

Moscow City Council



Regular Meeting ~Minutes~

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Laurie M. Hopkins
City Clerk

208.883.7015

Monday, March 4, 2019

7:00 PM

**Council Chambers
206 E. Third St.**

The meeting was called to order at 7:00 p.m.

PRESENT: Mayor Bill Lambert, Art Bettge, Jim Boland, Kathryn Bonzo, Brandy Sullivan, Gina Taruscio, Anne Zabala

STAFF: Jen Pfiffner, Mia Vowels, Bill Belknap, Mike Ray, Leah Carlson, David Schott, Megan Cherry, Laurie M. Hopkins

PLEDGE OF ALLEGIANCE

Council Member Bonzo led the Pledge of Allegiance.

CONSENT AGENDA

1. All Consent Items (ACTION ITEM)

A. Approval of Moscow City Council February 19, 2019 Minutes - Laurie M. Hopkins

Minutes presented for approval.

ACTION: Approve minutes.

B. 443 East Lewis Street Lot Division - Leah Carlson

The applicants, Nethaniel and Emily Ealy, are requesting a lot division located at 443 East Lewis Street. The existing lot is 10,780 sf in size. The applicant is proposing to divide the existing lot into two lots of approximately 5,005 sf and 5,775 sf in size. There is currently a triplex dwelling located on the northern portion of the existing lot. The subject property is located within the Multiple-Family Residential Zoning District (R-4). Within the R-4 Zoning District, lots with single-family dwellings require a minimum area of 5,000 sf and a minimum lot width of 50 feet. The proposed lot size and lot width of both lots meet these requirements. This was reviewed by the Public Works/Finance Committee on February 25, 2019 and recommended for approval.

ACTION: Approve proposed Lot Division located at 443 East Lewis Street with no conditions.

C. 2402 Itani Drive and 2415 East Sixth Street Lot Line Adjustments - Leah Carlson

The applicant, Scott Oplinger, is requesting two lot line adjustments for the properties located at 2402 Itani Drive and 2415 East Sixth Street. The applicant is requesting a lot line adjustment to reduce the size of the lot addressed as 2415 East 6th Street from 8,201 sf to 7,772 sf and to expand the lot addressed as 2402 Itani Drive from 9,592 sf to 10,031 sf. The applicant is requesting the lot line adjustment in order to better maintain landscaping that was originally

installed on or slightly over the property line. Additionally, the applicant is requesting a lot line adjustment for the back triangular lot of the property addressed 2415 East 6th Street, bringing the total square footage of the lot to 9,805 sf. The owners of 2415 East Sixth Street would like to adjust this lot line in order to better utilize the triangular property while also making up for the property given to the neighbors. There is currently one single-family dwelling on both lots. The subject properties are located within the Moderate Density Residential Zoning District (R-2), which requires a minimum lot area of 7,000 square and a minimum lot width of 60 feet. The proposed lot line adjustments meet both requirements. This was reviewed by the Public Works/Finance Committee on February 25, 2019 and recommended for approval.

ACTION: Approve lot line adjustments located at 2402 Itani Drive and 2415 East Sixth Street with no conditions.

D. 2830 and 2833 Hampton Court Lot Line Adjustment - Leah Carlson

Applicants, Dwayne Abbott and Blaine Eckles, are requesting a lot line adjustment between their respective properties located at 2830 and 2833 Hampton Court. The proposed lot line adjustment would reduce the lot addressed 2833 Hampton Court from 14,153 sf to 14,083 sf and expand the lot addressed 2830 Hampton Court from 19,482 sf to 19,541 sf. The applicants are requesting the lot line adjustment in order to better maintain landscaping and views of both properties. Each lot currently has one single-family dwelling. The subject properties are located within the Low Density, Single-Family Residential Zoning District (R-1). Within the R-1 Zoning District, lots with single-family dwellings require a minimum area of 9,600 sf and a minimum lot width of 80 feet. The proposed lot line adjustment meets both of these standards. This was reviewed by the Public Works/Finance Committee on February 25, 2019 and recommended for approval.

ACTION: Approve the lot line adjustment request located at 2830 and 2833 Hampton Court with no conditions.

E. Request Authorization for Beer Garden for Renaissance Fair 2019 - Dwight Curtis

In accordance with Moscow City Code 5-13-4(B), Renaissance Fair 2019 is requesting that the City Council pass a Resolution allowing them to have a beer garden catered by a licensed vendor in East City Park for Renaissance Fair on May 4, 2019 between 11:30 a.m and 7:30 p.m., and May 5, 2019, from 12:00 p.m. and 5:00 p.m. The event is open to the public and there have been no issues related to this request since the first beer garden request was approved in 2016. This was reviewed by the Administrative Committee on February 25, 2019 and recommended for approval.

ACTION: Approve the beer garden request for 2019 Moscow Renaissance Fair per the attached Resolution.

Bonzo moved, Taruscio seconded to approve the consent agenda. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REGULAR AGENDA

2. Staff Recognition Report - Gary J. Riedner

None offered.

3. Mayors Appointments (ACTION ITEM)

Mayor Lambert put forward Bruce Haglund to the 1912 Center Development Committee. Bettge moved, Boland seconded approval of the appointment. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

4. Public Comment and Mayor's Response Period (limit 15 minutes)

None offered.

5. Heart of the Arts - 1912 Center Annual Report 2018 (ACTION ITEM) - Dwight Curtis

2018 Annual Report from the Heart of the Arts, Inc. (HAI), which took over operations/management responsibilities of the 1912 Center on May 1, 2007.

PROPOSED ACTIONS: Accept HAI 2018 Annual 1912 Center Report, or take other such action deemed appropriate.

Schott introduced Kostroff. Kostroff went through staff, use of the building and events. The senior center received new carpet and paint. The great room floor was refinished and the roof was replaced with a 30 year metal roof and new skylights were installed. Kostroff went through events the HAI hosted. The 1912 Center sign with mosaic tiles was quoted at \$40,000. To scale back the cost, the base will be installed this summer with with mosaic tile being installed in the future. The interpretative sign installation is planned for this spring with wisescape landscaping. Bettge moved and Sullivan seconded acceptance of the report. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

6. Appeal of Conditional Use Permit at 421 S. Jackson Street (ACTION ITEM) - Leah Carlson

On December 18, 2018, New Saint Andrews College (NSA) submitted an application for a Conditional Use Permit (CUP) for NSA to utilize an existing parking lot located at 421 S. Jackson Street for employee and student parking. The Board of Adjustment conducted a public hearing for the proposed use on January 15, 2019, and subsequently voted to approve the application. On February 4, 2019, the Community Development Department received an appeal letter from Joann Muneta stating that she wished to appeal the Board of Adjustment's decision to City Council.

PROPOSED ACTIONS:

1. After considering the record and appeal request; sustain the decision of the Board in whole or in part; reverse the decision of the Board in whole or in part; or remand the matter in whole or in part to the Board with comments and/or instructions for further consideration by the Board; or take other such action deemed appropriate.
2. Direct staff to prepare a written decision based on the Council's action.

Carlson introduced the item as written above and described the land use in the neighborhood. The Board of Adjustment (BOA) approved a Conditional Use Permit (CUP) for New St. Andrew's (NSA) College located at 405 S. Main Street on May 27, 2008 which included a condition requiring 42 off-site parking stalls. In 2013, the BOA approved a CUP located at 505 S Jackson Street to satisfy the condition of parking. In 2017, a CUP was approved which permitted an Educational Institution to be

located at 112 N Main Street with a condition of phasing in 47 off-street parking spaces within ¼ mile of the subject property. The CUP did not address hours of operation, staff has interpreted the parking requirement as being available during hours of operation of the college. The CUP did not address after hours or weekends. NSA allows public parking in the lot at 505 S Jackson outside of school hours.

Joann Muneta, 203 S Howard St Moscow, spoke on the importance of the BOA CUP process and decisions being in compliance with City Code and that they be reasonable, consistent and transparent. It is important to allow for public input and in the best interest to require off street parking for educational institutions within the Central Business Zoning District. She felt it was difficult to understand what exactly the hearing was about. According to City Code, the hearing is supposed to be explicit in what it was providing. With multiple CUP's, the application was not specific as to which CUP the off-street parking was for. By approving this CUP, it would allow a certificate of occupancy to be issued and that was not stated in the documents. The application did not say the lot was reserved for the North Main location students, but "all" students and faculty. If not reserved for those students at the North Main location, it does not satisfy the mitigation condition. In the multiple meetings where the CUP's were discussed, sharing the two lots as one big parking lot was not discussed. Four out of five members of the BOA said they did not feel comfortable with telling the property owner what to do with their property and she feels that is exactly what the BOA is for.

Sam Creason, Creason, Moore, Dokken & Geidl, PLLC, spoke on the role of the City Council for this appeal. The first two appeal issues deal with sufficiency of notice. Creason stated the notice was beyond sufficient accordingly to Idaho law and would not provide a reason for overturning the BOA decision. The third issue in the appeal was the approval of the CUP at 112 N Main St should have had more conditions, specifically restriction that students from that campus are the only ones allowed to use that lot. Creason pointed out the BOA did consider that issue but staff said it is difficult to enforce and a public comment that said it would be counterproductive. The applicant is trying to make it more open to the public to make it more usable to reduce the alleged adverse effect. To find the decision arbitrary and capricious, the Council would have to find the BOA acted in a way that no reasonable mind could reach the conclusion. The fourth issue says it is improper because the BOA should have looked at all CUP's. The CUP's are a vested property right. An invitation to invalidate granted CUP's would be a deprivation of a property right. Issue five in the appeal is that the BOA failed to consider the application in light of 112 N Main CUP conditions and Creason said this was inaccurate. The BOA struggled with it during the entire meeting. A follow up email from Muneta states the application attempted to transfer parking from meeting the south main site to the north main site. This is also incorrect. This is a private entity using private dollars to providing parking downtown with a unanimous decision by the BOA and ask the City Council uphold the decision.

Muneta said the BOA asked a couple questions and Dr. Merkle responded it would be difficult to enforce and the U of I doesn't limit their lots. However, the U of I does limit their lots. To clarify, she was not suggesting the BOA go back to the previous CUP and overrule. She was saying that the Council needs to overturn this decision because it does not satisfy the requirement as stated by the BOA to have spaces to mitigate the condition of additional parking. Muneta read two statements from BOA members regarding landowners being able to do what they want with their property. Muneta said that is what the BOA is supposed to do if they see a problem. That is the purpose of a CUP. If the City Council sustains the BOA approval, there will be one parking lot for South Main and North Main NSA. That was not the intent of the BOA requirement for parking mitigation. The discussion of evening and weekend use has nothing to do with the appeal.

Vowels said she reviewed the BOA decision and felt the Board understood the mitigation, made their decision on that information and the reasoned statement appeared to be approved based on that.

The 30 parking spaces at 505 S Jackson lot are limited to the South Main location per the BOA approved CUP. Knowing which student is attending classes in what facility and parking in what location and enforcement would be very difficult. Staff feels in providing the total number of spaces in the proper location will fulfill the conditions of the mitigation that is required in both CUP's. Sullivan was concerned sharing the required parking spacing would mean the CUP's are not meeting the requirement as the lots are distinct entities with separate requirements and the parking is attached to the specific locations. Is there any issue with merging the two parking requirements into one lot so that the total spaces equals both CUP's? Bonzo asked if enforcement can be required. Boland said the CUP's say NSA has to provide the spots and feels who uses them is not part of the permit. Since it is private property, enforcement would be NSA responsibility but it is not part of the condition for the CUP and Boland feels is not relevant to consider. Belknap said staff advised the applicant the parking stalls could not be transferred to a different location without amending the CUP. Taruscio doesn't share the concern of mixed parking and agrees with Boland that the total number of stalls is the concern. She fully supports the BOA decision. Zabala finds the statement from the appellant that the history of the CUP's is not related is contradictory to the application to have these serve both locations. Bonzo restated the enforcement she spoke on was for NSA to enforce and be part of the conditional use to prove that it is not a shell game since the parking lots are next to each other. Discussion ensued regarding dedication of stalls per parking lot for each location. Sullivan said her issue is ensuring there is something in place to guarantee that portion is dedicated to 112 N Main St location. Taruscio said this organization has complied with all the conditions of previous CUP's. Bettge feels the structure of the mitigation, with the interpretation of staff, takes care of itself and overregulation becomes an issue of micromanagement. The requirements of the CUP's are being met. Bonzo feels that the BOA lost focus of what the CUP request was about because they discussed the responsibility of mitigating private property. Boland pointed out when the conditions were put on the permit, it was a quantity of parking stalls and to bring in these other issues are not part of the condition, thus not what the Council should consider. The question at hand is are there parking spaces that are off-street and within a quarter mile and there is. Sullivan agrees it has been met but what is not clear is how to ensure the spots are used for the location intended.

Bettge moved to sustain the decision of the board. Taruscio seconded.

Sullivan said she feels that the conditions have been met but have concerns the BOA did not have information on how to ensure it would be dedicated for the use and merging being a potential problem because it is different than two separate CUP parking requirements. She asked staff if legally, it was ok to think of it as a total. Vowels responded that based on the transcript, the BOA discussed and made the decision they made.

Roll Call Vote: Ayes: Five (5). Nays: One (Zabala). Abstentions: None. Motion carried.

Zabala said she voted no because if this was meant to mitigate only one CUP, then the application should have specified that.

Mayor Lambert called a recess at 8:23 p.m. The meeting reconvened at 8:30 p.m.

Taruscio moved and Bettge seconded directing staff to prepare the written decision for the CUP. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

7. Public Hearing: City of Moscow Comprehensive Plan Update (ACTION ITEM) - Mike Ray

In 2017 the Moscow Planning and Zoning Commission initiated the process of updating the 2009 Comprehensive Plan. The Commission reviewed the entire Plan, updating community data, maps, as well as the objectives and implementation actions. The Planning and Zoning Commission also consulted with other City Commissions to update the sections of the Plan that pertain to those Commissions. On October 24, 2018, the Commission conducted an Open House meeting which coincided with the start of a thirty day public comment period that ran until November 23, 2018. Numerous comments were received during the open comment period and many were subsequently incorporated in the final draft document. On January 23, 2019 the Commission conducted a public hearing on the proposed update and recommended approval to City Council with no modifications. This item was reviewed by the Administrative Committee on February 25, 2019 and forwarded on to City Council with minor modifications.

PROPOSED ACTIONS: Conduct the public hearing and after considering public input, approve the Resolution to adopt the updated Comprehensive Plan without modifications; or approve the Resolution to adopt the updated Comprehensive Plan with modifications; or reject the Resolution; or take other such action deemed appropriate.

Ray introduced the item going over the background beginning with the 2009 update and what topics are required to be included. The current update began in 2017 and included updating data, maps, objectives and implementation actions. Other City commissions were consulted and an open house took place October 24, 2018 which coincided with the start of a 30-day public comment period that ran until November 23, 2018. Numerous comments were received during the open comment period and many were subsequently incorporated in the final draft document. On January 23, 2019, the Planning and Zoning Commission (PZC) conducted a public hearing and forwarded a recommendation of approval to the City Council. Ray went over the updates in each chapter. See attached PowerPoint presentation.

Boland thanked Wendy McClure, staff and all of PZC for their work and time on this update.

Mayor Lambert opened the public hearing at 8:50 p.m. Hearing no testimony, the hearing was closed at 8:50 p.m.

Bettge went through a few questions and edits he had. The south couplet has not been changed in the floodplain map as the map of revision has not been received from FEMA. Well #10 is not included as it is not in production. The need for ballfields is still 14 fields even with the addition of Joseph Street. The National Parks and Recreation Association has standards for needs. Staff is beginning work on updating the P&R Comprehensive Plan and could see updated numbers when it is finalized. Taruscio moved and Bettge seconded to approve the resolution to adopt the updated Comprehensive Plan. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

Historic Preservation Commission – Boland reported they discussed the interpretive sign for City Hall.

Moscow Arts Commission – Bettge said the Commission set the schedule for Third Street Gallery and Artwalk.

Palouse Knowledge Corridor – Bettge said a two day ideation event will take the place of the bootcamp. There will also inclusion of high school based inventors day.

Palouse Basin Aquifer Committee – Zabala said there was presentation regarding options for staffing and how best to utilize staffing

Parks & Recreation Commission – Taruscio said the P&R master plan workshop took place and the Commission is moving along with public comments.

Clearwater Economic Development Association – Taruscio reported they discussed increase in dues over a five year period. The increase will be taken to the membership in April.

Sustainable Environment Commission – Bonzo said the Commission is looking for volunteers to process a water alternative options survey; the high school and middle school both have Trex collection boxes; hydrothermal weed control; and stewardship awards

Council Members reported on other meetings and events.

Mayor

Lambert said he held a MYAC meeting and the students will be involved with the April 26 clean up day; the Airport Board discussed terminal financing; the AIC Board discussed annexations, liquor reform, revenue sharing and URA legislation. March 1st is Dr. Suess day and he is scheduled to read books at McDonald Elementary.

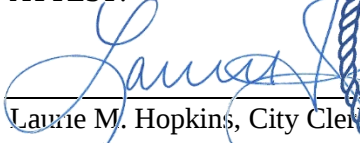
Staff

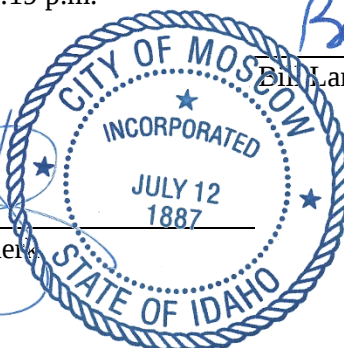
No report

ADJOURN

The meeting adjourned at 9:19 p.m.

ATTEST:


Laurie M. Hopkins, City Clerk




Bill Lambert, Mayor

**BEFORE THE CITY COUNCIL
OF THE CITY OF MOSCOW, COUNTY OF LATAH,
STATE OF IDAHO**

WRITTEN DECISION OF THE MOSCOW CITY COUNCIL REGARDING AN APPEAL TO THE APPROVAL OF A CONDITIONAL USE PERMIT BY THE MOSCOW ZONING BOARD OF ADJUSTMENT FOR A DEDICATED PARKING LOT FOR STUDENTS AND EMPLOYEES OF NEW SAINT ANDREWS COLLEGE LOCATED AT 421 S JACKSON STREET IN THE CITY OF MOSCOW, IDAHO WITHIN THE CENTRAL BUSINESS (CB) ZONING DISTRICT PER MOSCOW CITY CODE 4-3-4.

WHEREAS, New Saint Andrews College, the applicant, filed application LUP2018-0038, for a Conditional Use Permit on December 18; and

WHEREAS, the Moscow Board of Adjustment conducted a duly noticed public hearing upon the subject Conditional Use Permit application on January 15, 2019; and

WHEREAS, having considered the matter including all materials presented and testimony received, the Moscow Zoning Board of Adjustment approved the proposed Conditional Use Permit, LUP2018-0038, with two conditions of approval and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board's review and approval; and

WHEREAS, on January 24, 2019 the Moscow Zoning Board of Adjustment met and approved the Reasoned Statement of Relevant Criteria establishing the Board's written decision upon the request and serving as the Board's final action upon the matter; and

WHEREAS, on February 4, 2019, Joann Muneta filed a timely appeal to the decision of the Moscow Zoning Board of Adjustment in accordance with the requirements of Moscow City Code Section 4-8-5; and

WHEREAS, the Moscow City Council considered the appeal during a public meeting conducted on March 4, 2019; and

WHEREAS, the Moscow City Council reviewed the record established by the Board of Adjustment, did not consider any new or additional evidence, and heard appellant's argument on the appeal; and

WHEREAS, having considered the record established by the Board of Adjustment, and having considered the issues presented by the appellant and the applicant, the Council sustained the decision of the Zoning Board of Adjustment.

THE CITY COUNCIL OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION OF THE RECORD ESTABLISHED BY THE MOSCOW ZONING BOARD OF ADJUSTMENT AND HAVING CONSIDERED THE

ISSUES PRESENTED BY THE APPELLANT AND THE APPLICANT, HEREBY CONCLUDES:

DECISION

The Moscow City Council hereby **SUSTAINS** the decision of the Zoning Board of Adjustment upon LUP2018-0038.

PASSED BY THE CITY COUNCIL OF THE CITY OF MOSCOW THE 4TH DAY OF MARCH, 2019.



Bill Lambert, Mayor