

Latah County Zoning Commission Meeting Minutes

Date: 07/20/2011

Location: Latah County Courthouse Room 2B,

Members Present: Wayne Sprouse, Jim Hagedorn, Bob Henriksen, John Akin, Patrick Wilson,

Staff Present: Mauri Knott, Jason Boal, Cecily Gordon

Meeting opened by Wayne Sprouse, Chairman. Time: 17:30

Adoption of Minutes: July 6, 2011

Motion: J. Akin moved to accept the minutes, B. Hagedorn seconded.

Action: Approved. Yes: 4 No: 0 Abstain: 0

CUP #841: A request by First Step Internet, for a conditional use permit to place a wireless communications tower on a 80-acre parcel in the Agriculture/Forest zone. The property is located at 3812 Foothill Road, in Section 13, Township 40 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP40N05W133600A.

Motion: P. Wilson moved to approve CUP , J. Hagedorn seconded.

Action: Approved. Yes: 4 No: 0 Abstain: 0

Public Hearing for CUP841 A request by First Step Internet, for a conditional use permit to place a wireless communications tower on a 80-acre parcel in the Agriculture/Forest zone. The property is located at 3812 Foothill Road, in Section 13, Township 40 North, Range 05 West, B.M. in Latah County and is referenced as Latah County Assessor's parcel number RP40N05W133600A.

Opened Public Hearing: 17:35 –Staff Report

Open to Public Comment: 17:55 – The applicant testified.

Closed to Public Comment: 18:10

Motion: P. Wilson moved to approve CUP 841 with the following conditions:

1. The conditional use shall be in compliance with all federal, state and local regulations.
2. The conditional use shall be in substantial compliance with all the plans, materials and application as submitted.
3. The conditional use shall be in compliance with the §4.05.08 of the Latah County Zoning Ordinance, #269, as amended as a follows:

1. All towers must be built so as to allow for a total of at least three wireless telecommunication providers on the tower. The Zoning Commission may waive this requirement if greater consistency with the Latah County Comprehensive Plan may be achieved thereby.
2. All towers must be set back a minimum of 150% the height of the tower from any public road, public right-of-way or property line, and a minimum of 1,000 feet from any residence or commercial building. If consents pursuant to Section 4.05.06.2.B.9 are filed with the Planning Department, the Zoning Commission may waive such setbacks. Setbacks from any public road or public right-of-way shall not be waived.
3. If equipment enclosures will be located on the ground, a six to seven foot high fence of wood, masonry or privacy slats completely surrounding the equipment enclosure is required to secure and screen the equipment and structure.
4. A warning sign no larger than three square feet and no smaller than two square feet must be placed on the fencing access/gate. It must contain the name of the owner and operator of the facility, and a phone number for cases of emergency as well as any other information required by law.
5. Any tower/structure shall be finished in a non-reflective neutral color or as otherwise specified by the Zoning Commission.
6. No ladder rungs or climbing pegs on towers shall be allowed within 20 feet of the ground.
7. No towers with guy wires are allowed.
8. No lighting of antennas or antenna support structures except as required by the Federal Aviation Administration. The maximum tower lighting is a low intensity red light as defined by the Federal Aviation Administration.
9. Transmission towers and all accompanying equipment enclosures or ancillary facilities shall be camouflaged to fit into their immediate surroundings at the discretion of the Zoning Commission.
10. Prior to turning on or using the antenna(s), the applicant must submit documentation demonstrating the provider is licensed in good standing by the Federal Communications Commission (FCC).
11. Compliance at all times with any applicable laws or regulations including the Latah County Zoning Ordinance.
12. All applicants granted a permit under this Section shall cooperate and negotiate in good faith with other providers or tower owners in efforts to co-locate. Such good faith shall include sharing technical information to evaluate the feasibility of co-location. Such technical information is limited to necessary information to evaluate the feasibility of colocation.

A. If a provider is denied the opportunity to co-locate by a tower owner or operator with a conditional use permit granted under Section 4.05, the denied party shall obtain a technical study showing whether co-location is possible from an independent third party prior to consideration for a permit. If the study concludes co-location may occur without impairment to the existing operator(s), the tower owner shall be charged the expense of the study and co-location shall be permitted at a reasonable fee.

B. In the event that the parties are unable to agree as to what is fair market value, the parties shall notify the Planning Department of such in writing and shall then select a certified general appraiser in the State of Idaho to determine the fair market value and notify the County of the same within 30 days. If the parties do not agree on the selection of an appraiser and so notify the Planning Department, the Planning Department may arrange for an appraiser, at the expense of both parties. The determination of fair market value by any such appraiser shall be binding on the parties.

C. Failure of a tower owner to allow co-location at a reasonable fee and on reasonable terms shall result in the immediate revocation of the owner's conditional use permit.

4. The conditional use shall be in compliance with §4.05.09 which requires the applicant to create an automatic lien/bond of sufficient amount. The applicant shall provide the Latah County Planning and Building Department with a market value cost estimate for tower removal. The lien will be based on the amount provided. The lien/bond created by this Section shall be perfected upon recording in the Latah County Recorder's Office and such lien shall have a priority date as of the date of the issuance of the conditional use permit. Enforcement by lien is non-exclusive and in addition to any and all other remedies available at law or in equity. "The applicant shall remove the constructed tower after abandonment. The tower shall be considered abandoned once all antennas have been removed for a period of 120 consecutive days or once all antennas mounted upon the tower have not operated for a period of 120 consecutive days. This removal shall also include restoration of the site to its original condition, with removal of the tower structure (including the foundation) to at least 36 inches below the original surface grade of the ground. To ensure such removal and restoration, the tower owner shall provide a commercial or performance bond in the amount agreed upon. The bond shall be executed by a surety company or companies duly authorized to do business in this state. The tower owner must demonstrate proof of the bond prior to building the tower. The tower owner shall ensure that said bond remains in full force and effect at all times; shall demonstrate proof of the same, satisfactory to Latah County, prior to building, or issuance of a building permit for the tower; and in each annual statement to the Planning and Building Department by December 31 of each year. The bond shall name Latah County as the payee. The bond shall not be cancelled by any party without 90 days advance written notice to the Latah County Planning and Building Department. Such notice of intended cancellation prior to satisfactory removal of the tower, antenna, and related facilities is a violation of the conditional use permit and the county may immediately

demand and receive payment in full on said bond. In any action brought to enforce the bond herein, or against the tower owner for failing to maintain the payment of the bond, the prevailing party, shall be entitled to recover reasonable attorney fees and court costs. Enforcement by performance bond is non-exclusive and in addition to any and all other remedies available at law or in equity.”

Action: Approved. Yes: 4 No: 0 Abstain: 0

18:15 Meeting Adjourned by Wayne Sprouse

Respectfully submitted,
Patrick Wilson