

# BOARD of ADJUSTMENT



Joe Bazzoli  
Commission Chair

~Meeting Minutes~  
November 13, 2018

Leah Carlson  
Staff Liaison

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

## The meeting was called to order at 7:02 PM

MEMBERS PRESENT: Mark Monson, Vice Chair; Annette Bieghler, Steve Bush, Marshall Comstock, Tim Thomson

MEMBERS ABSENT: Joe Bazzoli, Laurene Sorensen

STAFF IN ATTENDANCE: Leah Carlson, Mike Ray, Anne Peterson

### 1. Approval of Minutes from October 11, 2018.

Bush moved approval of the minutes as presented by staff.

|                    |                   |
|--------------------|-------------------|
| <b>RESULT:</b>     | <b>ACCEPTED</b>   |
| <b>MOVER:</b>      | Bush              |
| <b>SECONDER:</b>   | Bieghler          |
| <b>ABSECTIONS:</b> | Comstock, Thomson |

Motion carried by acclamation.

### 2. Public Hearing: Proposal for Conditional Use Permit for a Wireless Communication Facility located at 1400 E 7<sup>th</sup> Street – LUP2018-0023

Carlson presented the application for an 80-foot tall wireless communication facility within a fully enclosed 800sf area to be located in the southwest corner of the Nazarene Church property. Subject property is within an area of Neighborhood Business zoning which is completely surrounded by R-3 residential zoning. There is currently a large area of poor cell coverage on the east side of Moscow which the applicant seeks to remedy with this tower. There will be space for three carriers. Carlson reviewed the eight development standards required by the zoning code and described how the application meets all development requirements, as well as the typical relevant criteria and standards for conditional use permits, plus four extra criteria required for cell towers. Staff recommended approval with three conditions:

1. The applicant shall construct a six-foot (6') high decorative wall constructed of brick, stone, or textured concrete block surrounding the telecommunications facility, as is required per MCC 4-3-5 (G)(iii).
2. The applicant shall implement a 12' wide Type A Buffer yard on the western side of the proposed facility, as is required per MCC 4-3-5 (G)(iii).
3. The applicant shall enter into a co-location agreement as required by City Code, subject to City staff approval.

Comstock asked if a blinking light on top would be required by the FAA and staff deferred to the applicant. Bieghler asked about signage and staff said no commercial signs would be allowed but appropriate hazard signs would need to be in place per building regulations. Thomson asked for examples of possible noise mitigation for the generators, and whether it might be incredibly expensive. Staff replied that enclosing the structure or sound deadening are both options.

Monson opened the public hearing at 7:18 pm.

Derek Budig, PO Box 8436, Spokane, representing PI Towers Lend Lease which is doing a build-to-suit for T-Mobile. The proposed tower will support T-Mobile's expansion of service within Moscow and the monopine design will minimize the visual impact. Budig stated the area of low coverage in southeast Moscow requires many residents to resort to wifi calling. He added there were no other suitable existing structures available in that area of town where they could co-locate.

Bush asked what other sites were considered and Budig replied the only existing structure located in the proper geographic area was the water tower on Hathaway Street, but it was not available. Their engineering studies indicated the proposed location was optimal and they had found a willing landlord. Budig said lights aren't required by the FAA under 200 feet. Bush asked about megahertz levels and Budig said he wasn't sure but it would be within the appropriate FCC safety guidelines. Monson asked why it needed to be so tall. Budig said it was the optimum height for signal transmission while still allowing room for additional carriers.

There was no testimony in favor of the application. Testimony in opposition:

David Hall, 1334 Wallen Rd, was concerned about health effects of the magnoelectronic fields. He thought the Board and public should know the radiation levels.

Faris Paxton, 824 Park Drive, suggested that people in the subject area who can't get T-Mobile service should just change carriers. He said FCC safety regulations are 22 years old and the Telecommunications Act of 1996 actually prohibits the Board from denying the application on the basis of health concerns. Studies show property values decrease up to 22 percent next to cell towers, which would affect property tax income for Moscow. He cautioned the Board to take more time to study this request, and thought he was accurate in saying that once approved, the tower could be increased up to 100 feet without additional approval.

Maury Wiese, 711 Park Drive, opposed the tower. He asked if there would be a diesel generator for each carrier or one for the whole tower. Staff replied the application noted just one. He said the look of the tower changes the complexion of the whole neighborhood and he asked the Board to deny the proposal.

Kensington Hill, 721 Park Drive, asked the Board to consider the nature of the neighborhood which is turning over to young families. She said the aesthetics of the structure wasn't desirable and it carried potential health risks. She didn't think other carriers had coverage issues in that area of town so it was really just a T-Mobile issue.

Gary Saunders, 1217 Kamiaken, said his Sprint coverage is just fine. He appreciated the idea of co-location but said it sounds like other carriers don't need extra coverage in the subject area. He urged more time to study other options such as micro-tower technology and using existing church steeples. He was interested in knowing the revenue to the church for this lease, but didn't think that revenue should offset the implications the tower would create for the neighborhood. He thought it was odd to place a tower in such a low-lying area.

Michael Madsen, 1221 East Seventh, lives right across the street from the proposed location. He cited studies done in several countries showing the health effects of microwaves, particularly on young children, and there is a park, ballfields, and young families living all around the proposed site.

Mike Scott, 1130 Kamiaken, said the proposed tower is twice as tall as anything else in the neighborhood. The homes in the neighborhood would be devalued by \$20-30,000. He thought the church could find a different income model for keeping itself afloat.

Martha Ford, 1009 East Seventh, had the same concerns about aesthetics, noise, and property values. The applicant testified the tower will actually be 85 feet so she wanted to know if the illustrations were based on 80 or 85 feet. She thought most generators run about 65 decibels and said, if approved, the generator should be required to be within the decibel range rather than waiting for neighborhood complaints.

Merilee Paxton, 824 Park Drive, repeated the concerns about aesthetics and property values. She would never have moved her family near such an eyesore and possible health hazard.

Bruce Menadier, 1121 East Eighth, said the very large trees in his neighborhood don't come close to the size of that tower. He stated a National Institute of Health report showed a very high percentage of people said they would never purchase or rent property near a cell tower. He suggested it be placed on City owned property somewhere. He asked the Board members if they'd like it in their neighborhood.

Jeff Lonneker, 1022 East Eighth Street, said it seems like a T-Mobile problem. He suggested a tower further on a hill further east would be more beneficial. He hoped the church didn't instigate this just for the revenue stream without consideration to all the neighborhood families.

Beverly Madsen 1221 East Seventh Street, objected to the tower for aesthetic reasons, lowered property values, and because it would be right out her front window.

Zach Thomas, 103 East Seventh, was also concerned about health risks to his family, as well as the generator noise and possible health risks for the group home residents who live approximately 100 feet from the proposed site.

Monson allowed introduction of written testimony received today from David Hall (attached).

#### Rebuttal from Applicant:

Budig responded to citizens' coverage comments and thought it was important for people to keep in mind that there are already cell towers all over town on water towers, schools, downtown buildings, Theophilus Tower, etc. Regarding the height question, Budig said the tower is 80 feet tall with five-foot branches on top to camouflage the antennae. Ray clarified that code allows the antennae to extend 18 feet beyond the top of the tower, but any tower addition would require another CUP.

Thomson asked whether wifi routers expose people to the same radio frequencies. Budig said he wasn't an expert in that area but knew that routers are high frequency but not regulated, whereas cell towers are highly regulated. Comstock asked staff the height comparison between the 80-foot tower and the high voltage power lines on Mountain View. Ray speculated the power line towers were probably 80-100 feet tall. Comstock then asked why co-location wasn't available on the Hathaway water tower and Carlson replied with a memo from the Public Works Director stating the design of that particular tower didn't have the structural support to make co-location feasible. Comstock asked the applicant if they studied options in commercial locations such as Eastside Marketplace or Fire Station 2. Budig replied there were no commercial zones that met the geographic coverage requirements, nor any existing towers in the appropriate area. Bush suggested the Fairgrounds property wouldn't create as much opposition because the neighbors are further away. Budig seemed unaware of that property. Monson asked the range of a typical tower and Budig said there were a lot of variables, but he thought roughly a mile.

Michael Kyte, 1009 Seventh Street, thought the conversation itself indicated that not enough homework had been done to prove that the proposed site was the only alternative. He suggested the Board deny the application and request additional information about service areas and other possible locations.

Public hearing closed at 8:13 pm.

Comstock didn't think it was a good fit for the residential character of the neighborhood and thought other commercial options could be explored. He acknowledged there are already other tall, tower-like structures along Mountain View, and said generally CUPs can be conditioned in ways to fit the neighborhood but he did have an aversion to this tower in this residential area. He said if the application met the relevant criteria, however, he didn't know how it could be denied. Bieghler trusted that the engineers had done the right work to identify the best location for their business needs and thought it was important to consider the growth of commerce. Bush didn't think the property values would be affected any differently than that of residential properties near other cell antennae in town. He mentioned the studies regarding health concerns in other countries pertained to much larger towers. However, Bush said he did some research and learned that 300 megahertz is the threshold for health concerns, and it bothered him that the megahertz level wasn't provided in the application so he wanted more answers before approving the application. Thomson said the application met the FCC requirements and City regulations, and moving it to another site just puts any potential health concern on a different neighborhood. Comstock said he inspects all the cell towers in Latah County, and he thought the City did a good job with its requirements for buffering the structure, but he remained concerned about it not fitting into the neighborhood. Monson shared Comstock's concern that it's a permitted use and the applicant followed all the requirements to the letter. He said if the facility has FCC approval, he had to assume the frequency levels must be acceptable.

Ray reminded the Board that approval must be based on the seven Relevant Criteria and Standards for CUPs and the additional four that are specific to cell towers.

Comstock moved to deny the application based on the application not sufficiently satisfying Criterion #2. There was no further discussion.

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|------------------|---------------------------|
| <b>RESULT:</b>   | <b>DENIED [UNANIMOUS]</b> |
| <b>MOVER:</b>    | Comstock                  |
| <b>SECONDER:</b> | Bush                      |

Motion carried by acclamation.

### 3. Board Communications

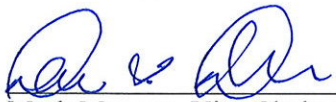
None.

### 4. Other Business

The RCS approval meeting was scheduled for Monday, November 19, at 5:30pm in Council Chambers.

### Adjournment

The meeting adjourned at 8:10 pm.

  
Mark Monson, Vice Chair

11-19-18  
Date

November 13, 2108

City of Moscow Board of Adjustment  
Joe Bazzoli, Commission Chair  
boa@ci.moscow.id.us

re: Board of Adjustment City of Moscow RE: LUP 2018-0023

I have concerns about the proposed “wireless communication facility” (antenna tower **and associated antennas/EMF-producing equipment**). I do not see any information on what type of radiation will be generated (where in the electromagnetic spectrum it falls). In the applicant’s ground lease agreement (packet page 20), number 5, “Use,” “any and all frequencies” is specified. On page 3 of City of Moscow Application form (packet page 12), in response to Criteria [sic] #5: “THE PROPOSED USE WILL NOT ENDANGER THE PUBLIC HEALTH OR SAFETY IF LOCATED WHERE PROPOSED” the applicant states that “There are no known health risks associated with this technology...” and cites various FCC regulations. There is no way of verifying this information, and there is a great deal of evidence that EMF radiation can be quite harmful and debilitating to humans (and plants and other animals). I will not provide references here as I see that another person commenting on this application has already provided quite a few.

Should (or is) permitting of the facility (tower) separate from permitting for operation of an EMF-producing operation?

On an editorial level, most of the uses of “criteria” in your application pages (e.g., p. 12 and p. 15 in the packet) are singular, and should be “criterion.” On page 9, criterion #2. should read “otherwise” rather than “other.”

David Hall  
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Moscow, ID