is to go back in that location if they are so stuck on that location then change*
48 *the code so that it says cell tower in Residential. If not then ok let's go with option 2 or 3 or*
49 *4 or whatever they were because there were several let's say 3 or 4 locations that seemed to*
50 *be acceptable to Vertical Bridge that when you look at the map one in particular to me in*

1 *my mind is the waste water treatment plant. It's in industrial it has utilities, it's got trees*
2 *albeit some of them short some of them close to 100 feet tall and there's a mix there's fir,*
3 *pine, and obviously cottonwood down there but if that location or another location would*
4 *work that's in an existing approved zone either as a conditional use or a permitted use then*
5 *considered that, because again Residential, I just I don't read it in there and it makes me*
6 *uncomfortable because I think it opens it up to challenges either way. But again you know*
7 *I always consider the Commission kind of the gate keepers they're supposed to interpret*
8 *this code and my interpretation is different than what staff has looked at and what the*
9 *attorneys have looked at and I'm just reading it like that's not what it means to me and*
10 *maybe it's just because of my age but it just doesn't mean that to me. And then I look at the*
11 *other codes and the other districts or how it is written in the other districts and it's clearly*
12 *stated.*

- 13 • Commissioner Lundh: *because of that I don't think it's your age because that makes*
14 *sense.*
- 15 • Commissioner Davis: *I agree it makes sense to me too.*
- 16 • Commissioner Fluegge: *Yeah I mean if it's saying it in one spot and it's not in the other*
17 *then I'm not willing to make that interpretation to [? Couldn't hear].*
- 18 • Commissioner Clark: *Do you guys want to make a motion or talk about it further because*
19 *in my opinion and it's just my opinion is that if we can't get passed the conditional use*
20 *permit we can't get passed the height variance or any of the other issues related to this we*
21 *just have to make sure that it is the use that's either in a permitted use or conditional use*
22 *and I am just having difficulty with that one. All the testimony and submissions and so*
23 *forth were great and I read all of them but I'm stuck on this one because I think it's a*
24 *tripping point, I think it's a trip wire. If I was somebody opposed or for I'd look at that and*
25 *it's easy for an attorney to twist words at \$500 an hour, so.*
- 26 • Commissioner Lundh: *Well and that's going to be the question probably, what does the*
27 *court think if it does go that far, right?*
- 28 • Commissioner Clark: *Yeah if it's challenged, but I just think that I've probably said*
29 *enough. If you guys want to go forward then you have to convince me that that's not the*
30 *tripping point. If not, then I think we need to make a motion and deny the application as*
31 *presented for that reason.*
- 32 • Lundh: *I will make a motion that we deny CUP-2019-002 on the basis that the code is not*
33 *clear that this is a permitted conditional use in a Residential zone.*
- 34 • Davis: *I'll second the motion*
- 35 • Commissioner Clark: *Any additional discussion? All in favor? Motion passed*
36 *unanimously.*

37 **9. Staff Report**

38 None.

39 **10. Report of Committees**

40 Commissioner Lundh reported on the parks committee for the City – Mayor appointed
41 Commissioner Lundh, former Commissioner Devin Smith, and Councilmember Beth
42 Williams, which gives them more authority for improving the parks – excited to get
43 started on park projects.

44 **11. Comments from Commissioners and/or Staff**

45 None.

46 **12. Adjournment**

47 *Motion to adjourn made by Matt Fluegge motioned to adjourn the meeting at 6:49pm,*
48 *and seconded by Commissioner Davis. Motion carried unanimously. Meeting*
49 *adjourned 6:49 pm. Next regular meeting Tuesday 17 September 2019, 6:00 pm.*