

GOODING COUNTY PLANNING AND ZONING

January 13, 2020

Hearing Officer Tom Bingham called the hearing to order at 5:34 p.m. for a public hearing in the Gooding County Planning and Zoning meeting room with the following Planning and Zoning members present: Curtis Merrill, Chairman, Tom Bingham, Kathleen Goicoechea, Rand Bergstrom, Miles Hall and alternate, Connie Flinders. In addition, Prosecuting Attorney, Matt Pember, P&Z Administrator, Cathy Harris and P&Z Administrator Assistant, Missy Shurtz were in attendance.

Rand asked about conflicts of interest relating to the hearing being heard. There were none.

The hearing is a Special Use Permit request *application submitted by: David Lazenby, 903 S. Oneida, Rupert, ID 83350 to construct a 120 foot telecommunication tower. The property is located at 1584 E. 3300 S., Wendell, ID, within Section 14, Township 8 South, Range 14 East, Boise Meridian. It is zoned Agricultural.*

David Lazenby, 903 S. Oneida, Rupert, ID 83350. David is the representative for Safelink. They want to build a cell tower on the property of John Fontes to increase cell and internet service in the area.

No supporters.

No uncommitted.

Opposed:

Mike Dahmer, 573 Glacier Dr., Jerome, Id 83338. He is a licensed engineer for 42 years. He is not certain that Safelink is the appropriate applicant. He thinks it should be the land owner. He feels the radios are a danger to the dairy cows' health. He has a report that 500 cows died and put the dairy owner into bankrupt due to a tower. In his opinion it should be built in a better location.

Dale McMinn, 1596 E. 3300 S., Wendell, ID 83352. His concern is that the tower will put out something that will interfere with the medical equipment that is keeping him alive.

Rebuttal:

David Lazenby stated that they do know the wind load and are building it to the County's regulations. He has never seen the reports about any cows dying due to the towers. Safelink has several towers on several dairies in the Magic Valley. They have around 280 towers in Southern Idaho.

David volunteered to have Safelink conduct an evaluation at Mr. McMinn's home to determine if there would be any negative effects to Mr. McMinn's health/medical equipment from the proposed tower installation.

Written testimony:

Wendell Rural Fire District, Bob Bailey, Chief, reviewed the plans and did not see any significant impacts or issues for the Fire District.

Gooding Airport, Dale Thomas, Manager Gooding Airport - Stated that the telecommunication tower will not have any effect on the flight operations at the Gooding Airport.

Close the hearing at 6:10 pm.

Curtis Merrill opened the regular meeting of the P&Z Commission at 6:10 pm.

First item on the agenda is the Special Use Permit for the Safelink tower. The definition of a special use permit is read and the general standards, as stated in Ordinance No. 71 Telecommunications Facilities, reviewed per below.

The Commission shall review the particular facts and circumstances of each Telecommunications Facilities in terms of the following standards and shall find adequate evidence showing that such use at the proposed location meets the following requirements:

_____ Submittal information (all items in Ordinance 71, 1-20)

1. Completed "Special Use" Application.
Kathleen moved, Rand 2nd that is has been met.
2. Signature of applicant and landowner with (lease agreement).
Rand moved, Kathleen 2nd that it has been met
3. Identity of carrier, provider, applicant, landowner and service provider.
Kathleen moved, Rand 2nd that it has been met
4. The name, address, and telephone number of employee responsible for accuracy of application. Rand moved, Kathleen 2nd that it has been met
5. A plat of survey showing pertinent information.
Kathleen moved, Miles 2nd that it has been met
6. A written legal description of the site.
Rand moved, Tom 2nd that it has been met
7. A description of the telecommunication services to be provided. Miles moved, Rand 2nd that it has been met

"Safelink offers internet services including but not limited to internet Access, EPL services, custom routing consultation, Wi-Fi and other LAN solutions for business."

8. FCC license number and registration numbers. Kathleen moved, Tom 2nd that it has been met

"Currently the tower this is replacing does not have any FCC licensed equipment on it, it is all 5Ghz free spectrum. We are likely adding a licensed BH to the tower. Given the expense of licensing a link we would need to get permitting in place before starting the licensing process for that link."

9. Copies of FONSI statement from FCC or EIS, if applicable. (Not Applicable)
Discussion: Kathleen moved, Miles 2nd that it is N/A

10. Plans indicating security measures. Miles moved, Rand 2nd that it has been met

"Access to the property would remain at the discretion of the property

owner. Safelink will provide cattle fencing to the tower if necessary and will have a 30" x 36" x 16" box with a padlock containing our

networking equipment."

11. Map inventory of applicant's existing towers in Gooding County.
Rand moved, Kathleen 2nd that it has been met

12. Structural report prepared by licensed engineer. Miles moved, Tom 2nd that it could be met pending further information on a **Geo Technical Engineering if required and structural engineering is stamped by a licensed Idaho engineer.**

13. Proof of liability coverage. Kathleen moved, Miles 2nd that it has been met
14. Proof of notification the airport operator and airport owner have been notified. Miles moved, Tom 2nd that it has been met
15. FAA and Idaho Transportation-Aeronautics Divisions, applications for towers. Miles moved, Tom 2nd that it has **not** been met
16. Copies of determination of no hazard from FAA. Miles moved, Tom 2nd that it has **not** been met
17. Copies of EA reports on Form 600 or Form 854 submitted to FCC. (Not Applicable) Tom moved, Rand 2nd that it is N/A
18. Copies of any filings submitted to the FCC. Miles moved, Tom 2nd that it is N/A **based on information provided by the applicant that has not verified**

"Not Applicable - Will not be using any licensed spectrum at this time."
19. Proof of Bond as security for removal. Miles moved, Tom 2nd that it has been met **needs to be clarified with legal**

"Would like to extend the current agreement that we have with Gooding County on our Wendell Cell tower."
20. Such other information as the Planning and zoning Commission may require.

Telecommunications permit for only

1. Agriculture Zone
2. Commercial Zone
3. Industrial Zone

General Standards Applicable To All Telecommunications Facilities - Checklist (Cont.)

Areas Limiting Telecommunication Facility Location:

Tower not closer than:

1. ½ mile heliport (No)
2. 1 mile from private runways (No)
3. 3 miles radius of public airport runways (No)
4. 300 ft. from Snake River Canyon Rim or the Malad Canyon Rim (No)

Check for:

5. Historic sites (No)
6. Wetlands (No)
7. Flood plains (No)
8. Residential Zoning Districts (No)

_____ Security for removal (bond)

_____ FCC/FAA applications of license approvals (Not required per TOWAIR Determination Results - Attached)

Ordinance No. 103 Gooding County Tower Ordinance

The purpose of this ordinance is provide a set of standards for towers between 100' and the Federal Aviation Administration's minimum height requirement for obstruction marking and lighting for pilot safety and to protect life and property.

IV: REQUIREMENTS

A. TOWER VISIBILITY

All towers meeting the height requirements specified by this Ordinance and located outside the exterior boundaries of any incorporated city or town in Gooding County shall be visible and may be required to be lighted, marked, painted, and flagged in accordance with the following guidelines:

1. Towers must be painted in seven, equal, alternating bands of aviation orange and white. Beginning with orange at the top of the tower, and ending with orange at the base.
2. Towers must have a flashing light at the top of the tower with a minimum of 3.75 km visibility when flashing.
3. The surface area under the entire footprint of the tower and six (6) ft past the outer anchors must be free of vegetation, or planted in vegetation that is distinctly different from the vegetation surrounding the tower.
4. Guy-Wired towers must have a total of eight (8) marker balls attached as follows: four (4) marker balls attached to guyed wires at the top of the tower at a distance no further down than fifteen (15) feet from the top wire connection to the tower; four (4) marker balls at the bottom of the guyed wires at a height of 5 - 10 feet above the tallest crop to be grown in the immediate vicinity of the tower.
5. Guy-Wired towers must have a seven (7) foot long safety sleeve at each anchor point, plus one sleeve located six (6) feet outside the outside anchor, and one sleeve at the lift anchor.

Gooding County Ordinance 104 - Chapter 7, Section 3B Special Use Permit

The Commission shall review the particular facts and circumstances of each proposed special use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

1. **Shall, in fact, constitute a special use and would not be better served in an urban area.**
Cell Towers are permitted in an Ag zone with a Special Use Permit.
Miles moved, Kathleen 2nd that #1 has been met
2. **Shall be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance.**

Chapter 5 Land Use of the Gooding County Comprehensive Plan

Goal 5.8-1: Allow for a limited amount and range of commercial uses in rural areas, consistent with rural character, as defined on page 99.

Policy 5.8-1: Neighborhood commercial uses may be considered at selected locations outside Areas of Impact, but must meet specific development criteria in those areas related to availability of existing services, impact on surrounding agricultural or residential uses and impacts on traffic. Such uses should primarily serve the immediate surrounding area, travelers passing through or the agricultural community.

Policy 5.8-3: All non-agricultural development occurring adjacent to agricultural land should be required to install and provide for continued maintenance of fences or other appropriate barriers to prevent intrusion of people and/or domestic animals onto agricultural land.

RURAL CHARACTER (from page 99):

Rural character is defined as the acknowledgment of the role of agriculture and ranching and the responsibility of those who use the land for that purpose. The definition also recognizes the small towns that are surrounded by and support both the agricultural and ranching uses of the land. Rural areas include the mixture of agriculture uses, green fields, open space, range land, forest, high desert and other rural land characteristics with minimum residential development, unless it's associated with agricultural land use. County land use ordinances, such as, subdivision, planned unit developments and planned communities, may threaten rural character. Ordinances should take into account these attributes. To minimize the impacts to rural character, buffer zones, open space or better landscaping guidelines should be considered.

Kathleen moved, Miles 2nd that #2 has been met

3. Shall not adversely affect surrounding properties to a materially greater extent than would a permitted use in the district.

The current use of the property is pasture. Should not adversely affect the surrounding property. Fences should be built around the facility to keep people and animals out.

Tom moved, Kathleen 2nd that #3 could be met with additional testimony

4. Shall not be hazardous or disturbing to existing uses.

Kathleen moved, Tom 2nd that #4 could be met with more information

5. Shall be served adequately by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or the persons or agencies applying for the special use permit shall be responsible to provide adequately any such services.

There is an existing driveway to the facility. No sewer or water will be Necessary.

Rand moved, Kathleen 2nd that #5 has been met

6. Shall not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.

No additional requirements at public cost will be created.

Kathleen moved, Tom 2nd that #6 has been met

7. Shall not involve uses, activities, processes, materials, equipment and conditions operation that will be detrimental to any persons, property or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare, or odors.

There will not be excessive traffic, noise, smoke, fumes, glare or odors.

Kathleen moved, Rand 2nd that #7 has been met

8. Shall have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.

Safelink will use the existing driveway.

Kathleen moved, Rand 2nd that #8 has been met

9. Shall not result in the undue destruction, loss, or damage of natural, scenic, or historic features.

There are no scenic or historic features in the area.

Kathleen moved, Rand 2nd that #9 has been met

10. Shall be designed to be as compatible in terms of building height, bulk, scale, setbacks, open spaces and landscaping with adjacent uses as is practical.

Kathleen moved, Rand 2nd that #10 has been met

The Chairman suggested that the Idaho Regulatory Takings Guidelines are not applicable. Kathleen moved, Miles 2nd.

Kathleen moved, Tom 2nd that the special use permit application by Safelink Internet be tabled and rescheduled based on further information and conditions.

Conditions:

1. Tower to be lighted, marked, painted, and flagged in accordance with the Gooding County Tower Ordinance No. #103.
2. That a Geo Tech Survey and structural engineering stamped by an Idaho engineer
3. Get the status of Arie Roeloffs airstrip
4. Cathy is going to get some general information about what does FONSI mean?

Approval of the meeting minutes from September 30, 2019, Kathleen moved, Miles 2nd.

Approval of the meeting minutes from November 18, 2019, Tom moved, Kathleen 2nd.

A date to review the Comprehensive Plan has been set for January 20, 2020.

The board reviewed the proposed dates for the P & Z hearings and accepts as is.

Per Matt Pember, Planning and Zoning will continue to use the CAFO waiver. If the CAFO owner won't sign the waiver, the individual party will have to apply for a variance.

New business: Next P & Z Public Hearing or a comp plan meeting set for January 20, 2020.

Curtis moved to adjourn the meeting.

Submitted by Missy Shurtz