

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
November 19, 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 5:36 PM

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

MEMBERS ABSENT: Joe Bazzoli, Laurene Sorenson

STAFF IN ATTENDANCE: Mike Ray, Anne Peterson

1. Approval of Minutes from November 13, 2018.

Thomson moved approval of the minutes as presented.

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Thomson
SECONDER:	Bush

Motion carried by acclamation. Monson made a point of acknowledging two citizens in the audience.

2. Approval of Relevant Criteria and Standards for Property Located at 1400 E 7th Street – LUP2018-0023

Comstock moved approval of the Relevant Criteria and Standards as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Comstock
SECONDER:	Thomson

Motion carried by roll call vote.

3. Board Communications

Next hearing for a Variance application is scheduled for Tuesday, December 4th.

Adjournment

The meeting adjourned at 5:41pm.


Joe Bazzoli, Chair

12/4/2018
Date

**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 4-2-3(2)(I).**

WHEREAS, the applicant filed an application for a Conditional Use Permit on July 30, 2018; and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed public hearing on November 13, 2018; and

WHEREAS, having reviewed the application, including all exhibits entered, 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, and Moscow City Code.
2. The applicant proposed an Eighty-foot (80') Wireless Communication Facility (WCF) located at 1400 E 7th Street. The proposed tower is a monopine design; a stealth-style tower intended to resemble a tree.
3. 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.
4. 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.
5. 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.
6. 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 Ryrice Brink Park and East Gate 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.

7. 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.
8. Chapter 2 of the 2009 Comprehensive Plan, Community Character and Land Use, designates the subject property as Public and Semi-Public.
9. 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."
10. The Zoning Code has specific use standards for Telecommunications Facilities within MCC 4-3-5(H).
11. 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.
12. Telecommunications Facilities must be protected from unauthorized access by appropriate security measures. The proposed site is enclosed by a six foot (6') high fence and the ancillary facilities are fully enclosed within the proposed site.
13. 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.
14. Antenna towers are required to be separated from the property line of any adjacent property zoned SR, R-1, R-2, R-3, or R-4 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.
15. 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, and 600 feet from properties zoned R-4.

16. 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.
17. While the height of the dome on the Church of the Nazarene stands approximately fifty feet (50') tall, residential properties in the vicinity generally do not exceed thirty feet (30'). Nearby trees reach approximately sixty feet (60') in height.
18. Public testimony in opposition for the proposed WCF was heard from a total of 13 individuals, 12 of which live within a quarter mile of the proposed site.
19. Three (3) individuals expressed opposition to the proposed WCF during the public hearing due to noise concerns.
20. Three (3) individuals expressed opposition to the proposed WCF during the public hearing due to concerns about property value depreciation.
21. Seven (7) individuals expressed opposition to the proposed WCF during the public hearing due to aesthetic concerns, including the scale of the tower in comparison to nearby residences.

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 and will not be in harmony and land uses surrounding the subject property. 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. Public testimony was received by 13 individuals that the proposed WCF is not consistent with the existing character of the uses of the surrounding neighborhood. These individuals expressed concern regarding the scale of the proposed WCF, decreased property value, 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 fence. Construction would create some noise that would last approximately one month. The proposed diesel generator would be double contained and would be used in the event of a power outage. The 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. A new access is proposed off Park Drive. 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. **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 within

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 tree 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 fence. Staff recommends the fence be constructed of brick, stone, or textured concrete block surrounding the telecommunications facility and recommends that the applicant 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).

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.**

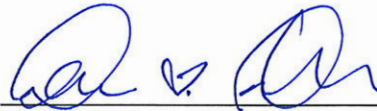
The applicant has no prior history of failing to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise. The water tank located on Hathaway Street is not structurally sound to support antenna structures. The tower

at Rotary Park is out of the geographic search area. No other registered support structures within one (1) mile of the proposed site are available.

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.

DENIED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE 19 DAY
OF NOVEMBER 2018.



Mark Monson, Vice Chair
Board of Adjustment