

BOARD of ADJUSTMENT



Joe Bazzoli
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Regular Hearing
~ Minutes ~

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Monday
March 29, 2021

7:00 PM

Council Chambers
206 E Third Street

Bazzoli called the meeting to order at 7:06 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Steve Bush, Marshall Comstock, Mark Monson, Tim Thomson
MEMBERS ABSENT: Annette Bieghler, Laurene Sorenson
STAFF: Jennifer Fleischman, Aimee Hennrich, Mike Ray

REGULAR AGENDA

1. Approval of November 19, 2020 Minutes (ACTION ITEM)

Monson moved for approval of the minutes as presented, seconded by Thomson. Vote by Acclamation; Ayes: Bush, Monson, Thomson (3). Nays: None. Abstentions: Bazzoli, Comstock (2). Motion carried.

2. Election of Officers (ACTION ITEM)

Bazzoli mentioned that he will not be able to attend any meetings that occur at 5:30 PM, but still would like to be considered for Chair for 2021. Monson was also willing to continue serving as Vice Chair.

Comstock nominated Bazzoli for Chair and Monson as Vice Chair, who both accepted. Thomson seconded the motion to elect Joe Bazzoli as Chair and Mark Monson as Vice Chair for the Board of Adjustment. Vote by Acclamation: Ayes: Unanimous (5). Nays: None. Abstentions: None. Motion carried.

3. Public Hearing: Proposal for a Conditional Use Permit at 1400 E Seventh Street – LUP2021-0004 (ACTION ITEM)

A Conditional Use Permit application a proposed 80 foot tall Wireless Communications Facility (WCF). The WCF will accommodate three carriers within a fully enclosed 800 s/fease area and would resemble a church tower.

Hennrich presented on the proposal as described above, as well as outlining the background of a previous Conditional Use Permit (CUP) WCF application and the subsequent appeal. The presentation included zoning information, pictures of the proposed cell tower, and height and location of adjacent vegetation and structures. The service area that the applicants would like to achieve was also displayed, and the reason they want a tower in the proposed location as opposed to alternate site locations. Followed was the development standards and explanations and/or conditions of each.

According to the Zoning Code for the City of Moscow, WCF cannot be placed within 500 feet of Highway 8 and Highway 95, as required by the Idaho Department of Transportation. Federal Aviation requires lighting on towers over 200 feet, and the proposed tower would only be 80 feet tall. The previous application was for the same location and the same height. The house located directly south of the proposed site is also owned by the Church of the Nazarene.

Public Hearing opened at 7:21 PM

Kim Allen and Gregg Busch, applicants' representatives, discussed the application from Parallel Infrastructure and explained the reasons for the proposed structure and underlying service needs in the area. Allen mentioned AT&T's participation in a public safety network called FirstNet, which would be included in the coverage the proposed facility would provide. The criteria for a CUP were addressed individually and in detail; the alternate site locations that were considered and ultimately dismissed as inadequate; and a description of the proposed facility in compliance with code standards. The public comment, included in the agenda packet, about the difference between 4G and 4G LTE service was also addressed.

The necessary height of a WCF tower depends on the desired service coverage, topography in the area, and the need to co-host two other carriers. Surrounding structures such as buildings, tall trees, and other impeding objects will also make a difference in facility height. Different carriers use varying ranges of the spectrum for their signal and have height requirements per those specifications. There is proposed to be at least two generators on site, which would be tested once a month for an hour. It is unknown whether there would be space, or carrier desire, for a third generator. The alternate sites are selected by the AT&T RF (Radio Frequency) Engineers, based on data frequency search rings and wireless transmission zones. It is unknown why Latah County Fairgrounds was not selected as an alternate site by the engineers.

Why the applicant chose to house 4G instead of 5G was discussed, and it was unknown what construction material the proposed tower facility would be made from. Different carriers desire their own generator because the power needs could possibly vary for each company. The application states that generators would run once a week for maintenance, but Allen had mentioned once a month previously. Bush suggested that another alternate site could be located on the Fire Station 2 training structure, but Allen argued that there might be some engineering concerns for co-locating on that type of building. It is unknown if the City of Moscow had been approached by FirstNet, but it was assumed that they would reap the benefit of having the additional coverage. The applicant had previously approached the City of Moscow regarding the Vista Water Tank as an alternate site and was denied co-location.

David Hall (Moscow), agreed with the written testimony submitted by Michael Kyte, and David Renner in opposition of the application. Argued that current application is essentially the same as the previous application in 2018 that was denied by the Board of Adjustment and upheld by City Council. City Code states that WCF must be at least 80 feet from adjacent property zoned as Residential. AT&T service coverage in the area was addressed and concluded as unnecessary.

10-minute recess called due to technical difficulties.

Jerry Lewis (Moscow), explained that he was mistaken about the proposed application, thinking it was for providing 5G service. Expressed dissatisfaction with 5G and is opposed to that.

Maury Wiese (Moscow), was opposed to the application. Addressed confusion around monthly versus weekly check for diesel generators. Currently has cell and internet service from Verizon and does not have problem with available services in the area. Proposed that the WCF should be adjacent to church instead of set aside, and pointed out that the presentation did not have pictures of the proposed tower immediately from the south, north, or west. Brought up City Code in accordance with maintaining the character of the neighborhood and minimal impact on the surroundings; argued that the Triangle park is the center of interest in the neighborhood and that the proposed facility would distract from that.

Gary Saunders (Moscow), did not see much difference between the current application versus the last application in 2018. Brought up the significant height difference and maximum height allowed in the area, and how the proposed facility would be three to four times taller than any other structures. Saunders seconded what Wiese said about the placement of pictures demonstrating height. He thought that the evaluation of alternative sites was incomplete and expressed concern about the potential progression from

an 80ft WCF to 100ft. He did not think there was a need in the neighborhood for the additional service or coverage.

Scott Fleischman (Moscow), was opposed to the application. Argued that it would be hard to remove a WCF once it has been established, and it would be easier for the applicant to expand upwards. He conceded that there is need of extra service and coverage in the area, but was still against erecting a WCF in that location.

Allen, applicants' representative, thanked Lewis for his comment in regards to 4G, and addressed the structures proximity to the church. Discussed the proposed height of the tower in relation to the Zoning Code and that it is not out of proportion to the church. The WCF was designed and engineered to fit in with the character of the church architecture. The Latah County Fairgrounds and Fire Station 2 suggested alternate sites were at the southern edge of the RF Engineer search ring and so were not considered.

Public Hearing closed at 8:37 PM

Zoning Code sets standards for the distance needed between a WCF and adjacent residential, or other, property lines. The proposed tower would be just over 100ft from the nearest house on the southwest corner. The width of Park Drive is approximately 60 feet, including the right-of-way. The subject property, as defined by the Zoning Code, includes all parcels on the Church campus when it comes to designating adjacent properties. The maximum height of a building in a Neighborhood Business zoned area is 40 feet, with allowances for no maximum if a Conditional Use Permit was approved. Another CUP would be required if the applicant desired to go higher than 80 feet in the future. There was discussion about the structural integrity needed for a tower taller than 80 feet. Then preceded conversation regarding whether a WCF application was required to have three users or just enable space to house three carriers per facility.

It was mentioned that a cell tower of the proposed type could be considered as a building and would be under the same conditions as a commercial structure. There was talk about the proposed WCF being located in a residential zone, in relation to the height and noise disturbances. It was opined that this facility would be better suited in a commercial or industrial location. Some discussion about targeted neighborhood for service coverage appearing to be more to the north than the neighborhood it was proposed to be built in. The conversation continued about the proposed project being different than the 2018 proposal of a monopine cell tower.

Ray clarified that the Latah County Fairgrounds is zoned R-3 (Residential) as opposed to the proposed location as Commercial. There was continued discussion about the maintenance of generators on a weekly basis. A Board member recommended that there are better sites further north that the applicant could look at to reach their target audience. The need for cell service in the area was brought up again, but it was argued that whether or not there would be a need for service, it was not relevant to the Criteria and Standards. It was decided that Criteria Two (2) and Criteria Three (3) were the most important to address, as they were highly contested and the Board was unsure of whether the proposal complies with them. It was noted that a masonry wall was proposed as the fencing around the tower and generators. The Vista Water Tower tank was not a good location because of the type of material it was originally constructed from.

Thomson moved for approval of the Conditional Use Permit at 1400 E Seventh Street as presented, seconded by Monson. Vote by Acclamation: Ayes: Monson, Thomson (2). Nays: Comstock, Bush, Bazzoli (3). Abstentions: None. Motion failed.

Whether the proposed WCF would be in harmony with the neighborhood was brought up again and discussed. There continued to be more conversation about the height of the tower in relation to the coverage and service provided.

Comstock moved to denial of the Conditional Use Permit at 1400 E Seventh Street because it would not be in harmony with the neighborhood and surrounding land uses, resembling a guard tower: taller and larger than any other structures in the area. Motion seconded by Bush. Vote by Acclamation: Ayes: Comstock, Bush, Bazzoli (3). Nays: Monson, Thomson (2). Abstentions: None. Motion carried.

REPORTS

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

The meeting adjourned at 9:21 pm.



Joe Bazzoli, Chair



Date