



MINUTES
TWIN FALLS CITY PLANNING & ZONING COMMISSION
Wednesday May 28, 2014 6:00PM
City Council Chambers
305 3rd Avenue East Twin Falls, ID 83301

PLANNING & ZONING COMMISSION MEMBERS

CITY LIMITS:

Nikki Boyd Jason Derricott Tom Frank Kevin Grey Gerardo "Tato" Munoz Christopher Reid Jolinda Tatum
Chairman Vice-Chairman

AREA OF IMPACT:

Ryan Higley Steve Woods
Vice-Chairman

CITY COUNCIL LIAISON

Rebecca Mills Sojka

ATTENDANCE

**CITY LIMIT
MEMBERS**

<u>Present</u>	<u>Absent</u>
Frank	Boyd
Grey	Derricott
Reid	Munoz
Tatum	

AREA OF IMPACT MEMBERS

<u>Present</u>	<u>Absent</u>
Higley	
Woods	

CITY COUNCIL LIAISON(S): Mills Sojka

CITY STAFF: Carraway, Spendlove, Strickland, Wonderlich

I. CALL MEETING TO ORDER:

Chairman Frank called the meeting to order at 6:00 P.M. He then reviewed the public meeting procedures with the audience, confirmed there was a quorum present and introduced City Staff.

II. CONSENT CALENDAR:

1. Approval of Minutes from the following meeting(s): **May 13, 2014 (tabled)**
2. Approval of Findings of Fact and Conclusions of Law: **NONE**

III. ITEMS OF CONSIDERATION:

1. Request for consideration of Condition #2 placed on the Laurelwood Subdivision #3 Preliminary Plat by the Planning & Zoning Commission on April 8, 2014 that states approval shall be "subject to an access being provided along Falls Avenue prior to final plat approval" c/o Tim Vawser, EHM Engineers, Inc. **WITHDRAWN**

IV. PUBLIC HEARINGS:

1. Request for a Special Use Permit to construct a 4-plex on property located at 2140 Elizabeth Boulevard aka Russell Square Subdivision #2 Lot 26 Blk 1 c/o Kimberly Construction, Inc. /Colin Dewsnap (app.2634)

Applicant Presentation:

Colin Dewsnap, the applicant stated he has been building custom homes for approximately 15 years here in the Magic Valley. He is here to request a Special Use Permit to construct a 4-plex at 2140 Elizabeth Boulevard. This building will be compatible with the surrounding 4-plexes. The lot will be landscaped similar to the other 4-Plex lots which will give a better appearance to the area.

Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. He stated this property was included in the Russell Square PUD. This PUD proposed 18 4-Plex's to be built on deep infill lots located at 2140 Elizabeth Blvd. Later, in September 1995, the PUD was amended to further include more area and consequently add four more 4-Plex's to the development plan. In October 1996, the PUD was further amended to include a single lot subdivision, called the Russell Square Subdivision #2, into the PUD boundaries with the intent to allow one 4-Plex on the lot. This single lot subdivision is the property involved in the zoning action tonight.

The approved PUD for this development cited the allowed uses as those listed in the R-4 Zoning District of the City of Twin Falls Zoning Code.

Per City Code 10-4-5.2(B): A Four plex Dwelling requires a Special Use Permit to be established in the R-4 Zoning District.

Per City Code 10-10: A tri-plex or a 4-Plex requires 2 parking spaces per unit – plus 1 per building – this 4-plex will require a total of 9 parking spaces.

All required improvements will be assessed and reviewed at the time of building permit review. These improvements include storm water, paving, landscaping, water and sewer facilities, among others.

The area of this proposed 4-plex has been developed as a homogenous complex of 28 similar 4-plex dwelling units. A joint access easement onto the property was established at the time the previous dwellings were built. The surrounding area is not expected to experience an increase of negative effects by this single 4-plex dwelling being constructed in the area.

Planner I Spendlove stated should the Commission grant this request as presented; staff recommends approval be subject to the following conditions:

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1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards and the Russell Square PUD Agreement.

PZ Questions/Comments:

Commissioner Woods asked if there are any other developments that are similar to this that has such a large number of cars that come out onto one street; this seems like a dense traffic condition.

Planner I Spendlove stated that Fawnbrook is similar in nature that has one entrance and exit. The development discussed this evening has two access points to the development.

Public Hearing: [Opened](#)

Buck Blan, stated he is fine with the request as long as it is another 4-plex that matches the units that are already existing and he will need to have approval by the home owners association.

Public Hearing: [Closed](#)

Closing Statement:

Mr. Dewsnap stated the building will match what is existing 4-plexes in the development.

Deliberations Followed: [Without Concerns](#)

Motion:

Commissioner Woods made a motion to approve the request, as presented, with staff recommendations. Commissioner Grey seconded the motion. All members present voted in favor of the motion.

2. Request for a Special Use Permit to operate a restaurant 24 hours per day, on property located at 291 Pole Line Road c/o Gerald Martens on behalf of Silcock Enterprises, LLC (app.2635)

Applicant Presentation:

Tim Vawser, EHM Engineers, Inc, representing the applicant, stated this is a parcel located on Pole Line Road with an establish 60' wide access. The plan is to construct a Denny's Restaurant at this location. Traffic flow through the development will go completely around the building with good access into and out of the development. The request is for a special use permit is to allow for 24 hour operation it is in conformance with the surrounding area and he asked that this request be approved.

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Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with a brief history of the property. He stated this area was originally under one PUD Agreement and since then there have been multiple properties that have come through for individual PUD's. An amendment came through that allowed Walgreens to come through under their own PUD Agreement. Another amendment was made to allow for a storage unit facility. Most recently a PUD amendment was approved for the Fairfield Inn. The parcel for this request is part of the original Northbridge PUD and a subdivision came through February 25, 2014 called Westpark Commercial Subdivision #8 created specifically for this development. In April of this year a building application was submitted for a new 4,363 sq. ft. building for the new Denny's Restaurant; this application is under review currently.

The property is zoned C-1 PUD. The request is to operate a new Denny's Restaurant at 291 Pole Line Rd West twenty-four (24) hours a day, seven (7) days a week. The C-1 zone requires a special use permit for a retail use to operate outside the hours of 7:00 am to 10:00 pm. The Northbridge PUD Agreement does not waive the special use permit process for extended retail hours of operation.

The applicant submitted a request for an SUP to allow extended business hours of twenty-four (24) hours a day, seven (7) days a week. The site is in a commercial area that will serve highway traffic, nearby hotels and other 24 hour based businesses. The applicant does not anticipate any significant impacts to neighboring businesses.

The neighboring properties are currently mostly undeveloped. There is currently St. Luke's Magic Valley Regional Medical Center and Wal-Mart in the area that operate twenty-four (24) hours a day. Other uses within the area are medical facilities, retail, and a bank. These various businesses may not be greatly impacted by these proposed extended hours.

Planner I Spendlove stated should the Commission grant this request, as presented; staff would recommend approval be subject to the following conditions:

1. Subject to the site plan amendments as required by Building, Engineering, Fire, and Zoning Officials to ensure compliance with applicable City Code Requirements and Standards.

PZ Questions/Comments:

- Commissioner Woods asked about access to the property during construction.
- Planner I Spendlove showed on the overhead the primary access to the property coming off of Pole Line Road.
- Mr. Vawser stated they will make an effort to ask that the contractors make sure the construction crews use the access from Pole Line Road and this construction will be a smaller job compared to the Hotel to the west.

Public Hearing: [Opened](#)

Justin Silcock, a representative for Denny's, stated that they have a lot that is located north of the construction site that will allow the contractors to park off the road while the site is under construction.

Public Hearing: [Closed](#)

Deliberations Followed: [Without Concerns](#)

Motion:

Commissioner Grey made a motion to approve the request, as presented, with staff recommendations. Commissioner Tatum seconded the motion. All members present voted in favor of the motion.

3. Request for an amendment to Special Use Permit #1308 to allow outside storage of containers, on property located at 580 Addison Avenue West c/o ProWest Engineering, LLC (app. 2636)

Applicant Presentation:

Josh Collins, representing Western Enclosure stated previously they came through for a Special Use Permit that was approved. The constraints listed on the previous Special Use Permit were due to the zoning designation of the property at the time of the request. Since then the property has been rezoned and he is here tonight to request that the Special Use Permit be amended to allow for storage containers in a designate area on the property. The containers are all new and are shipped out in a relatively small amount of time.

PZ Questions/Comments:

- Commissioner Frank clarified with the applicant that the containers are not for storage but will be filled with product and shipped off-site.
- Mr. Collins stated they will assemble products and then ship the products off site.
- Commissioner Woods stated the container will be shipped to another site and left with the equipment at that site.
- Mr. Collins stated that is correct. For clarification there will most likely be a couple of containers that will be on-site so that when the product is ready to ship they don't have to wait a week or two for the container to be delivered to the site.

Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead along with the history of the property. In July 1986 a Special Use Permit was granted to Roger Powell to operate an Auction House. At that time the building had been used as a warehouse. Since

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that time, it is believed the building changed hands multiple times at one time or another Norco used it for storage, Magic Valley Medical Center also used it for some purpose, and most recently Twin Falls County had been using it as a mechanic shop and storage facility.

ProWest Engineering purchased the property from the County in May 2012. Since that time they have been using it to assemble electrical components into various sizes of cabinets and as a temporary storage facility for the assembled cabinets and larger cabinets/storage trailer/units.

On December 10, 2013, Western Enclosure was granted a Special Use Permit to replace an existing non-conforming use (County mechanic shop) with another non-conforming use (electrical cabinet assembly). There was quite a bit of discussion regarding this use being more industrial in nature. There were conditions placed on the permit to ensure the neighbors were being protected from a more industrial use rather than a commercial/retail permitted use.

In March 2014 the City Council approved a request to rezone the northerly 30' of the property from R-6 PRO to C-1. April 2014 the City Council adopted Ord #3069 which was later published.

This request is to amend Special Use Permit #1308 to allow outside storage of storage containers on site. In order to address the full request of the Applicant, City Staff has identified that both Conditions #3 and #4 will need to be amended or removed.

The property is zoned C-1; commercial. The C-1 zone allows commercial/retail uses. On December 10, 2013, Western Enclosure was granted a Special Use Permit to replace an existing non-conforming use (County mechanic shop) with another non-conforming use (electrical cabinet assembly). There is no "Use" identified in the City Code describing this type of business which is why they were able to request a sup to allow another non-conforming business to operate at this site. There was some discussion regarding this proposed business being more industrial in nature rather than retail. The description of the business determined this would be a very light manufacturing/assembly use and would not negatively impact the surrounding neighbors or be detrimental to surrounding development. The Commission placed conditions on the permit to ensure the business/use operated within the parameters as presented; the only zoning district within the City that allows for outside storage of materials/products is the M-2; heavy industrial zone.

Special Use Permit #1308, granted on December 10th contained four (4) conditions of approval. They are as follows:

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning officials to ensure compliance with applicable City Code requirements and standards.
2. Subject to this Special Use permit being limited to ProWest Engineering/Western Enclosure/Eaglegate Systems only.
3. Subject to limiting the number of large metal shipping container sized enclosures to a maximum of two (2) on the property at one time and to be located inside the building at all times.
4. No outside storage of materials or finished product at any time.

The request is to amend and/or remove condition's #3 & 4 of the Special Use Permit #1308 to allow outside storage of large metal shipping containers.

The use of the property as outlined in the narrative provided by the applicant does not match up precisely with any definitions currently existing in our zoning code. The general impacts this business will have on surrounding properties should be focused on the delivery methods, general operation and outside appearance of the business, as well as the size and scope of the large electrical cabinet assembly and delivery.

It is reasonable to assume that the traffic generated by employee's and deliveries via UPS/FedEx are acceptable in the C-1 Zoned areas. The deliveries of the containers by larger trucks may also be acceptable, depending on the frequency and methods used before, during, and after their deliveries are complete. This may require more clarification by the Commission.

Staff is concerned the volume of deliveries as well as the overall scope of the business which may become more industrial in nature than what was presented in the original presentation. We would remind the Commission members that the presented "Use" of the property is not defined in our Zoning Code under the C-1 District and therefore is not an outright permitted use. This specific business was permitted as replacing a "non-conforming" business with another "non-conforming" business. This business has not been evaluated as to compatibility with other C-1 Uses or the impacts of its proximity to surrounding residential uses. The description is more closely related to a light industrial use.

Conclusion:

Planner I Spendlove stated upon conclusion, due to the nature of the request to amend or remove previous conditions placed on a Special Use Permit, staff has no recommendations.

PZ Questions/Comments:

- Commissioner Woods asked if it would be reasonable to say the definition between commercial and light manufacturing is gray.
- Planner I Spendlove stated that the zoning code has a very clear definition of the two zones. The City does have a light manufacturing zone which is M-1 and the C-1 which is a commercial zone.
- Commissioner Woods asked if this type of business vaguely fit into the commercial zone or can staff explain how we go to this point.
- Planner I Spendlove explained we have gotten into this position because the Special Use Permit that was approved was to allow a non-conforming use to replace another non-conforming use.
- Commissioner Frank asked how many of these containers would be potentially on the property at any given time.
- Mr. Collins explained possibly one or two.
- Commissioner Frank explained that two were originally allowed so the plan is not to exceed that number.
- Mr. Collins explained the difference is that he is requesting that the containers be allowed outside because there is not enough room in the shop to get two containers in the building.
- Commissioner Frank asked for more clarification as to size and number needed to meet the needs of the business.
- Mr. Collins stated he can't see how there would be any more than 4 on site at any given time.
- Commissioner Frank asked the applicant if the number of containers outside was limited to 4 if that would be sufficient.
- Mr. Collins stated that would be fine.
- Commissioner Woods stated there could be 4 containers on the outside could the technicians be outside working in the containers.
- Mr. Collins stated rather than define a number they designated a zone on the site plan where the containers would be stored and the area was chosen to limit the visual impacts to the surrounding area. He also explained there is a right-of-way that runs through there for the county and that was considered when designing the layout of the zones.
- Commissioner Frank asked if there was any type of physical separation or screen between where the containers would be stored and the neighboring property.
- Mr. Collins showed on the overhead the fence separating the two properties, on one side the containers would be stored and currently the neighboring property has several cars backed up to the fence. The vehicles parked there obscure the view from the roadway.
- Commissioner Frank asked how the containers are moved around and if it is a loud operation.

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- Mr. Collins explained there is a roll-back truck that loads and unloads the containers using a winch.
- Commissioner Grey asked if the sizes of the containers were uniform.
- Mr. Collins stated they are uniform in size and meet international shipping standards (i.e. 10', 20' or 40' size.)
- Commissioner Higley asked what the height of the containers would be.
- Mr. Collins stated 8 feet.
- Commissioner Frank asked if the containers would be facing commercial activity.
- Planner I Spendlove clarified that the container area fronts a residential use.
- Commissioner Grey ensured that the intent is to install privacy screening.
- Commissioner Woods asked what type of the noise the fabrication creates.
- Mr. Collins stated that they measured the noise decibels and it was considered acceptable by Community Development Director Humble; and their hours of operation 8:00 am to 5:00 pm.
- Commissioner Reid asked how tall the fence is now and if that is where they intend to put the privacy screening.
- Mr. Collins stated the fence measures from 5 ft to 6 ft. and they will install the privacy slats.
- Commissioner Frank asked if the slats will be the vinyl type material that gets interwoven in the fence.
- Mr. Collins stated yes.
- Commissioner Higley asked for clarification as to what was along the east side of the property and if there was any screening.
- Mr. Collins stated there is a wooden fence that belongs to the neighbor that would block that property from the visual impacts.

Public Hearing: [Opened & Closed Without Public Input](#)

Deliberations Followed: [Without Concerns](#)

- Commissioner Woods stated that with clarification of the type of work they do and that the applicant has been working with staff he feels fairly comfortable with approving the request.
- Commissioner Grey explained that if you were to consider an automotive repair business and vehicles parked on-site could have more impacts to the neighborhood than containers placed on-site.
- Commissioner Frank stated he has concerns that this business seems to keep growing and it is getting into a gray area. What has been presented tonight he is fine with however his concern is for later down the road. He would really recommend a limit on the amount of containers allow to possibly 4 if that doesn't work then the applicant could request an amendment and explained why more containers are necessary. The limitation protects the community and the applicant. There is currently nothing that

says they can't stack the containers vertically and as the business grows who is to say there won't be a need for more equipment to move all the containers around like a shipping yard in a commercial zone. There has been a discussion about screening but there is no condition listed to require the screening and he has concerns for the neighbors and the future growth of the business.

- Planner I Spendlove clarified that code requires screening around materials and products stored outside in the C-1 zone.
- Commissioner Frank stated he is fine with what has been presented tonight its tomorrow, next week, next year that is concerning.
- Commissioner Higley agreed limiting the number of containers to 4 would make him more comfortable and if the fence is 6 ft and the containers is 8 ft tall maybe the height of the fence should also be considered.
- Commissioner Woods asked how many would fit in the designated area.
- Mr. Collins explained the area would possibly allow for more than 2 containers if stored side by side.
- Commissioner Grey asked if four would be a hindrance to the business a year from now.
- Mr. Collins stated no he would hope so a year from now and if he continues to do his job and provide good customer service and products that they will eventually outgrow this spot and have to relocate. He would suggest amending condition #3 to allow for 4 containers outside and remove condition #4.

Motion

Commissioner Tatum made a motion to approve the request by amending condition #3 to allow for a maximum of four (4) containers on the property outside in the designated storage area and by removing condition #4. Commissioner Woods seconded the motion. All members present voted in favor of the motion.

1. Subject to site plan amendments as required by Building, Engineering, Fire & Zoning officials to ensure compliance with applicable City Code requirements and standards.
 2. Subject to this Special Use permit being limited to ProWest Engineering/Western Enclosure/Eaglegate Systems only.
 3. Subject to limiting the number of large metal shipping container sized enclosures to a maximum of ~~two (2)~~ **four (4)** on the property at one time and to be located ~~inside the building at all times~~ **outside the building in the designated storage area.**
 - ~~4. No outside storage of materials or finished product at any time.~~
4. Request for a Special Use Permit to allow for sporting vehicles-boat sales/rentals business to include display pad sites, on property located at 299 & 399 Addison Avenue West c/o Century Motorsport & Marine (app. 2637)

Applicant Presentation:

Jonathan Gomez, the applicant stated in 2008 he purchased Century Boatland and in 2012 they wanted to expand and bought J&C Motorsport Company and the vacant property fronting Addison Avenue West from Jeff & Chuck Sharp. Prior to purchasing the vacant property along Addison Avenue West they did not have any frontage to display their sporting vehicles (motorcycles and ATV's). They do not do any rentals. Under the guidance of a former Commission Sharp they were told they could use the vacant property for display. Since 2012 they have been pulling a trailer full of four wheelers and lawnmowers out for display during business hours. Every night by 5:30 they are removed and are not on display during the weekends. The area is landscaped they have sprinklers and try to keep it clean. They didn't realize they needed a special use permit; they were given the impression that things were being taken care of, by a person that has since left the company. They have since discovered there were a lot of things that needed to be taken care of to be able to operate the way they intended. This is the only frontage property they have associated with the business and would like to be able to keep using it for display.

Staff Analysis:

Planner I Spendlove reviewed the request and the exhibits on the overhead. He stated the property located to the northwest (aka 309 & 317 Addison Ave W) has quite an extensive history dating back to approximately 1997 and has had several Special Use Permits related with automobile sales businesses. The second portion of the history is associated with the property located across the street (aka 140 Blake St). As a result of the different property transactions there is essentially an off-site sign that was installed and a property that has been used for display that was never clearly affiliated with the new property owner and his business. This request is to bring all of the property that is owned by Century Motorsports & Marine together under one special use permit so allow for ATV/Boat sales and lawnmowers are not included in the ATV definition. This will allow for the display and signage.

Both properties are located in the C-1, Highway Commercial District. A Special Use Permit is required to operate sporting vehicles-boat sales/rentals, service and/or repair business in the C-1 zone. Outside display of vehicles for sale are permitted in this zone.

The property is approximately 3.55 acres and is currently being used for this type of business. The business has expanded and now consists of boats, dirt-bikes, ATV's, UTV's and lawnmower sale, service and they don't do rentals as stated by the applicant.

They recently purchased a piece of property across Blake Street and would like to be able to display vehicles for sale – lawnmowers are not considered a sporting vehicle therefore is not permitted to be displayed off-site but may be displayed along the sidewalk in front of their

business. Approval of this special use permit will also allow the applicant to have a free-standing sign on the property across Blake Street from the main office building.

The applicant intends to operate the business Monday through Friday from 9:00 am to 6:00 pm and Saturday from 10:00 am to 2:00 pm. They anticipate more customers per day because of the expansion of the shop area. As the property is adjacent to a high volume traffic roadway, traffic should have minimal impacts to the surrounding uses. The business employs eight people at this time and anticipates growth.

The existing business will not operate any differently. The applicant would like to use the newly acquired property at 309 Addison Avenue West as a display area only. There will not be any additional noise, glare, fumes, etc. Customer parking is provided at 299 Addison Avenue West at the existing office location. If the permit is granted a condition that the display of vehicles shall be associated with the business located at 299 Addison Ave W.

Access to 309 Addison Avenue has been a concern in the past. There were four (4) drive approaches. Previous special use permits on the property have included conditions for arterial approaches on Addison to be constructed or the access to be closed. The northern access needs to be closed and the Blake Street access moved as far south as possible. Currently there is a landscaped strip that blocks the accesses.

The landscaping requirement for the C-1 zone is the equivalent of 10% of all parking area or 3% of the total site, whichever is greater. Addison Avenue West is classified as a gateway arterial. The landscaping requirements along a gateway arterial states that in addition to the standard landscaping requirement there shall be a landscape strip of at least 10' in width behind the sidewalk when properties are being remodeled. Although 309 Addison Avenue is not being remodeled the previous requests for special use permits included land use changes and major remodeling therefore the gateway arterial landscaping was required (at the time the requirement was a minimum 10' behind the sidewalk or future sidewalk). The site has a landscaped strip along Blake and Addison Avenue. There should be two (2) trees and eight (8) bushes in the landscaped strip along Addison Avenue. The remaining landscaping requirement is one (1) tree and four (4) bushes. The total required landscaping is 1200sf +/-.

All parking and maneuvering areas are to be hard surfaced with Portland concrete or asphaltic concrete surface material. The site has asphalt re-grind material on the parking and maneuvering areas. The City's Engineering Department can recommend to the City Council whether this material is adequate or not. The City Council is the only body that can waive the requirement for asphalt or concrete material for hard surfacing.

All commercial developments are to construct storm water retention facilities to retain 100% of the 50-year 24-hour rainstorm event on site. The storm water retention will have to be determined when the surface of the site is decided. The facility can be constructed underground or above ground.

City Code states that display of vehicles, trailers, pickup shells, tires or any other items for sale is prohibited except upon city approved display pads provided through approval of a special

use permit. No such display pads shall be approved within fifteen feet (15') of the sidewalk or future sidewalk. The applicant would like to display boats, ATV's, UTV's and lawnmowers along Addison Avenue, however, no display pad sites have been identified. If the Commission feels display pad sites are appropriate along this corridor a specific number may be allowed as a condition of the special use permit.

Planner I Spendlove stated should the Commission approve the request, as presented, staff recommends the following conditions:

1. Subject to site plan amendments as required by Building, Engineering, Fire, and Zoning officials to ensure compliance with all applicable City Code requirements and Standards.
2. Landscaping on the site to be developed and maintained as per City Code.
3. Subject to the parking and maneuvering area being hard surfaced with asphalt or concrete or as determined by City Engineering Department.
4. Subject to storm water retention facility being constructed as determined by surface of parking and maneuvering area.
5. Subject to the use of 309 Addison Ave W being limited to Century Motorsports & Marine operating at 299 Addison Ave W. This includes the display of sporting vehicles-boat sales/rentals.
6. Subject to no display pad sites within landscaped areas.

PZ Questions/Comments:

- Commissioner Woods asked if the applicant is aware of the conditions specified.
- Mr. Gomez explained the only condition that is a concern is the asphalt requirement he could not afford to do that type of improvement but he does understand the conditions.
- Commissioner Grey asked how they are accessing the property.
- Mr. Gomez showed on the overhead the access being used and it does cross over a property that he does not own.
- Commissioner Frank recommended that a cross-use agreement be documented.
- Commissioner Higley stated that there will not be any access allowed from Addison Avenue West.
- Planner I Spendlove stated that is corrected and a cross use agreement would be recommended.
- Commissioner Tatum asked if the cross use agreement would be required as part of meeting the engineering conditions.
- Planner I Spendlove explained yes that would be one of the requirements from the Engineering Department.

Public Hearing: [Opened](#)

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- Gary Zimmer', representing the High Desert RV Park, stated the park is approximately 50' from the northeasterly building and the noise is a concern. There are some afternoons that the ATV's are being used and it's like a race track on the property.
- Planner I Spendlove stated noise complaints can be reported to the police department and staff does recommend that the neighbors work together.

Public Hearing: **Closed**

Closing Statement:

Mr. Gomez stated that they do have a testing area that is covered with gravel and they try to do the testing during business hours.

Deliberations Followed: **Without Concerns**

Commissioner Frank stated he thinks this will be an improvement to the area.

Motion:

Commissioner Tatum made a motion to approve the request, as presented with staff recommendations. Commissioner Woods seconded the motion. All members present voted in favor of the motion.

5. Request for a Variance to City Code Title 10-7-17 (C-1A) to allow for an exceeded maximum height limit of 100 ft. for a roof mounted facility including the building, on property located at 182 5th Avenue South c/o Joe Shelton on behalf of White Cloud Communications/SIRCOMM (app. 2638)

Applicant Presentation:

- Paul Smith, representing the Preservation Twin Falls and they own the silos behind the Depot Grill. The silos were purchased and the improvements were required to occur over a five year period. Photos were shown on the overhead of the improvements that have been made; he stated the problem is that you can't preserve something unless you find a current use. This was the largest grain facility during its time but they are not useful at this time. It was determined that the towers could be used as a cell tower because they are the tallest structures in the area. He explained that a problem has occurred at the Court House with the SIRRCOM tower and it has been destroying the Court House which is the reason SIRRCOM has asked if the silos could be used for a site. They have made an agreement with SIRRCOM to use this site for 30 years for free. SIRRCOM wants to be as high up as possible for signal. The change from having approximately 26 towers to one antenna that is 50' tall on the silos would be an improvement.
- Joe Shelton, representing White Cloud Communications and SIRRCOM he was called to looked at the tower located on the Court House and it was found that the guide wires need to be tightened and there is too much liability to repair the existing site.

The item was then brought forward to the City and a 14' tower was approved. There is a microwave network associated with that pathway that is essential for the system to work appropriately and the 14' tower is not sufficient. He is surprised the existing tower on the Court House has not blown off and feels the silos location is a good solution.

Staff Analysis:

Zoning & Development Manager Carraway displayed exhibits on the overhead and reviewed a brief history on the property. The grain elevators were built in 1915 by the Twin Falls Milling & Elevator Company. The company shut its doors in 1968. By 1992 the elevators were the only buildings left standing. Under the City Code the elevators are considered legal non-conforming structures because they are greater in height than the maximum allowed 50' height in that location. This property is zoned O-T WHO P-3 Overlay, Old Towne District with the Warehouse History Overlay, and a Parking Overlay. The P-3 zone allows for limited parking and the Warehouse Historic District indicates that if there are to be any exterior changes to the buildings, the changes would require approval from the Historic Preservation Commission. This item has been presented to the Historic Preservation Commission and has been approved as appropriate, however the height of the tower has not been reviewed which is the reason for this request. Within the City Code there is an allowance for wireless communication facilities, and it is encouraged to have roof mounted facilities or co-location if at all possible. The issue is the fact that City Code limits the maximum height to 100' for any existing structure including a tower. As indicated by the applicant they did get approval for a 14' tower reaching the maximum height of 100' and it did not work. After studies were done it was determined additional height is needed for the tower to work correctly. The tower that is located on the Court House that supports the SIRRCOM system currently does need to be removed as quickly as possible. The course being taken to achieve this goal is a variance request. City Code allows an applicant to request a modification to City standards. In this case the applicant is asking for a Variance to the allowed height requirements. The process to do this is done through a public hearing before the Planning & Zoning Commission and there are 5 criteria listed in the code that are required to be met for a Variance process. In the staff report packet those criteria were outlined with testimony from the applicant and the staff. The code states all 5 criteria have to be met to allow for a Variance or modification to City Code. The state statute also declares that a variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

Staff acknowledges that this is a unique circumstance in this case SIRRCOM is a vital part of providing public service and making sure Twin Fall and the surrounding counties area able to access emergency calls. At this point from the information provided staff does not

feel all 5 criteria have been met. This however, is a decision for the Commission to make based on the 5 criteria.

PZ Questions/Comments:

- Commissioner Grey asked staff about a request for a new cell tower behind Kimberly Nursery and what the height was for that tower.
- Zoning & Development Manager Carraway stated the height was 100'.
- Commissioner Woods asked what the top elevation measurement where the current SIRRCOM tower is located versus what is being requested.
- Zoning & Development Manager Carraway stated what is being requested is measured approximately 100' from the top of curb. She is not aware of what the height of the tower is at its current location.
- Mr. Shelton stated the top of the Court House is approximately 75' and the tower is approximately 60' which coincides very closely to what is being requested at the new location.
- Commissioner Grey clarified that what is in existence at the Court House is not in compliance.
- Zoning & Development Manager Carraway stated the tower at the Court House would be considered legal non-conforming.
- Mr. Smith explained the tower being requested for the silo once installed on the roof would be approximately 130-136' tall.
- Commissioner Frank asked if that would be AGL because a height in one location can be different at another location because of terrain.
- Mr. Shelton stated the site at the Court House has functioned for 15 years and they have run pathways from the new location and it will work with the proposed tower.
- Planner I Spendlove clarified that the tower at the Court House is approximately 135' and the total height being requested for the proposed tower at the silos as shown on the site plan is approximately 149' 10".
- Mr. Shelton stated the top of the silos measures approximately 86'4" they are requesting to install a 50' tower on top making the height approximately 136'4".
- Planner I Spendlove explained the diagram that was provided does not correlate with the 136.4'.
- Mr. Shelton agreed the diagram is incorrect; the diagram shows a lattice tower which is not allowed, this will be a 50' mono-pole, it very close to what is at the court house.
- Commissioner Frank asked if there were any other sites that were studied for a location. It seems this location was chosen based solely on the rent. There are several other large towers in the area was co-location considered.
- Mr. Shelton explained there is a large tower by the Twin Falls Stock Yard. To co-locate on that tower was significant.
- Commissioner Woods asked if any engineering studies have been done on the physical stability of the silos.

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- Mr. Shelton stated they have done a complete engineering study and they are in perfect shape for this use.
- Commissioner Frank stated he is having a hard time understanding that there are no other places for this tower throughout town. Is there any evidence to prove that this is the only place, because there has to be an exception in order to approve the request.
- Mr. Shelton reiterated this is the best and only location to provide good service at a low cost. SIRRCOM uses seven sites this one is iatrical because it is the only location that provide a clear path to the site in Jerome and to Hansen Butte. There is an existing tower that meets the needs of SIRRCOM on the Court House but it is ready to fall down. This location will be high enough and provide the service needed.
- Commissioner Grey asked if there were another location available the issue would still be height.
- Mr. Shelton confirmed.
- Commissioner Frank asked if Mr. Shelton could definitively say that without knowing the altitude of another location. The Commission is being asked to make a definitive decision and he wants to make sure that it is based on definitive answers.
- Mr. Shelton explained that he has been working in this business for 35 years and they are thorough in picking locations.
- Commissioner Woods clarified that the additional height would be required at any location.
- City Attorney Wonderlich suggested that the public hearing needs to be open before debating.
- Commissioner Woods clarified that the applicant is stating they need the tower and it needs to be at this location but in order to do this they need a variance the staff report indicates all 5 criteria have to be met for a variance and staff doesn't feel all the criteria have been met.
- Zoning & Development Manager Carraway stated the tower is too tall for code and in order to grant a variance all 5 criteria have to be met.

Public Hearing: [Opened](#)

- Melissa Kibus stated she is here to support the removal of the SIRRCOM tower located at the Court House. The tower needs to be moved and this is the appropriate location, and she is in support of this request. She asked that the Commission approve the request.
- Russ Tremayne historian stated that he was at the Historic Preservation Commission meeting and the big question for him was if this tower would devalue the historic grain elevators. The tower would replace existing towers which are already locationg on the silos. In his opinion the historical crime has been committed with the placement of the tower on the Court House. Putting the towers on the grain elevators has been determined by the Historic Preservation Commission to be appropriate.

Public Hearing: Closed

Deliberations Followed:

- Commissioner Higley asked if staff feels that approving this variance would give the applicant special privileges denied to others.
- Zoning & Development Manager Carraway stated that is staffs interpretation after reviewing the request and the criteria for a variance.
- Commissioner Woods asked if the determination is because they are asking to be able to go taller than what others are allowed or is it because they can use the tower for commercial purposes and gives them an advantage.
- Zoning & Development Manager Carraway stated this standard applies all over it is not allowed except under this process.
- City Attorney Wonderlich stated that it is the Commission's determination the information provided is staff recommendations. The Commission needs to rely on their own opinions and the fact that it is in the staff report does not mean it is etched in stone.
- Commissioner Higley asked if the special privileges are related to the height.
- City Attorney Wonderlich stated in this case the height is the only issue for this variance.
- Commissioner Woods asked again for clarification on the term special privileges.
- City Attorney Wonderlich stated that it is up to the Commission to determine if approval of the variance would allow a special privilege.
- Commissioner Frank asked if the agreement will allow for co-location to occur.
- Mr. Smith stated that will be between SIRRCOM and White Cloud Communications. The just want the public entities to be located at this site for free.
- Mr. Shelton stated that contract between SIRRCOM and White Cloud Communications gives SIRRCOM exclusive use of this tower.
- Commissioner Woods stated the fact that the current tower site is deteriorating indicating the applicant has not created the special circumstances. It was indicated that literal interpretation of the code would result in an unnecessary hardship because an increased height will be an issue no matter where the tower is placed. Without exceeding the 100' height limitation there will be a communication issue. The only point he is struggling with is criteria #4 as it relates to special privileges. He is wondering if there would be a way to exclude other entities from having access to this tower and it was limited to SIRRCOM only he would have no issue with the request.
- City Attorney Wonderlich stated the code promotes co-location wherever possible.
- Commissioner Woods stated we promote co-location for towers up to 100' but if we give one tower an opportunity to go to 150' and only that one tower to go to 150' that provides a competitive edge.

- Mr. Smith explained there is another tower that is 220' by the stock yard that is open for commercial business. This tower will never be able to provide that kind of height. There is not a competitive edge.
- Commissioner Tatum stated she is comfortable with approving the request.
- Commissioner Frank summarized his thoughts about approving the request. He stated he is for public safety but is having a hard time with the special privilege issue. We wouldn't allow a commercial business to do this, there is a tower over 200' tall not that far away, but everyone has the right to request the tower. This would be hard to grant for a strictly commercial tower.
- Commissioner Grey stated the fact that the existing tower has to be moved and a particular location has been offered up that is suitable above all other and collates with public safety out weights any of the other issues.
- Commissioner Higley stated another item of consideration is the cost to the tax payers if they have to co-locate at another site.
- Commissioner Frank explained there is going to be cost involved at this site as well as any other site; cost is a fact of life for anything. He would have preferred rather than hearing just testimony he would like to have seen hard evidence that other sites were studied and why they were ruled out either because of poor reception, extreme cost or both.
- Commissioner Woods suggested that possibly the Commission could table the item and request additional evidence to support the questionable criteria.
- Commissioner Higley stated he would support the request.
- Commissioner Grey stated that he doesn't think the site would have been proposed without considering the feasibility of the site where public safety is concerned.
- Commissioner Frank stated he doesn't have enough evidence to support that thought process.
- Commissioner Woods stated his only concern is if this is approved are they opening Pandora's Box.
- Commissioner Frank stated that is why Variances should be hard to get.
- Commissioner Grey explained anyone looking for a variance would have to go through this process.
- Commissioner Reid asked if this is not approved what is the next step.
- City Attorney Wonderlich explained the public hearing would need to be re-opened for this question to be answered.

Public Hearing: Re-Opened

- Mr. Shelton stated in his professional opinion the tower would not work adequately and would produce a danger for the public safety staff. They would not be able to communicate well if the height is limited to the 100'.
- Commissioner Woods asked what would prevent SIRRCOM from using the 220' tower.
- Mr. Shelton stated it could be located on that tower but the cost is the issue.

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- Commissioner Woods explained it would be an easier decision to make if data was provided showing both locations comparing the two sites, with alternatives and pro vs con information. For example a new tower could be built but it would cost the taxpayer more money, or could it be constructed outside the city limits.
- Mr. Shelton explained under the code requirements a new tower at 100' tall would not meet the needs of SIRRCOM, building outside the city limits would mean that there would need to be a complete change in pathways which would be costly. Moving outside the city limits is a big change, moving it from the court house to the silos is a small change and is a great spot to do provide this service; in fact he thinks the service will be better.
- Commissioner Tatum asked for clarification on the exclusive contract.
- Mr. Shelton stated the contract between SIRRCOM and White Cloud Communications states the tower is for SIRRCOM's exclusive use. White Cloud Communications already has towers located on the silos. He is not clear on whether or not SIRRCOM would allow co-location.

Public Hearing: Re-Closed

Additional Deliberations: None

Motion:

Commissioner Tatum made a motion to approve the request, as presented. Commissioner Grey seconded the motion. Commissioners Higley, Grey, Tatum and Reid voted in favor of the motion. Commissioners Frank and Woods voted against the motion.

Motion Passed 4-2

V. PUBLIC INPUT AND/OR ITEMS FROM THE ZONING DEVELOPMENT MANAGER AND/OR THE PLANNING & ZONING COMMISSION:

- Zoning & Development Manger Carraway reminded the Commissioners of the training offered by Jerry Mason on Monday, June 16, 2014. The training is very informative and she would recommend it to anyone that is interested. The City will pay the registration fee.
- Commissioner Grey had questions about the private road behind Culver's; if there is a need for improvements how does that get addressed.
- Zoning & Development Manger Carraway explained this is not a private road it is a private access for the property. Staff verifies that it is paved for maneuvering purposes at the time of inspection however the maintenance of the access is up to the property owner.

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VI. UPCOMING PUBLIC MEETINGS: (held at the City Council Chamber unless otherwise posted)

1. Work Session- [June 4, 2014](#)
2. Public Hearing- [June 10, 2014](#)

VII. ADJOURN MEETING:

Chairman Frank adjourned the meeting at 8:20 PM

Lisa A Strickland
Administrative Assistant
Planning & Zoning Department