

MINUTES OF PUBLIC HEARING
COMMUNITY DEVELOPMENT
BOARD OF COUNTY COMMISSIONERS
SEPTEMBER 29, 2022

Commissioners Present: Commissioner Leslie Duncan, Commissioner Bill Brooks, Chairman Fillios via Zoom

Staff Present: Vlad Finkel, David Callahan, Pat Braden, Ben Tarbutton, Jennifer Conner, Reba Grytness

Commissioner Duncan called the hearing to order at 6:02 P.M.

OPENING REMARKS: Commissioner Duncan states deliberations are a usual part of a public hearing, but in this case the deliberation will be continued to October 6th, one week from today at 9:00 a.m. The public testimony will be over tonight, but the commissioner will deliberate and make a decision then.

CHANGES: None

CONFLICT(S): None

Case No. CUP22-0004 INGLE, AT&T & SMARTLINK request for a Conditional Use Permit for a Wireless Communication Facility.

Director Callahan began tonight's discussion with some housekeeping items. Mr. Callahan states the applicant has requested the opportunity to do their rebuttal in writing, this way they could take what they hear tonight and prepare their rebuttal in written form to have available to both the Commissioners as well as the appellants. This would require the applicant to waive the federal law, which has a specific time frame to have a complete application.

Another issue Mr. Callahan brings up is that the Hearing Examiner used an outdated Comprehensive Plan. The 2010 Plan was referenced, however, this version was replaced by the 2020 Plan update. A part of the response is invalid due to this error. Pat Braden, Legal Counsel states we should continue and take public testimony to continue with due process which mandates that. The section effected will be marked as an error in the Hearing Examiners report.

All three commissioners agree to continue on with the public testimony and modify the one section of the Hearing Examiners report.

The Applicant Representative-Josh Leonard, states they will agree to suspend the federal law from tonight until deliberations. Pat Braden states this is acceptable. Another word used is Tolling, and does require a motion.

Motion by Commissioner Duncan, seconded by Commissioner Brooks to accept the applicants agree to toll the timeframe.

Chairman Fillios	Aye
Commissioner Duncan:	Aye
Commissioner Brooks	Aye

Staff Presentation: Vlad Finkel, Planner III, presented the case with a PowerPoint presentation. The subject property is atop Potlatch Hill, and is surrounded by the City of Coeur d'Alene on the east and north sides, and I-90 to the west and south. This property is located on a 7.13-acre parcel of land in the Agricultural Suburban zone, and the comp plan designation is Border. This is within the City of Coeur d'Alene ACI. The proposal will consist of a 150 ft. lattice tower, which is the highest per code, with a 5 ft. lightning rod installed at the top of the tower,

which does not count against the 150 feet, it will be included in that height. This tower is to provide 4G and 5G wireless service coverage. The applicant is required to show a Radio Frequency Map to show if new coverage is warranted. During the agency comment period, we did receive confirmation that the location does not interfere with any FAA requirements or Kootenai County Airport requirements or Idaho Transportation Division of Aeronautics. The East Side Fire District required an approach permit, Kootenai County Fire & Rescue requires access and addressing.

Staff drafted an analysis prior the first hearing with the hearing examiner. The aesthetics will be partially addressed by the surrounding existing vegetation. As it relates to the potential increase of fire risk, staff concurs with the analysis of Jeryl Archer, Kootenai County Fire & Rescue Division Chief/Fire Marshal. While the concerns outlined by the public are very real and valid, they have existed on Potlatch Hill for many years, and some are terrain and aspect related which will never change. As it relates to the potential health risks, the Telecommunications Act of 1996 prohibits State and local regulation of such facilities to deny an application on the basis of environmental effects of radio frequency emissions to the extent such facilities comply with FCC regulations. Staff has confirmed that Mr. Ingle is the sole owner of the subject property. Based on this, staff has no reason to recommend denial of the request.

During the first public hearing on August 4th, 2022, there were a total of 31 comments, one in favor, and 30 opposed. Some of the issues were; aesthetics, potential risk of fire, health concerns, light and noise pollution, negative impact on wildlife, limited escape routes, parcel ownership, existing Potlatch Hill Road conditions, increase in vehicular traffic, trespassing and vandalism. During 2nd hearing public comment period, we received a total of 23 comments. One in support, one neutral, and 21 in opposition. The concerns were the same as the first hearing. For the BOCC hearing we received 14 public comments, all in opposition, all with the same concerns as presented to the Hearing Examiner.

The Hearing Examiner recommended denial after the 2 hearings. The reasons stated by the HE are the proposal does not conflict with the Border designation per the Comp Plan, however this was based on the 2010 Comp Plan. The next reason stated is the application requirements have not been met such as, written verification of alternative sites is insufficient, description of the need for the proposed facility at the subject site is inadequate and photo simulation of the proposed facility is inadequate. Additionally, the HE states a forest management plan is necessary to address fire prevention, and have the applicant restore the access road to the current state and make a financial commitment to upkeep it. This road is public and under the jurisdiction of East Side Highway District.

Applicant Presentation: Josh Leonard of Clark Wardle Law Firm in Boise representing AT&T introduced the presentation with a PowerPoint. Mr. Leonard states the application requirements have been met her the Kootenai County code, and also the standards of approval. In 2018 the FAA adopted and approved a new order for significant network coverage which makes the Kootenai County Code outdated. The required setbacks are 150 feet from the property line, and we are over that with a minimum of 159.7 feet. This will be a 70x70 foot least area with a 6 foot chain link fence and minimal vegetation removed. This will be 150 foot self-support tower with a 5 foot lightning rod, but we are willing to consider a monopole. No lighting is required. This is the minimum height necessary to achieve coverage for 3 collocaters. AT&T conducted balloon testing to provide photo visual studies of the tower. When AT&T is establishing a significant gap in coverage, they do it two ways, one is by customer feedback, second is computer modeling. The “search ring” is the area looked at where a tower could be placed based on these two factors. The “targeted service area” is where the tower would establish dominant signal. This site would have two main objectives: to provide new 4G & 5G coverage, and relieve capacity on existing site to the northwest by offloading users’ data to the new site. The coverage will increase by 20 sq. miles. The alternative site analysis found 12 sites possible, however, of the 12, AT&T was already on 6 of the towers. The other 6 would not fulfil the significant gap in coverage more than 55%. Kootenai County Code does not require that a WCF examine other bare ground site locations, however, AT&T did look at another bare ground site but this site was selected because it provides 100% coverage of the Targeted Coverage Area. In addition it was the furthest from residential development and was least visually intrusive. No agencies as well as staff do not recommend denial.

Public Testimony: Start with a presentation, 1st speaker is for 3 minutes, and the next 2 have 15 minutes each. The 2 representatives did have 10 people each that gave up their time. Those names were present and accounted for.

Izzet Motola-Opposed: Question to Director Callahan as to why the error by the Hearing Examiner was not caught earlier, and now being asked to be excused by the Commissioners? Director Callahan answers stating he had been on vacation for 2 weeks, then gone an additional week for his mother's funeral. This was the first chance he had to review, even though he does not usually review these reports for any project. Engineering is incomplete or unclear. Surveying is not done correctly. Fire District takes no responsibility.

Anne Wilder-Opposed: Spoke regarding the Telecommunications Act of 1996 and FCC regarding safety and health.

Alissa Desancic-Opposed: Potlatch Hill has about 120 houses and around 350 people. Fire danger increase to over 600%. Potlatch Hill is a part of the FireWise System. Kootenai County has many more mountains and hills that could be used. Property and people value equals \$3.2 billion. Public opposition conditions to be met prior to approval is a strong request.

Jared Pierson-Opposed: Goes against Kootenai County Code.

Art Collins-Opposed: Kootenai County Comprehensive Plan says nothing about these towers, which is land use.

Joel Bowlby-Opposed: Agree with others. Vistas and view do not need a cell tower.

Elton John Bain-Opposed: Annually meet with FireWise to promote fire safety.

Chad Burd-Opposed: Aesthetically in my line of site, and from land use standpoint does not seem the best use of that property.

Melissa Burd-Opposed: Agree with others. Insurance standpoint, this will add reason for insurance agents to deny coverage in the future.

Virginia Longo-Opposed: Family has live on east end for 60 years. The road is a huge issue.

Stephen Petroskie-Opposed: Have made multiple attempts to public officials and ignored for past 5 years.

Virginia Tate-Opposed: 5 years for a short plat. Now trying to short plat my adjacent 8 acres, but city won't annex me.

Brent Lyles-Opposed: 1 Timothy 1:9-10. Rules are for those who break them. The applicants keep lying. Quoted multiple addresses of staff.

Justin O'Connell-Opposed: AT&T is doing this no matter what. Central planning and AT&T are in this together.

Van Hargraves-Opposed: 99.8% lightning incidents were within a tower. This is a huge public health problem.

Chris Van Atta-Opposed: The site plan does not fit within the County Fire requirements.

Sandra Hall-Opposed: Cell towers should be forbidden from being in a residential area.

Jason Lambert-Opposed: Wind storm in 2021 at tree fell across the road of Sky Harbor and could not get out of the community.

Janis Richardson-Opposed: Insect and bird population and migration. Plants are also questionable.

Todd Menier-Opposed: Environmental Impact Report could be required by the board.

Jean Ann Gabby-Opposed: Maslow's Hierarchy of needs. Homes are in Basic Needs.

Karin Wickham-Opposed: Creates an attractive nuisance.

Tom Blankerher-RF Engineer, not for AT&T: FCC gives licenses, FAA regulates tower height. Bayview requested coverage after the fire in 2018 because they did not have cell service.

Stephanie Fetzer-Opposed: Daughter got sick in California from EMF sickness. Came to Idaho and girls health recovered almost instantly, but now they are sick again.

No comments from zoom.

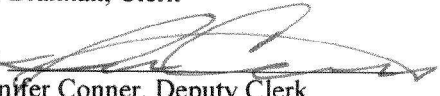
Motion by Commissioner Duncan, seconded by Commissioner Brooks to end public testimony, and schedule deliberations for October 6, 2022 with the exception of the written rebuttal.

Chairman Fillios	Aye
Commissioner Duncan:	Aye
Commissioner Brooks	Aye

The written rebuttal will be available on the Community Development webpage once received from the applicant.

Commissioner Duncan adjourned the meeting at 8:30 pm.

Jim Brannan, Clerk

By: 
Jennifer Conner, Deputy Clerk

Chairman


Julie Duncan, Commissioner - Signed 10/18/2022

