BOARD of ADJUSTMENT

Joe Bazzoli
Board Chair
boa@ci.moscow.id.us

Public Hearing
~ Agenda~

Aimee Hennrich
Staff Liaison
208.883.7095

https://www.ci.moscow.id.us/581/Agendas-and-Minutes

Monday **August 30, 2021**	**7:00 PM**	**Council Chambers** **206 E Third Street**

WELCOME AND ATTENDANCE

REGULAR AGENDA

1. **Approval of August 24, 2021 Minutes (ACTION ITEM)**
   PROPOSED ACTIONS: Approve minutes as presented; approve minutes with amendments; or provide staff further direction.

2. **Approval of Reasoned Statement of Relevant Criteria and Standards (ACTION ITEM)**
   City Council remand in part of a Conditional Use Permit application for a proposed 80' Wireless Communication Facility (WCF). The WCF will accommodate three carriers within a fully enclosed 800 sf lease area and would resemble a church tower per MCC 4-3-5(H).
   PROPOSED ACTIONS: Review the draft Relevant Criteria and Standards documents and approve the documents; or approve the documents with modifications; or provide Staff further direction as deemed necessary.

3. **Public Hearing: Proposal for a Conditional Use Permit at 3400 Robinson Park Road – LUP2021-0033 (ACTION ITEM)**
   Conditional Use Permit application for an accessory cottage in excess of 900 square feet located at 3400 Robinson Park Road within the Agricultural/Forestry Zoning District (AF) in the Area of City Impact, per Latah County Code 03.01.02(14)(H).
   PROPOSED ACTIONS: Conduct the public hearing upon the proposed conditional use permit request and upon consideration of any testimony presented, recommend that the City of Moscow Board of Adjustment put forth a recommendation for approval to the Latah County Zoning Commission and direct Staff to prepare a reasoned statement of relevant criteria and standards; or recommend approval of with conditions and direct Staff to prepare a reasoned statement of relevant criteria and standards; or recommend denial the conditional use permit request and direct Staff to prepare a reasoned statement of relevant criteria and standards; or take other action as deemed appropriate.

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

ADJOURN

NOTICE: Moscow City Council and Commission meetings can be televised, videotaped, and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

BOARD of ADJUSTMENT

Joe Bazzoli
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Public Hearing
~ Minutes~

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http://www.ci.moscow.id.us/354/Board-of-Adjustment

Tuesday **August 24, 2021**	**7:00 PM**	**Council Chambers** **206 E Third Street**

Bazzoli called the meeting to order at 7:00 PM

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

REGULAR AGENDA

1. Approval of August 9, 2021 Minutes
Monson moved for approval of the minutes as presented, seconded by Bush. Vote by Acclamation; Ayes: Bazzoli, Bush, Monson, Thomson (4). Nays: None. Abstentions: Bieghler, Comstock (2). Motion carried.

2. Public Hearing: City Council remand in part of a Conditional Use Permit application for a proposed 80' Wireless Communication Facility (WCF). The WCF will accommodate three carriers within a fully enclosed 800 sf lease area and would resemble a church tower per MCC 4-3-5(H)
The Board of Adjustment conducted a public hearing on this matter on March 29, 2021 and denied the Conditional Use Permit. The Conditional Use Permit was subsequently appealed to City Council at which time the Council remanded the matter in part to the Board for the inclusion of additional information into the record. Specifically, to determine whether the horizontal footprint and width of the proposed Wireless Communication Facility can be reduced in order to be less intrusive to the neighborhood and surrounding land uses and ultimately satisfy Criterion #2, of the Board's Reasoned Statement of Relevant Criteria and Standards document signed on April 7, 2021. The purpose of the public hearing is to enter this specific additional information into the record.

Hennrich presented the remand information for the Conditional Use Permit Application as described above. The Board should only consider Criterion #2 regarding harmony of the proposed use in the neighborhood and surrounding land uses, and not the other seven (7) Criteria. City Council remanded the application back to the Board with specific instructions to allow more information from the Applicant about potentially changing the width and horizontal footprint of the proposed WCF. Public testimony should address the concerns surrounding harmony, as well. City Council was deliberate in saying horizontal, not vertical, because they perceived the overall mass of the tower to be an issue.

The Public Hearing opened at 7:15 PM

Kimberly Allen (applicant), Issaquah WA, introduced her colleagues: Christy Cooke, Bryan Mullen, and Aaron Bloom. The company researched how to make the tower smaller, according to the suggestion of City Council. However, 80 feet is the minimum height necessary for the proposed WCF. The applicant provided alternative examples that could potentially reduce the visual bulk of the facility, but would limit the mobility of the service antennas, and the proposed alternative #2 may not be feasible for the carriers. Alternative #3 would be painted any color the City of Moscow decides is most congruent with the surroundings. The

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proposed alternative design #1 does not have a smaller footprint, but has faux windows to make it appear smaller. The applicant discussed changing the location of the proposed WCF on the Nazarene Church Campus, which ultimately is unwanted by the owners. There was a disclaimer that AT&T provided regarding service quality in the area if the WCF is approved. It is currently unknown what type of surface materials would be used in construction, as the applicant's engineers would first need to design the proposed WCF with the information the Board provided. Aviation lights would not be needed on this facility. A four-legged version of the proposed alternative design #2 could be feasible. The monopole is the most versatile design, according to the parameters of the applicant, as well as the least obstructive to service signal and visual massing.

Public comments in opposition of the proposal that were submitted before and after the packet was created were entered into the record.

David Renner, Moscow, is opposed to the WCF in regards to the character of the proposed use in a residential neighborhood. Argued that the applicant was not able to reduce the vertical nor horizontal footprint, and that the WCF is not consistent with the surrounding area. The proposed monopole design does not reflect the three tiers of antennas that would be needed.

Wayne Krauss, Moscow, a representative of the Nazarene Church, spoke in favor of the WCF, saying that the monopole design is the best. Addressed the public testimony petition in regards to the signer's locations in East Gate and not along Blaine Street. He believes that updated service is necessary, and would address an inequality in service providers coverage.

David Hall, Moscow, requested that the Board consider what the City Council's instructions were, in regards to reducing the horizontal footprint, which the applicant indicated they were unable to do. Antennas on the Rotary Water Tank are not feasible because of the structure of the tower membrane.

Kevin James, Moscow, spoke in favor of the WCF. It does not matter what the tower design would be, so long as the service was improved. Wanted the Board to consider the service impacts on the growing community.

Maury Wiese, Moscow, does not agree with the proposed location and would prefer the WCF be placed in a less residential area, which was followed by a discussion about other locations better suited for the proposed use. He did not see a need for additional service coverage in the proposed neighborhood.

Faris Paxton, Moscow, talked about the visual and functional uses of the WCF being in opposition of the harmony of the neighborhood and local community. Disagreed with the criteria and ordinances that allow WCF's to be placed in neighborhoods. Pointed out there was not an image of the proposed tower from the southern side of block.

Shirley Greene, Moscow, was in favor of the WCF and talked about how big of a role the Nazarene church played in the neighborhood. Land for the facility would be leased from the Church and the money earned would pay to repave the parking lot and maintain upkeep on the church building. She thought that wireless cellular facilities were visually and functionally similar to electrical poles.

Kerri Renner, Moscow, spoke in opposition of the tower and did not think enough significant changes had been made since the previously denied proposals, of 2018 and earlier in 2021, to warrant an approval. There was concerns about noise pollution and how a WCF would affect the character of the neighboring community. She did not concur that the tower would eventually blend in with the neighborhood, and urged the Board to suggest a different, non-residential location.

Jerry Lewis, Moscow, spoke against the proposed WCF in regards to changing the character of the neighborhood. There was concern that property values in the East Gate subdivision would decline if the

tower was approved. However, he agreed that the monopole design would be the "least worst", if the tower had to be placed locally. At least two variances had been approved for that neighborhood, and this would make another structure that did not belong which could set a precedence for more.

Ed Eby, Moscow, a representative of the Nazarene Church, spoke about benefits of the WCF. The Church considered every location on the property, but the proposed site was the only acceptable place. He argued that the facility meets 6 (six) out of the 7 (seven) criteria, and the City has the need for more infrastructure to benefit the community. Property values would not go down in response to the tower, and sound disturbances would not be a concern.

Renee Jensen-Hasfurther, Genesee, spoke in favor of the tower. Talked about cellular service issues when in town visiting family.

Kimberly Allen (applicant), Issaquah WA, talked about the residents and neighboring community needing better service. Addressed the comments regarding how the tower would not be harmonious with the surrounding neighborhood; comparing it with the electrical poles and the Church. She again stressed that the monopole design would be the least obtrusive, visually. The diesel generators would be necessary for the facilities operations, but testing could be timed to be the least intrusive for the Church's functions: offered to only test for an hour once a month.

The Public Hearing closed at 8:10 PM

Board members discussed the applicant's effort to make the proposed tower more harmonious and agreed that there is a need for better cell coverage. They discussed other locations that may be more conducive to this type of facility, as they were concerned about setting precedence for approving a WCF in a residential neighborhood if the application was approved. Wireless Cell Facilities are a conditionally permitted use in all Neighborhood Business zoning districts. There was a conversation about the City Council's directive and how the alternate design #1 does not technically meet it. The monopole design would be the best solution for the service needs in Moscow, but there was a disagreement about whether it had a smaller footprint than the original design, as the underlying structure would not have changed. The aesthetics and characters of the proposed use of the WCF were discussed.

The tower would appear taller to people further away as opposed to those who were right underneath it. The height of a power pole appears to be 40-60 feet on a standard city street. The location on the water tower at Rotary Park was discussed, as well as Criteria #2 versus the real need for more service coverage. The conversation continued about the proposed use being in harmony with the character of the neighborhood.

Monson moved to approve the monopole WCF Conditional Use Permit at 1400 E Seventh Street.

The Board talked about which designs would satisfy Criteria #2 and if any of them are congruous with the Councils direction. The Council's purpose in remanding the decision back to the Board was discussed and the difference between a horizontal footprint and perimeter massing.

Motion dies for lack of a second.

City Council has to abide by the same seven (7) criteria as the Board of Adjustment. The Council could uphold the Board's decision, remand the decision, or reject the decision. The Board continued to discuss the remand hearing parameters, how tall power poles and lines are, and cellular service needs. It was reiterated that there may be better locations for a WCF on an industrial or commercial site, as opposed to a Neighborhood Business in a residential area.

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The seven (7) Criteria are established by City Council and they have the authority to change the Code. It is common to have a criterion in the Code regarding harmonious use for a conditional use permit. There was some discussion about special use permits and conditional use permits and the different processes for each.

Monson moved to approve the WCF Conditional Use Permit at 1400 E Seventh Street, with using either design alternate #2 or #3.

Monson restated his motion, and moved to approve the monopole WCF Conditional Use Permit at 1400 E Seventh Street, with the condition that the Applicant work with the City to choose an appropriate paint color. Thomson seconded the motion. Vote by Acclamation; Ayes: Monson, Thomson (2). Nays: Bazzoli, Bieghler, Bush, Comstock (4). Abstentions: None. Motion failed.

Thomson move to approve the Alternate Design #1 WCF Conditional Use Permit at 1400 E Seventh Street. Monson seconded the motion. Vote by Acclamation; Ayes: Monson, Thomson (2). Nays: Bazzoli, Bieghler, Bush, Comstock (4). Abstentions: None. Motion failed.

Bazzoli wanted to make it clear for the record that he wanted to approve a WCF, but Criteria #2 makes it difficult to approve the proposal. The Board discussed the possibility of City Council changing the relevant criteria. The current Criteria in City Code when an application is received is what needs to be used to review an application, regardless of if it changes during the time of processing.

Comstock moved to deny the WCF Conditional Use Permit application at 1400 E Seventh Street, because the application did not meet Criteria #2 of the Relevant Criteria and Standards. Bieghler seconded the motion. Vote by Acclamation; Ayes: Bush, Comstock, Bazzoli, Bieghler (4) Nays: Thomson, Monson (2). Abstentions: None. Motion carried.

Comstock moved for Staff to prepare the Relevant Criteria & Standards with the same language as was originally used in the first denial of the 2021 Conditional Use Permit application.

The Board discussed the verbiage and reasons to be written as part of the denial of the application. The original language used for the first denial was reviewed, and the public testimony was considered.

Comstock restated his motion, and moved for Staff to prepare the Relevant Criteria & Standards with the same language as used previously, as well as the addition of the Board's discussion during the remand hearing. Bieghler seconded the motion. Vote by Acclamation; Ayes: Unanimous (6). Nays: None. Abstentions: None. Motion carried.

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS
Next Public Hearing scheduled for August 30, 2021.

The meeting adjourned at 8:53 PM

_____ _____
Joe Bazzoli, Chair Date

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BEFORE THE BOARD OF ADJUSTMENT
OF THE CITY OF MOSCOW,
COUNTY OF LATAH,
STATE OF IDAHO

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A CONDITIONAL USE PERMIT APPLICATION FOR A WIRELESS COMMUNICATION FACILITY LOCATED AT 1400 EAST SEVENTH STREET IN THE CITY OF MOSCOW, IDAHO, WITHIN THE NEIGHBORHOOD BUSINESS (NB) ZONING DISTRICT PER MCC 4-3-4.

WHEREAS, the applicant filed an application for a Conditional Use Permit on February 19, 2021; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on March 29th, 2021; and

WHEREAS, having considered the matter including all materials presented and testimony received, the Moscow Zoning Board of Adjustment denied the proposed Conditional Use Permit, based on Criterion #2, finding the WCF was not consistent with the existing character of the uses within the surrounding neighborhood and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board's review and approval; and

WHEREAS, on April 7, 2021, the Moscow Zoning Board of Adjustment met and approved the Reasoned Statement of Relevant Criteria and Standards establishing the Board's written decision upon the request and serving as the Board's final action upon the matter; and

WHEREAS, on April 16, 2021, Wireless Policy Group, filed a timely appeal to the decision of the Moscow Zoning Board of Adjustment in accordance with the requirements of Moscow City Code Section 4-8-5; and

WHEREAS**,** the Moscow City Council considered the appeal during a public meeting conducted on May 3, 2021; and

WHEREAS, the Moscow City Council reviewed the record established by the Board of Adjustment, did not consider any new or additional evidence, and heard appellant's argument on the appeal; and remanded the decision in part to the Moscow Board of Adjustment; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on August 24, 2021; and

WHEREAS, having reviewed the application, including all exhibits entered, having listened to the testimony presented at the public hearing, and having considered the issues presented:

THE MOSCOW BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant to the City of Moscow Zoning Code, Comprehensive Plan, State Statutes, U.S. Constitution, and Moscow City Code.
2. The applicant Parallel Infrastructure proposed an eighty-foot (80') Wireless Communication Facility (WCF) located at 1400 E 7th Street, Moscow, Idaho. The proposed tower is designed to resemble a church tower.
3. On July 30th of 2018, Pro Land LLC applied for a Conditional Use Permit to construct an 80-foot-tall Wireless Telecommunications Facility at 1400 E 7th Street, Moscow, Idaho. The application proposed that the facility would be located on the property of the Church of the Nazarene and would accommodate three carriers within a fully enclosed 800 square foot lease area. The facility design in this application was a stealth-style mono-pine tower intended to resemble a tree.
4. The matter came before the Board of Adjustment on November 18th, 2018. The Board of Adjustment denied the application finding that the proposed WCF was not consistent with the existing character of the neighborhood and would not be in harmony with land uses surrounding the subject property. The Board found that the scale of the proposed tower is significantly larger than other structures or trees in the surrounding area.
5. On November 27th, 2018, Busch Law Firm PLLC filed an appeal on behalf of the applicant.
6. On January 7th, 2019, City Council reviewed the appeal during a regularly scheduled meeting and sustained the decision to deny the application.
7. On February 19th 2021, the City of Moscow received an application. Conditional Use Permit application for a proposed 80' Wireless Communication Facility (WCF). The WCF will accommodate three carriers within a fully enclosed 800 sf lease area and would resemble a church tower.
8. The matter came before the Board of Adjustment in a duly noticed public meeting on March 29th, 2021.
9. The subject property sits on the southwest corner of the 231,678 square foot block, which is owned entirely by the Church of the Nazarene. The proposed site is a 20-foot by 40-foot enclosure that contains the proposed WCF and all ancillary uses.
10. The subject property is located within the Neighborhood Business (NB) Zoning District, which requires a Conditional Use Permit (CUP) for Antenna Towers per MCC 4-3-4.
11. Adjacent properties to the north and south are located within Medium Density Residential Zoning District (R-3). Adjacent properties to the west and east are located in the Neighborhood Business (NB) Zoning District.

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12. The area surrounding the proposed WCF is primarily residential. There are two businesses nearby including Short's Funeral Chapel to the west and Pickard Orthodontics to the north. The two community parks nearby include Carol Ryrie Brink Park and Triangle Park, both to the south. Adjacent residential uses sit to the north and south the proposed WCF. Residential structures in the surrounding area vary between approximately twenty feet (20') to thirty (30') in height.

13. The Neighborhood Business Zoning District is the lowest intensity commercial Zoning District permitted within the City. It is intended to apply to areas of less than two (2) acres, where commercial services may be provided in convenient locations serving adjoining residential neighborhood rather than the community as a whole. The commercial services permitted are those where traffic generation, access requirements, impacts of lighting, neighborhood need for services, and noise production will be compatible with residential uses. The NB Zoning District is appropriately applied in the following circumstances:

    a. Where local commercial facilities will serve the everyday needs of a limited neighborhood area;

    b. Where activity levels associated with small scale office development can be accommodated or tolerated by surrounding land uses and existing public services;

    c. Where a neighborhood core is identified which is easily accessible by pedestrian or vehicular circulation; and

    d. Where such commercial development will result in minimal interference with residential uses in the vicinity of the NB Zoning District.

14. Chapter 2 of the 2019 Comprehensive Plan, Community Character and Land Use, designates the subject property as Public and Semi-Public.

15. According to the Comprehensive Plan, Public and Semi-Public designated areas, "provide for government buildings and properties, as well as semi-public or institutional uses such as churches, schools, and the hospital."

16. The Zoning Code has specific use standards for Telecommunications Facilities within MCC 4-3-5(H).

17. Telecommunications Facilities that exceed sixty feet (60') are not permitted within five hundred feet (500') of US Highway 95 and/or State Highway 8 right-of-way. The proposed facility is over 3,400 feet north of the State Highway 8 right-of-way.

18. Telecommunications Facilities must be protected from unauthorized access by appropriate security measures. The site is proposed to be enclosed by a six foot (6') high masonry wall and the ancillary facilities are fully enclosed within the proposed site.

19. Every antenna and antenna tower must not be lighted unless required by the Federal Aviation Administration and other state or federal agency having such authority, and such lighting must not be more than the minimum required by such agency. Submitted plans do not show any lighting on the proposed tower.

20. Antenna towers are required to be separated from the property line of any adjacent property residentially zoned at least a distance equal to the height of the antenna tower, and must be

separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.

21. The church campus is made up of 11 parcels including a residential home owned by the Church of the Nazarene, adjacent to the south of the proposed WCF.

22. The proposed WCF is located approximately 5,100 feet from properties zoned SR, 1,300 feet from properties zoned R-1, 190 feet from properties zoned R-2, 100 feet from properties zoned R-3 (not including the church owned residential property), and 600 feet from properties zoned R-4.

23. The closest residential structures sit 120 feet to the west, 190 feet to the south, 360 feet to the north, and 675 feet east of the proposed WCF.

24. While the height of the dome on the Church of the Nazarene stands approximately fifty feet (50') tall, the existing cross at the top of the church stands sixty-six feet (66') tall. The residential properties in the vicinity generally do not exceed thirty feet (30'). Nearby trees reach approximately sixty feet (60') in height.

25. Maximum height in Neighborhood Business (NB) Zoning District is forty (40') feet. Non-residential structures in excess of forty (40') feet require a Conditional Use Permit.

26. The Board of Adjustment denied the application finding that the proposed WCF. The Board found that the proposed WCF is not consistent with the existing character of the uses within the surrounding neighborhood. Additionally, the Board found that the cell tower looked out of place and will not be in harmony with land uses surrounding the subject property, including the Nazarene Church. The surrounding neighborhood is primarily residential with few commercial uses nearby. The scale of the proposed tower is significantly larger than other structures or trees in the surrounding area.

27. On April 16th 2021, Wireless Policy Group, filed a timely appeal in accordance with the requirements of Moscow City Code.

28. On May 3rd, 2021, City Council reviewed the appeal during a regularly scheduled meeting and remanded the decision in part to the Zoning Board of Adjustment with the sole and specific purpose, "To develop additional material information. Specifically, to determine whether the horizontal footprint and width of the proposed Wireless Communication Facility can be reduced in order to be less intrusive to the neighborhood and surrounding land uses and ultimately satisfy Criterion #2".

29. This matter came before the Moscow Board of Adjustment during a duly noticed public hearing on August 24, 2021.

30. After analysis of the proposed design the applicant determined it was not possible to reduce the horizonal footprint and width of the structure and offered three alternative designs.
    a. Design Alternative 1: The current tower, as designed, with additional architectural features such as window starting at 40 feet, to reduce the visual bulk of the structure.
    b. Design Alternative 2: Three-legged tower design. While this will reduce bulk, it will potentially reduce collocation opportunity. This design is not favorable to the applicant.

c. Design Alterative 3: A standard monopole design. The diameter of the proposed platform would be consistent with the original design. However, the pole would be much less in diameter (22 inches at the top, tapering to approximately 35 inches at the bottom).

31. The Church of the Nazarene provided a letter stating that relocation of the tower to another location on site was not possible. This documentation sited concern over underground utilities and potentially restricting access.

32. In addition to the written testimony received, public testimony in opposition of the proposed WCF was heard from a total 6 of individuals. Concerns included sound from the proposed weekly generator testing, height of the structure, no need for additional cell phone coverage, and the proposed tower does not fit the character of the existing neighborhood. Public testimony in favor of the proposed WCF was heard from a total of 5 individuals.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed use is a conditionally permitted use within the Zoning District:** All Wireless Communication Facilities are conditionally permitted per MCC 4-3-4.

2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The Board found that the proposed WCF is not consistent with the existing character of the uses within the surrounding neighborhood. Additionally, the Board found that the cell tower looked out of place and will not be in harmony with land uses surrounding the subject property, including the Nazarene Church. The surrounding neighborhood is primarily residential with few commercial uses nearby. The scale of the proposed tower is significantly larger than other structures or trees in the surrounding area. Seven (7) written letters in opposition to the proposal was received as well as a petition signed by 56 individuals. Public testimony was received by 6 individuals who testified that the proposed WCF is not consistent with the existing character of the surrounding neighborhood, and that the proposal would generate noise and other aesthetic concerns.

3. **The proposed use as approved, or as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including, but not limited to, noise, dust, glare, vibrations, odors, and the like):** The proposed use would not generate nuisances to the adjoining properties or the neighborhood through noise, dust, glare, vibrations, or odors. All ground equipment would be fully screened with existing landscaping and a six foot (6') tall wall constructed of brick, stone, or textured concrete block. The proposed diesel generators would be double contained and would be used in the event of a power outage. Each generator would run once a week for approximately one hour for maintenance.

4. **The location, design, and size of the proposed use will be adequately served by existing streets, public facilities and services:** The proposed WCF is located on a parcel that has

access on all four sides of the Church of the Nazarene campus. Public services proposed are power and telephone and are existing.

5. **The proposed use will not endanger the public health or safety if located where proposed:** The proposed use would not endanger the public health or safety on the proposed site.

6. **The proposed use meets all applicable development standards of the Zoning Code:** The proposed use meets all applicable development standards of the zoning code and Telecommunications Facility Standards that are required by this code for setbacks, security, lighting, noise reduction, signage, separation from adjacent residential zoning districts, and aesthetic considerations.

7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the Plan.

8. **No existing antenna towers or antenna support structures within the necessary geographic area for the applicant's antenna tower meet the applicant's requirements considering: a) height, b) structural integrity, or c) that there are other prohibitive conditions that render existing antenna towers or antenna support structure within the applicant's required geographic area unsuitable.** The applicant conducted a search of all FCC regulated towers within the necessary geographic areas to accommodate for the proposed WCF's requirements and did not find any existing antenna towers or antenna support structures to meet their needs. This determination was based on required height, structural integrity, and other prohibitive measures that render the existing antenna towers or support structure undesirable. The applicant provided a site analysis of four other sites. The locations of the site analysis included the water tower located on Hathaway Street, 8th Street water tower, Carol Ryrie Brink Park and East Side Market Place. The Board found that there were alternate sites locations that could have been explored as options for the proposed WCF.

9. **The design of the antenna tower, including the antennas and ancillary facilities, minimizes visual impact and other complies with provisions and intent of this Section.**

   The proposed WCF is designed to resemble a church tower in order to minimize visual impact to the surrounding area. Ancillary facilities are contained within the proposed 20-foot by 40-foot site and surrounded by a six foot (6') tall wall constructed of brick, stone, or textured concrete block surrounding the telecommunications facility. Proposed plans also show a twelve foot (12') wide Type A Buffer yard on the western side of the proposed facility, as is required per MCC 4-3-5(H)(5)(h)(iii).

10. **The proposed antenna tower location minimizes the number and/or size of antenna towers or antenna support structure that will be required in the area.**

    The WFC is designed to accommodate three (3) carriers. Alternative sites in the area where other carriers have established antennas are unable to provide sufficient structural support to allow the applicant to co-locate.

11. **The applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise.**

    The applicant has no prior history of failing to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise. The applicant

provided a site analysis of four alternate locations and determined this location to be the most favorable.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment denies the application for a Conditional Use Permit for a Wireless Communication Facility located at 1400 E 7th Street, Moscow, Idaho.

DENIED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE _____ DAY OF _____, 2021.

_____
Joe Bazzoli, Chair
Board of Adjustment

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CITY OF MOSCOW
COMMUNITY PLANNING AND DESIGN
STAFF REPORT

HEARING DATE: Monday, August 30, 2021.

GENERAL INFORMATION

Hearing Body: Board of Adjustment

Subject: Application for Conditional Use Permit for an accessory cottage exceeding 900 square feet located at 3400 Robinson Park Road within the Agriculture/Forestry (AF) Zoning District, in the Moscow Area of City Impact, per Latah County Code 03.01.03(14).

Attachments:
1. Conditional Use Permit Application.
2. Public Hearing Notice – published in the Moscow-Pullman Daily News August 14, 2021.
3. Site Plan
4. Relevant Criteria and Standards Worksheet

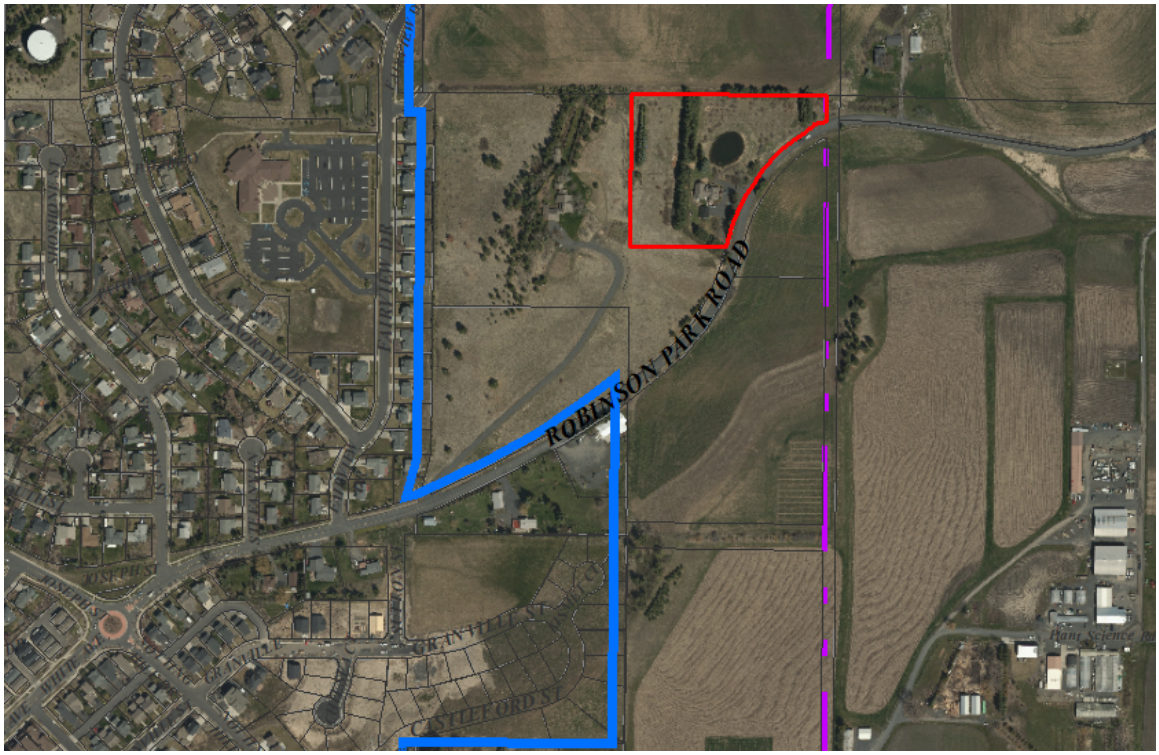
Prepared by: Aimee Hennrich

STAFF REVIEW

Proposal: The applicant, Jonathan Brownell, has applied for a Conditional Use Permit (CUP) for an accessory cottage exceeding 900 square feet located at 3400 Robinson Park Road. The site has an existing single-family home and a detached garage and sits on 212,967 square feet (4.79 acres) of land. The applicant is proposing to construct a 1,293 square foot accessory cottage on the west side of the property. The subject property is located within the Agriculture/Forestry (AF) Zoning District in the Area of City Impact where accessory cottage houses above 900 square feet require a Conditional Use Permit, per Latah County Code 03.01.03(14).

Since the subject property is located within the Area of City Impact, per the City of Moscow's ACI agreement with Latah County, Moscow's Board of Adjustment is to conduct one hearing and forward a recommendation on to Latah County.

Site and Area Land Use: The subject property is a 4.79-acre parcel located outside the City limits, north of the Robinson Park Road within Moscow Area of City Impact. The parcel has 529 feet of frontage along Robinson Park Road. The subject property currently contains a 5,068 square foot single family home as well as a detached garage. Adjacent properties to the northeast and west also contain residential homes. The property southeast across Robinson Park Road is 1.96 acres of undeveloped land. The parcel directly north of the property is 119-acres of undeveloped land.



Vicinity Map

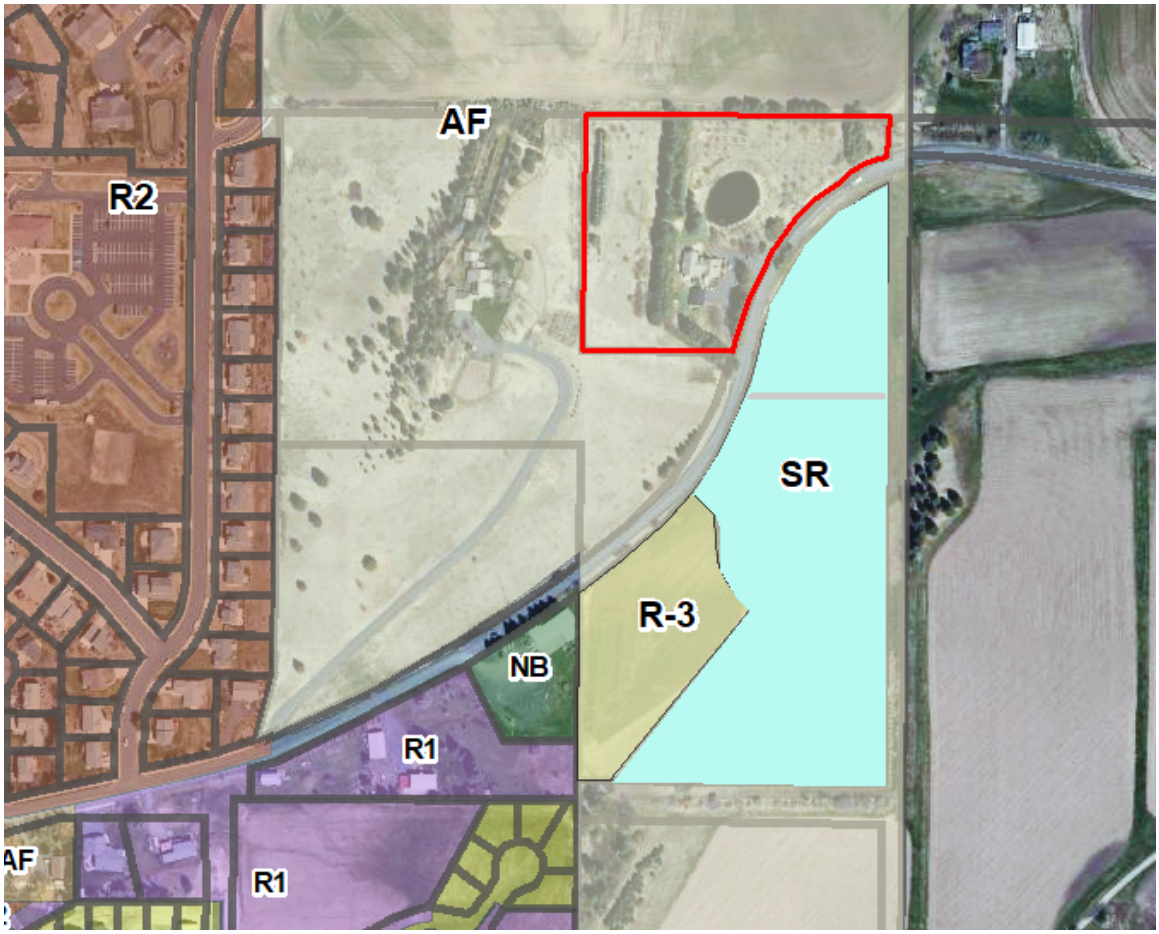
Aerial of Subject Property

Zoning: The subject property and adjacent properties to the north and west are currently zoned Agriculture/Forestry (AF) and located within the Moscow Area of Impact. The property adjacent to the southeast is zoned Suburban Residential (SR) Zone and in Latah County and within the Moscow Area of City Impact. The parcel to the east is located in Latah County outside of the Moscow Area of City Impact.

Within the Area of City Impact, the County's AF has been adopted. According to Latah County Zoning Code, the purpose of the AF Zoning District is,

> *"established to achieve the purposes of this ordinance and the goals and policies of the Latah County Comprehensive Plan by accommodating, providing opportunities for, and the continuation of agricultural and forest land uses. Uses allowed in this zone include those that are integral to agriculture and forestry, uses which will not conflict with accepted farm and forest practices, and uses which will not result in the excessive conversion of productive farm and forest land to uses which can be more appropriately located in other zoning designations, and which are consistent with Idaho's Agricultural Protection Act."*

Accessory cottages in excess of 900 square feet require a conditional use permit within the AF Zone. Per Latah County Zoning Code 03.01.03(14).

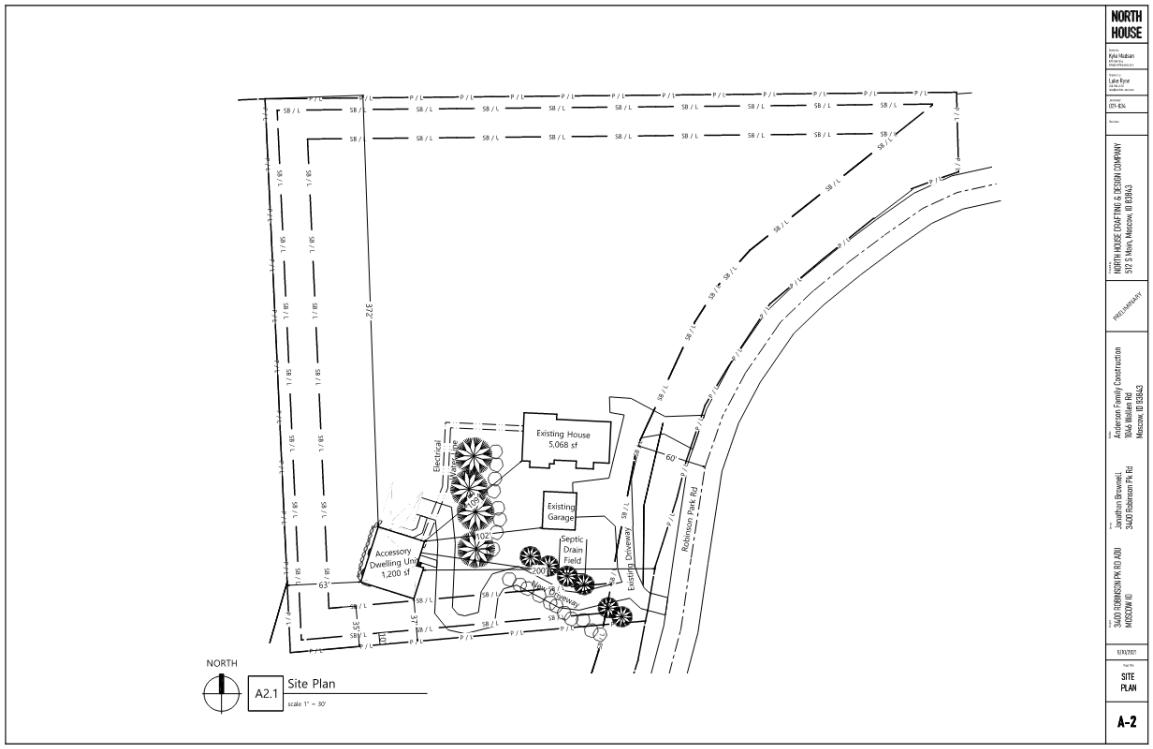


Zoning Map

Comprehensive Plan: The 2019 City of Moscow Comprehensive, Plan Land Future Use and Growth Plan Map designates the subject property and surrounding properties Auto-Urban Residential. According to Chapter 2 of the Comprehensive Plan, Community Character and Land Use, Auto-Urban Residential designated areas,

> *"contain predominantly single family detached homes on lots ranging from 7,000 to 11,000 square feet in size and are more isolated from surrounding uses which may require residents to rely more on automobile transportation. This designation includes those areas generally anticipated to be developed for low- to moderate-density residential uses at densities between three to six units per acre which could include a mix of detached single-family, twinhome, and townhome residential dwellings. Appropriate current zoning for Auto-Urban Residential designated areas include Low Density Residential (R-1), Moderate Density Single Family Residential (R-2) and Medium Density Residential (R-3) in order to include a mixture of attached and detached dwellings where appropriate."*

Chapter 3 of the Comprehensive Plan, Community Mobility, identifies Robinson Park Road as minor arterial road.



Proposed Site Plan

Proposed Development: The conceptual site plan shows the accessory cottage setback 63 feet from the western property line and 37 feet from the southern property line. The accessory cottage is proposed to be 1,293 square feet and contains two bedrooms, two bathrooms, a living area, kitchen, and a laundry room.

Streets and Access: The subject property is northwest of Robinson Park Road. The site is accessed via Robinson Park Road which is designated as a minor arterial and is developed as a 24-foot-wide paved roadway two travel lanes and minimal gravel shoulders on both sides.

Input from Other Departments/Entities: No comments were received from other departments/agencies upon review of the request for the Conditional Use Permit.

RELEVANT CRITERIA AND STANDARDS

The following are Staff's comments relating to the criteria required for approval of a Conditional Use Permit. See the attached worksheet for each of the criteria. The following statements may be used for the Relevant Criteria and Standards or changed to include or remove any statement deemed necessary or appropriate by the Board.

1. The proposed use (is/is not) a conditionally permitted use within the Zoning District.

2. The character of the proposed use (will/will not) be in harmony with the neighborhood and surrounding land uses.

3. The proposed use as approved, or as approved with conditions, (will/will not) generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including, but not limited to, noise, dust, glare, vibrations, odors, and the like).

4. The location, design, and size of the proposed use (will/will not) be adequately served by existing streets, public facilities and services.

5. The proposed use (will/will not) endanger the public health or safety if located where proposed?

6. Proposed use (meets/does not meet) all applicable development standards of the Zoning Code.

7. The propose use (will/will not) be in conflict with the Comprehensive Plan.

RECOMMENDATION

Staff recommends that the City of Moscow, Board of Adjustment put forth a recommendation of approval of the proposed conditional use permit for an Accessory Cottage located at 3400 Robinson Park Road to the Latah County Zoning Commission with no conditions.

NOTICE OF PUBLIC HEARING

Proposal for Conditional Use Permit located at 3400 Robinson Park Road within the Area of City Impact. Permit Application LUP2021-0033

A public hearing at which you may be present and speak will be conducted before the Board of Adjustment of the City of Moscow at which time the following proposal will be considered:

> Conditional Use Permit application for an accessory cottage in excess of 900 square feet located at 3400 Robinson Park Road within the Agricultural/Forestry Zoning District (AF) in the Area of City Impact, per Latah County Code 03.01.03(14).

The subject property is within the Moscow Area of City Impact. The City of Moscow Board of Adjustment will make a recommendation to the Latah County Board of County Commissioners regarding this matter.

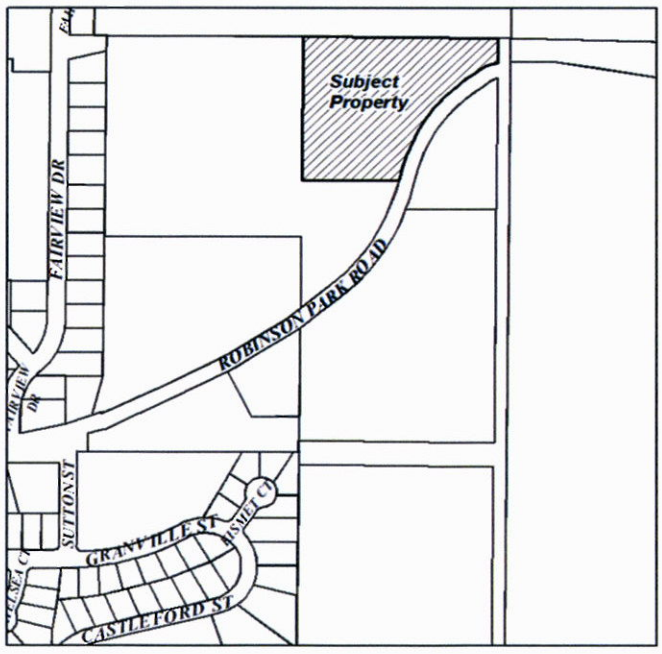
MEETING DATE: Monday, August 30, 2021

HEARING LOCATION: Council Chambers, Second Floor, Moscow City Hall
206 East Third Street, Moscow, Idaho

MEETING TIME: 7:00 p.m.

Note: Meeting start time is not necessarily indicative of the start time for review of the application advertised in this notice. Multiple hearings and/or agenda items may make it difficult to determine start time for review of application advertised in this notice, which could occur late in the meeting.

The file containing information on this matter is available for public review (an appointment may be necessary) at the Community Planning & Design Department located in the Paul Mann Building, 221 East Second Street, Moscow, Idaho. You may also call 883-7035 to get a meeting agenda, further information about the application, the public meeting process and/or to request a meeting with City Staff. Public participants desiring to submit textual materials (excluding petitions) to the decision-making board shall do so at least five (5) calendar working days in advance of the scheduled meeting to the Community Planning & Design Department. Additionally, you may obtain further information about the public hearing process and procedures on the City's Website at: https://www.ci.moscow.id.us/593/Public-Hearing-Notices



Laurie Hopkins, Moscow City Clerk

Jennifer Fleischman, Deputy City Clerk

Publish: Saturday, August 14, 2021

LUP2021-0033

LATAH COUNTY
PLANNING and BUILDING
Ph: 208-883-7022
Fax: 208-883-7225
pb@latah.id.us

CITY OF MOSCOW
COMMUNITY DEVELOPMENT
Ph: 208-883-7035
Fax: 208-883-7033
apeterson@ci.moscow.id.us

For Office Use Only			
	Date Received		
Dept	Fee Type	Fees	Paid
LC	Application Fee	$500	
	Receipt Number		
	Forwarded to City		
CD	Hearing Date		

APPLICATION FOR CONDITIONAL USE PERMIT

(Please type or print plainly with blue ink.)

GENERAL INFORMATION

1. **Applicant**

Name: Jonathan Brownell Telephone: 541-905-3541

3400 Robinson Park Rd, Moscow, ID 83843
(home address)

Relationship to affected property (please check one):

Owner ■ Purchaser ☐ Lessee ☐ Other ☐ (explain below)

2. **Owner of Affected Property** (if other than applicant)

Name: _____ Telephone: _____

_____
(mailing address)

3. **Location of Affected Property**: 3400 Robinson Park Rd, Moscow, ID 83843

Acres: 4.790 Legal Description: Parcel RFP39N05W160020

If described by Metes and Bounds, please attach deed on a separate sheet.

4. **Proposal**: The applicant proposes the following use and/or construction for the above-described property:
New 1,293 sf 2 bed/2 bath accessory cottage unit located at 3400 Robinson Park Rd. The cottage will be constructed 109' from the main residence in order to preserve existing trees. A new driveway will be constructed off the main driveway to access the accessory cottage unit. The unit will have a dedicated septic tank/drain field. Water and electrical will be run underground to the cottage from the existing residence.

The proposed activities and use shall be shown on an attached site plan drawn to a standard engineer's or architect's scale. The site plan shall show, label and dimension all property lines and easements, existing and proposed buildings, parking lot and driveway(s), fencing and landscaping. A site topography map shall be provided when appropriate.

5. **Authorization**: Section 3.01.03 #14 of the Moscow Area Of Impact Ordinance authorizes the proposed use, subject to a Conditional Use Permit.

Recieved 08-02-2021

6. **Operating Characteristics**: Detail the operating characteristics of the proposed use. In other words, provide specific information which describes and defines how the proposed use will be conducted and what will be involved in the day to day operations of the proposed use. Applicable information may include hours of operation, number of people (employees, customers, students, etc.) involved, traffic and/or delivery information, services provided, equipment or machinery which may be involved, or any other information which helps describe and define the proposed use and impacts which it may have.

The proposed accessory cottage will be used for residential purposes.

7. *Before the City of Moscow and Latah County may issue a Conditional Use Permit, they must first make findings of compliance with the following seven relevant criteria and standards. Please indicate in the spaces provided below what you believe to be justification showing compliance with each of the relevant criteria and standards.*

Criteria #1. THE PROPOSED USE IS A CONDITIONALLY PERMITTED USE WITHIN THE ZONING DISTRICT.
Justification and compliance with criteria #1:

The cottage will be 1,293 sf, which is over the permitted 900 sf but under the 1,500 sf allowed as ~~a variance in the Agriculture Forest Zone. The cottage will be located just over 100' from the~~ primary residence in order to protect a grove of mature trees and avoid the worst of the slope on the property.

Criteria #2. THE CHARACTER OF THE PROPOSED USE WILL BE IN HARMONY WITH THE NEIGHBORHOOD AND SURROUNDING LAND USES.
Justification and compliance with criteria #2:

The accessory cottage unit will not obstruct views or activities of any adjacent or nearby ~~properties. It has been design to recess into the hillside in order to create a minimal visual and~~ environmental impact on its surrounding context. The accessory cottage unit will have similar finishes and design features to the existing residence.

Criteria #3. THE PROPOSED USE AS APPROVED, OR AS APPROVED WITH CONDITIONS, WILL NOT GENERATE NUISANCES THAT WOULD BE INJURIOUS OR DETRIMENTAL TO ADJOINING PROPERTIES OR THE NEIGHBORHOOD (INCLUDING BUT NOT LIMITED TO NOISE, DUST, GLARE, VIBRATIONS, ODORS AND THE LIKE).
Justification and compliance with criteria #3:

The accessory cottage unit will not obstruct views or activities of any adjacent or nearby ~~properties. Its site was selected to afford ample distance from houses on neighboring properties,~~ to ensure no impact on privacy and avoid creating any nuisance.

Criteria #4. THE LOCATION, DESIGN, AND SIZE OF THE PROPOSED USE WILL BE ADEQUATELY SERVED BY EXISTING STREETS, PUBLIC FACILITIES AND SERVICES.
Justification and compliance with criteria #4:

The accessory cottage unit will not require facilities or services with excessive costs to the public. Wastewater will be ~~managed on site with a new septic tank/drain field. Electrical and water will be accessed via the existing residence.~~ The driveway will tie into the existing driveway and will not require new road access from the property.

Recieved 08-02-2021

Criteria #5. THE PROPOSED USE WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY IF LOCATED WHERE PROPOSED.

Justification and compliance with criteria #5:

The accessory cottage unit in its proposed location will not endanger public health or safety in any way.

Criteria #6. THE PROPOSED USE MEETS ALL APPLICABLE DEVELOPMENT STANDARDS OF THE ZONING CODE.

Justification and compliance with criteria #6:

The accessory cottage unit and its road, electrical, water, and sewer access will be constructed in compliance with all development standards of the zoning code.

Criteria #7. THE PROPOSED USE WILL NOT BE IN CONFLICT WITH THE COMPREHENSIVE PLAN.

Justification and compliance with criteria #7:

The proposed site for the accessory cottage unit does not conflict with any established comprehensive plan.

CONDITIONS OF APPROVAL

The City of Moscow or Latah County may impose conditions including, but not limited to, those (1) minimizing adverse impact on other development; (2) controlling the sequence and timing of development; (3) controlling the duration of development; (4) assuring that development is maintained properly; (5) designating the exact location and nature of development; (6) requiring the provision for onsite or offsite public facilities or services; (7) requiring more restrictive standards than those generally required in an ordinance; and/or (8) requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.

COMPLIANCE

1. In the event of failure to comply with the plans proof by the Board of Adjustment, or with any conditions imposed upon the Conditional Use Permit, the permit shall be immediately revoked and shall be automatically null and void.
2. Where plans are submitted and approved as part of the application for a Conditional Use Permit, modifications of the original plans may be required by the Board as a condition of approval.
3. Where plans approved by the Board of Adjustment are modified following such approval, such plan modifications must be submitted to and determined by City staff to be in substantial conformance with the plans approved by the Board. If plan modifications are not in substantial conformance, the plan modifications must be resubmitted to the Board for an additional public hearing as an amendment to the Conditional Use Permit application.

Recieved 08-02-2021

REVOCATIONS

If a Building Permit and/or Certificate of Occupancy pertaining to the Conditional Use Permit is not obtained for the subject property within one year from the date of the Board of Adjustment's final decision, the Conditional Use Permit shall be immediately revoked and shall be automatically null and void. If the use and/or occupancy for which the Conditional Use Permit is approved ceases for a period of twelve consecutive months, unless otherwise provided for in the Conditional Use Permit, then the Conditional Use Permit shall be immediately revoked and shall be automatically null and void.

Application Submittal:

This application must be completed and submitted with the below described items to the Moscow Community Development Director at least twenty-one days prior to the hearing at which the application is to be considered by the Board or the application will not be processed.

The following items must be submitted with this application before it will be processed:
1. Application Fee
2. Site Plan, drawn to scale
3. Floor Plans, drawn to scale
4. Elevation Drawings, drawn to scale (for new construction only)

I understand this information is a public record and may be posted to a public website.

J Brownell
Applicant's Signature

7/29/2021
Date

J Brownell
Owner's Signature

7/29/2021
Date

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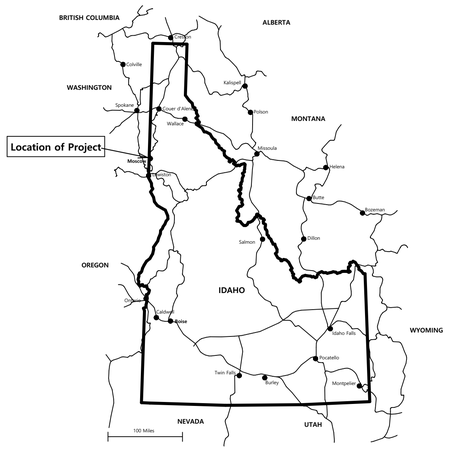
LUP2021-0033



Accessory Cottage Unit at 3400 Robinson Park Rd

DESCRIPTION OF WORK

New Accessory Cottage Unit, One story 1200 sq ft

8" ICF exterior walls, reinforcement per IRC 2018 and FoxBlock prescriptive standards, stick framed interior walls, slab on grade and engineered floor systems, engineered roof trusses.
Whole house ventilation provided by exterior intake vent on return side of forced air HVAC system, 300 CFM programmed 1 hr min per 4 hr time segment runtime.
Zoning - Agriculture Forest
Construction Type - IIIA
Building Height - 24'
From Grade to Eaves - 4'-13'

SHEET LIST

A1	Cover Sheet
A2	Site Plan
A3	Floor Plan
A4	Elevations

NORTH HOUSE

Drawn by
Kyle Madsen
509-368-1544
kyle@northhouseco.com

Checked by
Luke Ryan
208-596-2670
luke@northhouseco.com

Job Number
021-034

Revisions:

Prepared by
NORTH HOUSE DRAFTING & DESIGN COMPANY
512 S Main, Moscow, ID 83843

PRELIMINARY

Project
3400 ROBINSON PK RD ADU
MOSCOW ID

Owner
Jonathan Brownell
3400 Robinson Pk Rd

Builder
Anderson Family Construction
1046 Wallen Rd
Moscow, ID 83843

8/3/2021

A-1

Recieved 08-02-2021

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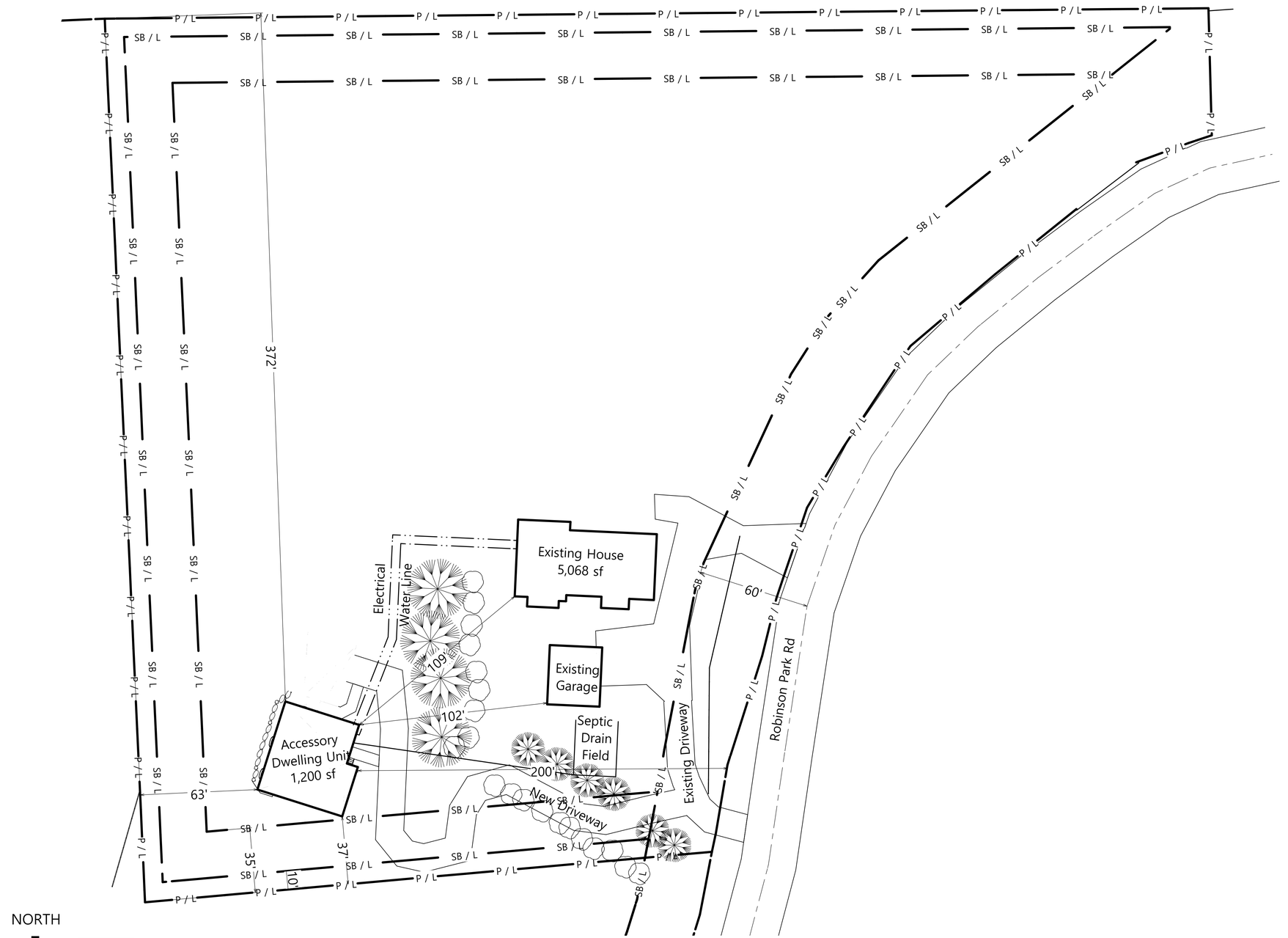

NORTH

A2.1 Site Plan

scale 1" = 30'

NORTH HOUSE

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Checked by
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Job Number
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Revisions:

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Moscow, ID 83843

Owner
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3400 Robinson Pk Rd

Project
3400 ROBINSON PK RD ADU
MOSCOW ID

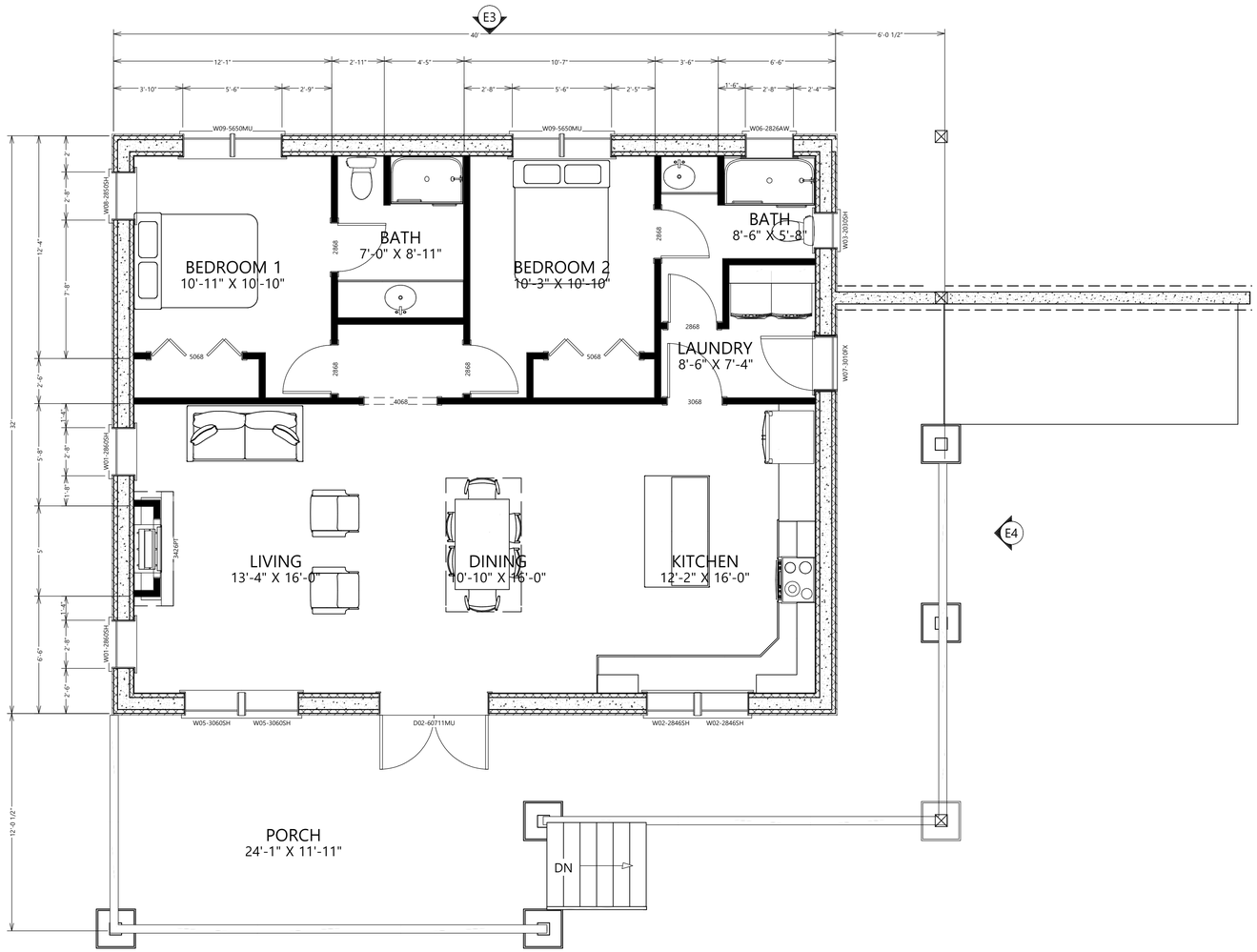
8/10/2021

Page Title:
SITE
PLAN

A-2

Recieved 08-11-2021

LUP2021-0033



NORTH

A3.1 Main Floor Plan

scale 1/4" = 1'

NORTH HOUSE

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Revisions:

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3400 Robinson Pk Rd

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MOSCOW ID

8/3/2021

A-3

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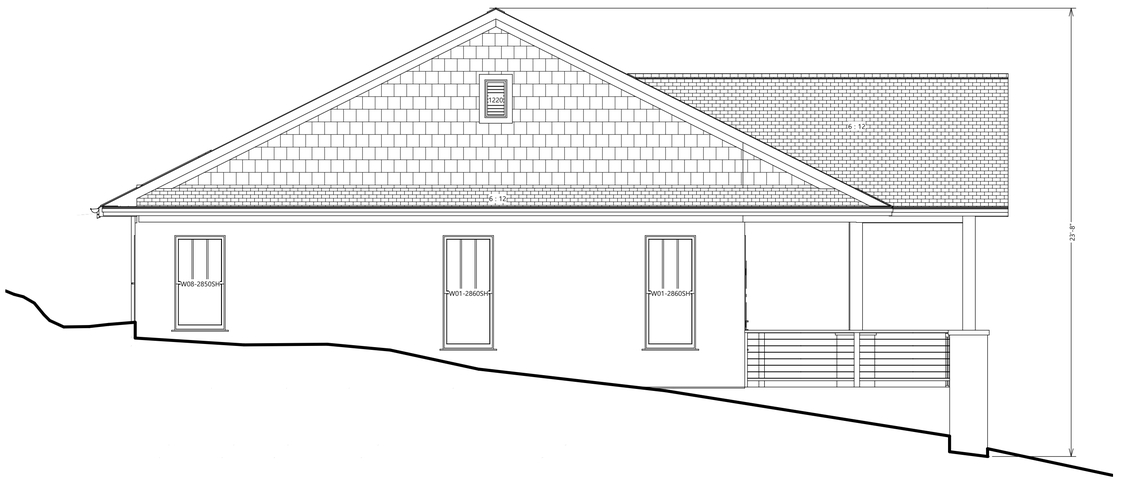
LUP2021-0033

A4.1 North Elevation

scale 1/4" = 1'

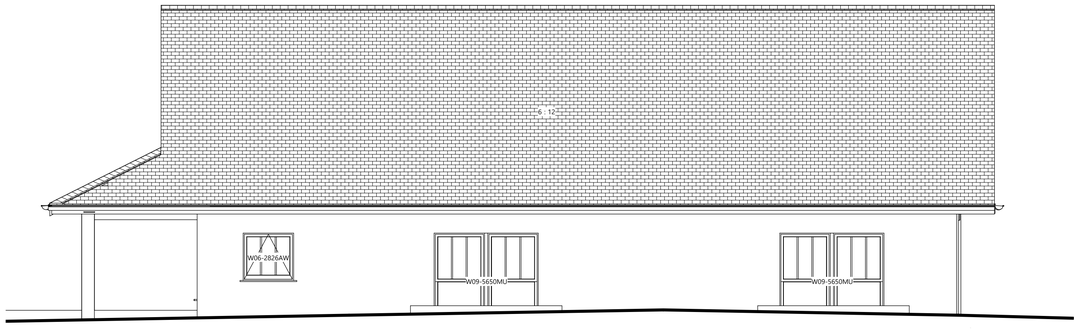
A4.2 East Elevation

scale 1/4" = 1'



A4.3 South Elevation

scale 1/4" = 1'



A4.4 West Elevation

scale 1/4" = 1'

NORTH HOUSE

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Job Number
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MOSCOW ID

8/3/2021

A-4

Recieved 08-02-2021