

PLANNING & ZONING COMMISSION



Wendy McClure
Commission Chair

~Agenda~

Mike Ray
Staff Liaison

p&z@ci.moscow.id.us

208.883.7008

<http://id-moscow.civicplus.com/agendacenter>

**Wednesday
August 12, 2020**

7:00 PM

**Council Chambers
206 E 3rd Street**

Call to order

1. Approval of minutes from July 22, 2020 [ACTION ITEM]:

ACTION: Approve minutes as presented; approve minutes with amendments; or provide staff further direction.

2. Public Comment

(Time limit 15 minutes. Members of the Public may speak to the Commission regarding matters NOT on the Agenda nor currently pending before the Planning and Zoning Commission. Please state your name and address for the record and limit your remarks to three minutes.)

3. Approval of Reasoned Statement of Relevant Criteria and Standards [ACTION ITEM]:

1. Proposed Preliminary Subdivision Plat of a 2.49-acre area to create twenty-seven (27) townhouse parcels ranging from 634 to 638 square feet in size; one (1) Multi-Family Residential (R-4) parcel of 0.37 acres in size; and three (3) Central Business (CB) parcels ranging from 0.20 to 0.29 acres in size, referred to as the Gateway on Sixth Addition.
2. Proposed Planned Unit Development (PUD) of a 1.41-acre area to construct twenty-seven (27) townhouse dwellings and a 4-story multi-family building containing eighteen (18) dwelling units with enclosed parking on the ground floor.
3. Proposed Rezoning of a combination of Motor Business (MB), Multiple Family Residential (R-4), and Central Business (CB) to the Multiple Family Residential (R-4) Zone; proposed Rezoning of from a combination of the CB and R-4 Zones to the CB Zone; and proposed Rezoning from the University (U) Zone to the R-4 Zone and Motor Business (MB) Zone.

ACTION: Review the draft Relevant Criteria and Standards documents and approve the documents; or approve the documents with modifications; or provide Staff further direction as deemed necessary.

5. Final Review of Small Cell Wireless Facilities Draft Ordinance [ACTION ITEM]:

Telecommunications service providers are currently in the process of deploying 5G/small cell wireless technology throughout the developed world. 5G high speed deployment will bring much higher data speeds and traffic, but requires small cell installations to accommodate the data demand. Telecommunications services are largely governed by the Federal Communications Commission (FCC) and the Telecommunications Act, but local governments are allowed to adopt certain regulations at the local level. With the likelihood of 5G/small cell deployment in Moscow, Staff has been working on drafting an ordinance to address them in the Zoning Code. The draft ordinance was presented to the Sustainable Environment Commission at their regular meeting on June 16, 2020 to discuss a unified recommendation with the Planning and Zoning Commission. The SEC voted to recommend that the Planning and Zoning Commission proceed with the current ordinance and the SEC will continue to

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research health effects and the changing legal landscape to potentially make recommendations in the future. The public hearing for the proposed ordinance has been scheduled for the September 9, 2020.

ACTION: Review the final 5G/small cell wireless facilities draft ordinance and provide Staff further direction as deemed necessary.

4. Transportation Commission Meeting Report

ACTION: Receive report and provide staff further direction if necessary.

5. Announcements

ACTION: Read any correspondence received and provide staff further direction if necessary.

Adjourn

PLANNING & ZONING COMMISSION



Wendy McClure
Commission Chair

~Meeting Minutes~
July 22, 2020

Mike Ray
Staff Liaison

p&z@ci.moscow.id.us

208.883.7008

<http://id-moscow.civicplus.com/agendacenter>

McClure called the meeting to order at 7:01 p.m.

MEMBERS PRESENT: in person: Wendy McClure, Chair; Rich Beebe, Scott Gropp, Victoria Seever, Dennis Wilson

via Zoom: Joel Hamilton, Robb Parish

MEMBERS ABSENT: Mike Nelsen, Nels Reese

ALSO IN ATTENDANCE: Mike Ray, Sandra Kelly, Anne Peterson

1. Approval of minutes from June 24, 2020 [ACTION ITEM]

Wilson moved approval of the minutes as presented, seconded by Gropp. Motion carried by acclamation.

2. Public Comment

None.

3. Public Hearing: Proposed Preliminary Subdivision Plat, Planned Unit Development (PUD), and Rezoning of numerous parcels generally located north of the intersection of Sixth Street and Deakin Avenue within the City of Moscow – Gateway on Sixth Addition: LUP2020-0010 [ACTION ITEM]

- a. *Proposed Preliminary Subdivision Plat of a 2.49-acre area to create twenty-seven (27) townhouse parcels ranging from 634 to 638 square feet in size; one (1) Multi-Family Residential (R-4) parcel of 0.37 acres in size; and three (3) Central Business (CB) parcels ranging from 0.20 to 0.29 acres in size, referred to as the Gateway on Sixth Addition.*
- b. *Proposed Planned Unit Development (PUD) of a 1.41-acre area to construct twenty-seven (27) townhouse dwellings and a 4-story multi-family building containing eighteen (18) dwelling units with enclosed parking on the ground floor.*
- c. *Proposed Rezoning of a combination of Motor Business (MB), Multiple Family Residential (R-4), and Central Business (CB) to the Multiple Family Residential (R-4) Zone; proposed Rezoning from a combination of the CB and R-4 Zones to the CB Zone; and proposed Rezoning from the University (U) Zone to the R-4 Zone and Motor Business (MB) Zone.*

Ray presented the requests by describing the location of the 2.49 acre property. The preliminary plat proposes 27 townhouse parcels and one multi-family parcel within the R-4 zone, and three parcels within the Central Business zone. Access is provided from an internal courtyard which also serves as an emergency services access drive, and there is access from Sixth Street and Lilly Street. The rezone proposal is appropriate for the proposed use and cleans up the current conglomeration of zoning districts within the subject area. The Comprehensive Plan designates the area as Urban Mixed (UM), where such infill development and adaptive re-use is intended. The UM designation promotes the reduction in parking

requirements. The PUD request is for reduction in the minimum lot size and setbacks on the townhouse parcels and to allow frontages on an internal courtyard instead of a public street. It also requests an increase in the maximum height for a four-story multi-family building with 18 units and enclosed parking on the ground floor. Applicant has not requested a density bonus or reduction in parking requirements. Developer plans to utilize two existing parking lots that ceased use by the University of Idaho a few years ago. With regard to parkland dedication requirements, the property owner is requesting a City/Property Owner cooperative project that includes a pedestrian/bicycle pathway connection from Sixth Street through Ghormley Park, providing access to Third Street. The property owner's investment would far exceed the parkland dedication requirement of \$3,032 and would satisfy all parkland dedication requirements. Both the Parks & Recreation Commission and the Pathways Commission supported the parkland dedication/plan proposal, and Parks and Recreation Staff also recommend approval.

Staff recommended approval of the PUD and rezone proposals without conditions, and approval of the preliminary plat proposals with the following conditions from Engineering:

- a) The water line tap design for the 4-story multi-family property will need to be revised to come directly from a City water main instead of a dedicated fire hydrant line, as is currently proposed.
- b) All water lines from water main to each water meter and each fire hydrant are required to be within a City easement to allow access.
- c) The access drive at the southwest end of the property near the Sixth Street and Deakin Avenue intersection is limited to emergency vehicle and pedestrian access only due to the proximity to the intersection.

Seever inquired about paving of parking lot, paths and alleys, and whether the pathway would share the fire lane. Ray thought the public portions might already be scheduled for improvement and suggested that different surface treatments could possibly be used to distinguish between public and private areas. Parish asked if it would be appropriate to make it a condition that the developer finish the area between Patty's Kitchen and Stax. Ray said parking lot standards require paving, but Commissioners could certainly make it a condition of approval. McClure said tenants would need to request temporary access though the emergency lane for moving in/out, and Seever expressed concern that people would start parking cars there regularly. The City has not received any comments from the University regarding the rezone.

McClure opened the public hearing at 7:46 p.m.

Jim Stephens, 11245 NE Eastshore Drive, Hayden ID introduced himself as a former Moscow resident who's been working on this project for 14 years. He said the drive from Sixth Street to the parking lot would be paved to make a continuous access to the parking lot. He intends for the ingress and egress to the development to be by foot/bicycle, although two parking spaces may be designated for the townhome owners to shuttle groceries, etc. The existing parking lots will be altered and reconfigured, providing for 26 more spaces than required. Target market is for University employees and professors, Gritman employees, etc. The four-story apartments are intended for residents over 55 and he's hoping the townhouses can be multi-generational.

Rusty Olps, 931 Harold Street, introduced himself as a partner in the project. He thinks the project provides an attractive and desirable segue between downtown and campus.

McClure invited comments against the project or of a general nature.

David Hall, 1334 Wallen Road, Moscow, wanted to get on the record that the City estimates the anticipated water use to be 4.21 million gallons per year, but some type of mitigation should be required because it is illegal to mine the aquifer.

Chuck McDonald, 5185 Robinson Park Road, Moscow, said he's not against the development but rather how it affects Lilly Street. He owns C&T Used Cars at the Corner of Third and Lilly, and he's seen what the Asbury development has done to the neighborhood. The ICCU drive-throughs will dump onto Lilly or Fourth Street. He said adding another 100+ cars, plus the ICCU traffic, and using Lilly as the only access didn't make sense. Students already park anywhere they want and no one enforces it.

Stephens responded there will be designated ingress and egress lanes onto Sixth Street. Management will live on-site and patrol their parking lots.

Nils Peterson, 821 Travois, Moscow, said this is a fragmented piece of land remaining from the railroad era that ought to have an intensive use such as this.

Chairperson McClure read into the record a letter from Sean Wilson (attached). Public hearing closed at 8:08 pm.

Hamilton agreed the existing zoning made little sense and he liked the proposed simplification. Seever agreed the hodge-podge zoning needed to be fixed but she wondered what the parking plan was for the proposed Central Business zone. Ray said there is no parking required within the Central Business zone. Wilson moved to recommend approval of the Rezone with no conditions, seconded by Gropp. Motion carried unanimously.

Seever suggested fences between the proposed development and Cedar Veterinary and Patty's Kitchen to prevent the encroachment issues experienced by Chuck Bond. Gropp didn't think it was an issue because the proposal includes more than the required parking. Ray added the ICCU will also have about twice as much parking than what is required, but acknowledged that a number of the proposed townhouses will be some distance from the proposed parking spaces. Stephens said he was well aware of the parking issues in the area. Patty's Kitchen and the University are well aware that development has been planned for the area. Ray confirmed that the Fire Department has reviewed and approved the proposal. Wilson recommended approval of the preliminary plat with the conditions recommended by Engineering. Gropp seconded the motion which carried unanimously.

McClure applauded the developer for his unique agreement with the City regarding the pedestrian pathways. Parish moved approval of the Planned Unit Development. Hamilton seconded the motion which carried unanimously.

Seever moved to direct staff to prepare Relevant Criteria and Standards for all three proposals. Wilson seconded the motion and it carried unanimously.

4. Small Cell Wireless Facilities Draft Ordinance [ACTION ITEM]:

Telecommunications service providers are currently in the process of deploying 5G/small cell wireless technology throughout the developed world. 5G high speed deployment will bring much higher data speeds and traffic, but requires small cell installations to accommodate the data demand. Telecommunications services are largely governed by the Federal Communications Commission (FCC) and the Telecommunications Act, but local governments are allowed to adopt certain regulations at the local level. With the likelihood of 5G/small cell deployment in Moscow, Staff has been working on drafting an ordinance to address them in the Zoning Code. The draft ordinance was presented to the Sustainable Environment Commission at their regular meeting on June 16, 2020 to discuss a unified recommendation with the Planning and Zoning Commission. The SEC voted to recommend that the Planning and Zoning Commission proceed with the current ordinance and the SEC

will continue to research health effects and the changing legal landscape to potentially make recommendations in the future.

Ray reported that the Commission's specific questions to the City Attorney were responded to per the attached email. The draft ordinance will come before the Commission once more before scheduling the public hearing.

5. Transportation Commission Meeting Report

No report. The Commission is not expected to meet until September 10.

6. Announcements

The meeting adjourned at 8:47 p.m.

Wendy McClure, Chair

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF MOSCOW, COUNTY OF LATAH,
STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A REQUEST FOR A PRELIMINARY SUBDIVISION PLAT OF A TWO POINT FOUR NINE (2.49) ACRE AREA OF LAND GENERALLY LOCATED NORTH OF THE INTERSECTION OF SIXTH STREET AND DEAKIN AVENUE, KNOWN AS GATEWAY ON SIXTH ADDITION TO THE CITY OF MOSCOW, IDAHO.

WHEREAS, the applicant filed an application for a Preliminary Subdivision Plat on June 26, 2020; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on July 22, 2020; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents:

THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Planning and Zoning Commission considered the request pursuant to the City of Moscow 2009 Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The subject property is a two point four-nine (2.49) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue.
3. The subject property is currently vacant except for two parking lots and access drive on the northeastern portion of the site. Ghormley Park is located to the west of the subject property, self-storage units and Cedar Veterinary Clinic to the north, a multi-family residential neighborhood to the northeast, and Patty's Kitchen Restaurant and the University of Idaho to the south.
4. The subject property is relatively flat and Paradise Creek across Sixth Street and is flows through the property located to the southwest.
5. The subject property is currently designated as Urban Mixed (UM). UM designated areas,
“are intended to provide for the infill development and adaptive re-use of areas that surround downtown. Within these areas, a mix of residential and limited commercial uses should be promoted through the development of small urban apartments, townhomes, and two- to three-story vertically mixed-use buildings. The urban mixed area should provide a pedestrian connection between the University of Idaho and downtown, and provide space for a variety of housing alternatives, niche retail, restaurants, artist studios, and personal and

professional services. Off-street parking should be required, but the requirements should be reduced in this area due to the likely number of non-motorized travel the uses will attract.”

6. The residential neighborhood to the east, the commercial corridor along Sixth Street, and Legacy crossing to the southeast are also within the UM designation. Ghormely Park to the west is designated as Parks and Open Space, the University of Idaho campus to the southwest is designated as University (U), and commercial properties to the north are designated as Auto-Urban Commercial (AU-C).
7. Sixth Street is currently designated by the Thoroughfare Plan as a collector street and Lilly Street is designated as a local neighborhood street.
8. The subject property is currently located within the Motor Business (MB), Multiple Family Residential (R-4), Central Business (CB), and University (U) Zoning Districts and is proposed to be rezoned to a combination of Multiple Family Residential (R-4) and Central Business (CB).
9. According to the Zoning Code the R-4 Zoning District is,

“Provides for the most intense residential land uses permitted in the community. It is to be applied where activity levels are high and adequate public facilities are available, especially near the University of Idaho campus or the City Central Business Zoning District. Adequate transportation access should be given high priority in determining the appropriate location for R-4 zoning districts.”
10. Uses permitted within the R-4 Zone include single family dwellings, two family dwellings, twinhomes, townhouses, and multi-family dwellings. Also permitted are professional offices, bed and breakfasts, daycare facilities, and parking lots.
11. The minimum lot size for parcels within the R-4 Zone is 5,000 sf or 800 sf per dwelling unit, whichever is greater, for single-family, two-family, and multi-family dwellings; 2,250 sf for twinhome dwellings; and 1,800 sf for townhouse dwellings. The minimum lot width is for single-family, two-family, and multi-family dwellings is 50 feet; 25 feet for twinhomes; and 18 feet for townhouses.
12. According to the Zoning Code the purpose of the CB Zoning District,

“is to provide a location for groups of compatible commercial uses having the common characteristic of not involving more than incidental and minimal assembly, fabrication or storage of commodities; for example, establishments dispensing retail commodities, and those providing professional and personal services to the individual. The CB Zoning District is the most intensive commercial Zoning District. To promote pedestrian use, unbroken, street-level, commercial frontage is encouraged in this Zoning District.”
13. A wide range of commercial and residential uses are permitted within the CB Zoning District. There is no minimum lot size or width requirements for lots within the CB Zone.
14. As part of the proposed rezone, the City is expanding the rezone area to correct the zoning on three adjacent properties. Properties that contain apartment buildings at 402 and 410 S. Lilly Street have the University (U) Zone extend across them, likely because of the parking lots that were associated with the University of Idaho to the south. The proposal would be to rezone these two properties to the R-4 Zone which would be more appropriate. Also included is another small portion of the U Zone which extends upon the Cedar Veterinary Clinic property. The proposal would be to eliminate the U Zone and rezone the entire property to MB, which most of the property currently is already.

15. The proposed preliminary plat would create twenty-seven (27) townhouse parcels; one (1) Multi-Family Residential (R-4) parcel; and three (3) Central Business (CB) parcels ranging from 0.20 to 0.29 acres in size, referred to as the Gateway on Sixth Addition.
16. The minimum lot size for single-family, two-family, and multi-family dwellings parcels within the R-4 Zone is 5,000 sf or 800 sf per dwelling unit, whichever is greater, and 1,800 sf for townhouse dwellings. The minimum lot width is for single-family, two-family, and multi-family dwellings is 50 feet and 18 feet for townhouses. The CB Zone does not specify a minimum lot size or minimum lot width.
17. The applicant is concurrently proposing a Planned Unit Development (PUD) on the area which is proposed to be entirely located within the R-4 Zone, which includes the northern 1.41 acres of the main property and the two existing parking lots. The area of the two existing parking lots is 0.60 acres, which brings the total size of the area where the PUD is proposed to approximately 2 acres in size.
18. The applicant is requesting a PUD to allow for a reduction in the minimum lot size and setbacks for the townhouse lots, an increase in the maximum height permitted for the 4-story multi-family building, and to permit the townhouse lots to have frontage on internal courtyard which also serves as emergency services access instead of a public street right-of-way.
19. The proposed townhouse lots range from 634 to 638 square feet in size and range in width from 23.8 to 28.7 feet. The standard minimum lot size for townhouses in the R-4 Zone is 1,800 sf and 18 feet in width.
20. The three commercial lots that are located within the CB Zone are also included in the proposed preliminary plat. The area, which is adjacent to Sixth Street, is 1.08 acres in size and is proposed to be divided into three lots of 0.29, 0.29, and 0.20 acres in size. The primary vehicular access will be via the existing driveway directly to the east of Patty's Kitchen, which currently leads to the southernmost parking area and eventually connects to Lilly Street. There is a proposed emergency access drive that also serves as an internal courtyard that begins near the Sixth Street and Deakin Avenue intersection. The access from Sixth Street will be blocked with bollards and only pedestrians, bicyclists, and emergency vehicles are permitted on this portion of the internal courtyard.
21. A 6 in. water main currently exists on the east side of Lilly Street and an 8 in. water main extends horizontally across the southern portion of the subject property. A water main will be extended within the internal courtyard which will connect to meter banks to service the townhouses, apartment building, and commercial lots. Private water lines will be extended along the rear of the townhouses and connected to the water meter banks.
22. The property is considered developable in the City's Comprehensive Water System Plan dated January 2012. The Engineering Department has determined that the existing system has adequate potable and fire flows to serve the proposed subdivision.
23. The property is considered developable in the City's Comprehensive Water System Plan dated January 2012. Public Works has determined that the existing system has adequate potable and fire flows to serve the proposed subdivision.
24. It is anticipated that under commonly observed residential household water use within the City (114 gallons per day per occupant) that the proposed development could be reasonably anticipated to use approximately 4.21 million gallons of water per year (45 du x 2.25 occupants/du x 114 gallons/occupant x 365 days/year = 4.21 million gallons/year).

25. Sanitary sewer is proposed to be extended throughout the proposed development within the internal courtyard/emergency access drive corridors. An 8 in. PVC main will be extended through the development to eventually connect to a 24 in. main that extends in the northwesterly direction across Ghormley Park to the west.
26. The Engineering Department has determined that the system has adequate capacity to convey the additional flow from the development. The subject property is considered developable in the Comprehensive Sewer System Plan dated September 2011.
27. Trench drains within the permeable pavement system that makes up the internal courtyard/emergency services access drive collect the storm sewer and eventually convey it to an existing 30 in. storm drain in the north side sidewalk in Sixth Street. The detention facilities of the proposed development will need to meet Moscow's Stormwater Runoff Control Standards which required the stormwater to be detained to the pre-development rate.
28. The subject property has multiple points of access at various locations. There is an existing driveway access off of Sixth Street which is located directly to the east of Patty's Kitchen. This driveway provides access to the existing parking lot in the southeast corner and also provides a connection to Lilly Street and the alley between Lilly Street and Asbury Street.
29. As part of the proposed subdivision, there will be a curb cut and emergency access drive constructed in close proximity to the Sixth Street and Deakin Avenue intersection. This is a secondary approach onto Sixth Street and will only serve as pedestrian, bicycle, and emergency services access. Sixth Street in this location is currently designated as a collector street and is developed with two travel lanes with designated turn lanes, bike lanes, a new furnishing zone with brick pavers and street trees, and 8 ft. wide sidewalks. Paradise Path is located to the southwest of the subject property and follows Paradise Creek to the west.
30. Lilly Street serves as access from the north of the subject property. The northern parking lot is located at the intersection of Lilly Street and Fourth Street, and Lilly Street essentially terminates into the subject property. The portion of Lilly Street from Third Street to the subject property is developed as a 30 ft wide street with intermittent curb and sidewalk and parking on both sides of the street. The current Idaho Central Credit Union project at the southwest corner of Third Street and Lilly Street will be constructing new curbing, tree lawns, and sidewalks on the entire Lilly Street frontage. Currently there is no curbing, tree lawns or sidewalks on ICCU's frontage on the west side of Lilly Street.
31. The proposed subdivision falls under the requirements of the parkland dedication codes of the City. The net developable area is 2.49 acres and is zoned a combination of CB and R-4, which require a 9% parkland dedication requirement. This results in a dedication requirement of 9,780 sf (0.037 acres), or at the current value of \$13,500/acre, \$3,032.00. The property owner is requesting a City/Property Owner cooperative project that includes a pedestrian/bicycle pathway connection from Sixth Street to the Ghormley Park parking lot, providing access to Third Street. The first phase would be from Sixth Street to the northwest corner of the project, utilizing a cost-share approach. The second phase would complete the connecting pathway to the Ghormley Park parking lot, at the City's expense. The property owner's investment into the first phase would far exceed the parkland dedication requirement of \$3,032 and would satisfy all parkland dedication requirements.
32. The project proposal was reviewed by the Parks and Recreation Commission on June 25, 2020, and the Pathways Commission on July 14, 2020, and both supported the parkland dedication/plan proposal. Parks and Recreation Staff are also recommending approval of the proposal.

33. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on April 14, 2020 to discuss the proposed preliminary plat.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **This plat is not contradictory to the Moscow Comprehensive Plan.** The proposed preliminary plat is consistent with the uses and densities designated within the 2019 Comprehensive Plan. The Urban Mixed (UM) designation is intended to provide for the infill development and adaptive re-use of areas that surround downtown, which the preliminary plat is intended to accomplish. The proposed plat also contributes to providing a pedestrian connection between the University of Idaho and downtown.
2. **This plat is compatible with the Moscow Zoning Ordinance.** The applicant is concurrently requesting a PUD in order to allow a reduction in the minimum lot size and to permit the townhouse lots to have frontage on internal courtyard which also serves as emergency services access instead of a public street right-of-way. All other Zoning Code requirements will be met as part of the proposal.
3. **This plat is compatible with the Moscow Subdivision Ordinance.** The proposed preliminary plat is consistent and in conformance with the general requirements of the Moscow Subdivision Ordinance including, but not limited to, the provision of the logical and orderly connection to the City's street network, public utilities, and the provision of public parkland.
4. **This plat is considerate of the natural features of the subject land.** The proposed preliminary plat provides for development of the subject property, including the general construction and alignment of the internal courtyard/emergency services access drive in conformance and consideration of the natural contours of the subject property.
5. **This plat is not expected to place an undue burden on public services and infrastructure, and does not pose an apparent threat to the public health, safety or welfare.** The subject property has property frontage on Sixth Street to the south and Lilly Street to the north. An additional emergency services access drive is proposed to be constructed that will connect Sixth Street and Lilly Street and also provide internal access to the proposed lots. There are currently sufficient and available public utility services to meet the needs of the proposed development. Water and sewer connections are readily available in the area and the property has been determined to be developable in the City's Comprehensive Water and Sewer System Plans.
6. **Other: None.**

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Planning and Zoning Commission of the City of Moscow recommends approval of the preliminary subdivision plat request for the two point four-nine (2.49) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue with the following conditions:

Engineering:

1. The water line tap design for the 4-story multi-family property will need to be revised to come directly from a City water main instead of a dedicated fire hydrant line, as is currently proposed.
2. All water lines from water main to each water meter and each fire hydrant are required to be within a City easement to allow access.
3. The access drive at the southwest end of the property near the Sixth Street and Deakin Avenue intersection is limited to emergency vehicle and pedestrian access only due to the proximity to the intersection.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this
____ day of _____, 2020.

Wendy McClure, Chair
Planning and Zoning Commission

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF MOSCOW, COUNTY OF LATAH,
STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A REQUEST FOR A PLANNED UNIT DEVELOPMENT OF AN APPROXIMATELY TWO (2) ACRE AREA OF LAND GENERALLY LOCATED NORTH OF THE INTERSECTION OF SIXTH STREET AND DEAKIN AVENUE, KNOWN AS GATEWAY ON SIXTH WITHIN THE CITY OF MOSCOW, IDAHO.

WHEREAS, the applicant filed an application for a Planned Unit Development (PUD) on June 26, 2020; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on July 22, 2020; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents:

THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Planning and Zoning Commission considered the request pursuant to the City of Moscow 2009 Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The subject property is an approximately two (2) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue.
3. The subject property is currently vacant except for two parking lots and access drive on the northeastern portion of the site. Ghormley Park is located to the west of the subject property, self-storage units and Cedar Veterinary Clinic to the north, a multi-family residential neighborhood to the northeast, and Patty's Kitchen Restaurant and the University of Idaho to the south.
4. The subject property is relatively flat and Paradise Creek across Sixth Street and is flows through the property located to the southwest.
5. The subject property is currently designated as Urban Mixed (UM). UM designated areas,
“are intended to provide for the infill development and adaptive re-use of areas that surround downtown. Within these areas, a mix of residential and limited commercial uses should be promoted through the development of small urban apartments, townhomes, and two- to three-story vertically mixed-use buildings. The urban mixed area should provide a pedestrian connection between the University of Idaho and downtown, and provide space for a variety of housing alternatives, niche retail, restaurants, artist studios, and personal and

professional services. Off-street parking should be required, but the requirements should be reduced in this area due to the likely number of non-motorized travel the uses will attract.”

6. The residential neighborhood to the east, the commercial corridor along Sixth Street, and Legacy crossing to the southeast are also within the UM designation. Ghormely Park to the west is designated as Parks and Open Space, the University of Idaho campus to the southwest is designated as University (U), and commercial properties to the north are designated as Auto-Urban Commercial (AU-C).
7. Sixth Street is currently designated by the Thoroughfare Plan as a collector street and Lilly Street is designated as a local neighborhood street.
8. The subject property is currently located within the Motor Business (MB), Multiple Family Residential (R-4), Central Business (CB), and University (U) Zoning Districts and is proposed to be rezoned to a combination of Multiple Family Residential (R-4) and Central Business (CB).
9. According to the Zoning Code the R-4 Zoning District is,

“Provides for the most intense residential land uses permitted in the community. It is to be applied where activity levels are high and adequate public facilities are available, especially near the University of Idaho campus or the City Central Business Zoning District. Adequate transportation access should be given high priority in determining the appropriate location for R-4 zoning districts.”
10. Uses permitted within the R-4 Zone include single family dwellings, two family dwellings, twinhomes, townhouses, and multi-family dwellings. Also permitted are professional offices, bed and breakfasts, daycare facilities, and parking lots.
11. The minimum lot size for parcels within the R-4 Zone is 5,000 sf or 800 sf per dwelling unit, whichever is greater, for single-family, two-family, and multi-family dwellings; 2,250 sf for twinhome dwellings; and 1,800 sf for townhouse dwellings. The minimum lot width is for single-family, two-family, and multi-family dwellings is 50 feet; 25 feet for twinhomes; and 18 feet for townhouses.
12. According to the Zoning Code the purpose of the CB Zoning District,

“is to provide a location for groups of compatible commercial uses having the common characteristic of not involving more than incidental and minimal assembly, fabrication or storage of commodities; for example, establishments dispensing retail commodities, and those providing professional and personal services to the individual. The CB Zoning District is the most intensive commercial Zoning District. To promote pedestrian use, unbroken, street-level, commercial frontage is encouraged in this Zoning District.”
13. A wide range of commercial and residential uses are permitted within the CB Zoning District. There is no minimum lot size or width requirements for lots within the CB Zone.
14. As part of the proposed rezone, the City is expanding the rezone area to correct the zoning on three adjacent properties. Properties that contain apartment buildings at 402 and 410 S. Lilly Street have the University (U) Zone extend across them, likely because of the parking lots that were associated with the University of Idaho to the south. The proposal would be to rezone these two properties to the R-4 Zone which would be more appropriate. Also included is another small portion of the U Zone which extends upon the Cedar Veterinary Clinic property. The proposal would be to eliminate the U Zone and rezone the entire property to MB, which most of the property currently is already.

15. The concurrently proposing a preliminary plat that would create twenty-seven (27) townhouse parcels; one (1) Multi-Family Residential (R-4) parcel; and three (3) Central Business (CB) parcels ranging from 0.20 to 0.29 acres in size, referred to as the Gateway on Sixth Addition.
16. The minimum lot size for single-family, two-family, and multi-family dwellings parcels within the R-4 Zone is 5,000 sf or 800 sf per dwelling unit, whichever is greater, and 1,800 sf for townhouse dwellings. The minimum lot width is for single-family, two-family, and multi-family dwellings is 50 feet and 18 feet for townhouses. The CB Zone does not specify a minimum lot size or minimum lot width.
17. The applicant is proposing the Planned Unit Development (PUD) on the area which is proposed to be entirely located within the R-4 Zone, which includes the northern 1.41 acres of the main property and the two existing parking lots. The area of the two existing parking lots is 0.60 acres, which brings the total size of the area where the PUD is proposed to approximately 2 acres in size.
18. The applicant is requesting a PUD to allow for a reduction in the minimum lot size and setbacks for the townhouse lots, an increase in the maximum height permitted for the 4-story multi-family building, and to permit the townhouse lots to have frontage on internal courtyard which also serves as emergency services access instead of a public street right-of-way.
19. The proposed townhouse lots range from 634 to 638 square feet in size and range in width from 23.8 to 28.7 feet. The standard minimum lot size for townhouses in the R-4 Zone is 1,800 sf and 18 feet in width. The townhouses are proposed to have no setbacks and extend out to the property lines on all sides. The townhouse setbacks in the R-4 Zone are 15 ft front, 20 ft rear, 0 ft interior side, and 8 ft exterior side. The townhouses are proposed to be three stories with the options of three different floor plans, A, B, and C.
20. The exteriors on the 'A' units will contain a brick veneer on the front façade with a metal bump out for windows, and the rear façade is proposed to be board and batten siding with an additional metal bump out and small deck. The first-floor plan contains the living room, small kitchenette, bedroom, and bathroom. The second floor contains the kitchen and dining area as well as a master bedroom and bathroom. There is an open loft space on the third floor.
21. The exteriors of the 'B' units contain a brick veneer on the front façade with rear board and batten siding. The first-floor plan includes the living room, kitchen, and a bathroom. The second floor contains two bedrooms and a shared bathroom, and the third floor has an additional bedroom, bathroom, and outdoor balcony.
22. The exteriors of the 'C' unit contain a brick veneer on the front façade with rear board and batten siding with a metal bump out and small deck. The first-floor plan contains a single car garage, laundry room, and entry area. The second floor includes the living and kitchen area, bedroom, and bathroom. The third floor is partially open to below and includes one bedroom, a bathroom, and walk-in closet.
23. Six townhouses are adjacent to the northern-most existing parking lot, and the remainder will be accessed via an internal courtyard constructed of permeable pavers that also serves as an emergency services access road.
24. The proposed emergency access drive that also serves as an internal courtyard that begins near the Sixth Street and Deakin Avenue intersection. The access from Sixth Street will be blocked with bollards and only pedestrians, bicyclists, and emergency vehicles are permitted on this portion of the internal courtyard.

25. Also included in the PUD proposal is a Multi-Family Residential (R-4) parcel of 0.37 acres in size that is proposed to be developed with a 4-story multi-family building. The ground floor is proposed to be an enclosed parking garage with 18 parking spaces, bicycle storage, and lobby with access to an elevator and stairs to the upper floors. The second, third, and fourth floors are proposed to be the same floor plan and will contain 6 dwelling units on each floor, totaling 18 units. Each floor will contain two 2-bedroom units that are each 980 sf in size and four 1-bedroom units that are 592 sf each. The total height of the fourth floor is 48.5 ft, which exceeds the 40 ft height limitation in the R-4 Zone.
26. The minimum PUD base density of the R-4 Zone is 24 units per acre. The proposed PUD has a base density of 22.5 units per acre, therefore no density bonuses are required as part of the project.
27. The total number of parking spaces required for the proposed PUD is 80 spaces. Townhouses require 2 spaces per unit, one-bedroom apartments require 1.25 spaces per unit, and two-bedroom apartments require 1.75 spaces per apartment. The applicant has provided 18 parking spaces in the ground floor enclosed garage of the apartment building and there 88 parking spaces proposed within the two existing parking lots, for a total of 106 spaces.
28. The applicant has indicated that there will be property management on-site who will be in charge of parking management.
29. A 6 in. water main currently exists on the east side of Lilly Street and an 8 in. water main extends horizontally across the southern portion of the subject property. A water main will be extended within the internal courtyard which will connect to meter banks to service the townhouses, apartment building, and commercial lots. Private water lines will be extended along the rear of the townhouses and connected to the water meter banks.
30. The property is considered developable in the City's Comprehensive Water System Plan dated January 2012. The Engineering Department has determined that the existing system has adequate potable and fire flows to serve the proposed development.
31. The property is considered developable in the City's Comprehensive Water System Plan dated January 2012. Public Works has determined that the existing system has adequate potable and fire flows to serve the proposed development.
32. It is anticipated that under commonly observed residential household water use within the City (114 gallons per day per occupant) that the proposed development could be reasonably anticipated to use approximately 4.21 million gallons of water per year ($45 \text{ du} \times 2.25 \text{ occupants/du} \times 114 \text{ gallons/occupant} \times 365 \text{ days/year} = 4.21 \text{ million gallons/year}$).
33. Sanitary sewer is proposed to be extended throughout the proposed development within the internal courtyard/emergency access drive corridors. An 8 in. PVC main will be extended through the development to eventually connect to a 24 in. main that extends in the northwesterly direction across Ghormley Park to the west.
34. The Engineering Department has determined that the system has adequate capacity to convey the additional flow from the development. The subject property is considered developable in the Comprehensive Sewer System Plan dated September 2011.
35. Trench drains within the permeable pavement system that makes up the internal courtyard/emergency services access drive collect the storm sewer and eventually convey it to an existing 30 in. storm drain in the north side sidewalk in Sixth Street. The detention facilities of the proposed development will need to meet Moscow's Stormwater Runoff Control Standards which required the stormwater to be detained to the pre-development rate.

36. The subject property has multiple points of access at various locations. There is an existing driveway access off of Sixth Street which is located directly to the east of Patty's Kitchen. This driveway provides access to the existing parking lot in the southeast corner and also provides a connection to Lilly Street and the alley between Lilly Street and Asbury Street.
37. As part of the proposed PUD, there will be a curb cut and emergency access drive constructed in close proximity to the Sixth Street and Deakin Avenue intersection. This is a secondary approach onto Sixth Street and will only serve as pedestrian, bicycle, and emergency services access. Sixth Street in this location is currently designated as a collector street and is developed with two travel lanes with designated turn lanes, bike lanes, a new furnishing zone with brick pavers and street trees, and 8 ft. wide sidewalks. Paradise Path is located to the southwest of the subject property and follows Paradise Creek to the west.
38. Lilly Street serves as access from the north of the subject property. The northern parking lot is located at the intersection of Lilly Street and Fourth Street, and Lilly Street essentially terminates into the subject property. The portion of Lilly Street from Third Street to the subject property is developed as a 30 ft wide street with intermittent curb and sidewalk and parking on both sides of the street. The current Idaho Central Credit Union project at the southwest corner of Third Street and Lilly Street will be constructing new curbing, tree lawns, and sidewalks on the entire Lilly Street frontage. Currently there is no curbing, tree lawns or sidewalks on ICCU's frontage on the west side of Lilly Street.
39. The proposed PUD and subdivision plat are within the requirements of the parkland dedication codes of the City. The net developable area is 2.49 acres and is zoned a combination of CB and R-4, which require a 9% parkland dedication requirement. This results in a dedication requirement of 9,780 sf (0.037 acres), or at the current value of \$13,500/acre, \$3,032.00. The property owner is requesting a City/Property Owner cooperative project that includes a pedestrian/bicycle pathway connection from Sixth Street to the Ghormley Park parking lot, providing access to Third Street. The first phase would be from Sixth Street to the northwest corner of the project, utilizing a cost-share approach. The second phase would complete the connecting pathway to the Ghormley Park parking lot, at the City's expense. The property owner's investment into the first phase would far exceed the parkland dedication requirement of \$3,032 and would satisfy all parkland dedication requirements.
40. The project proposal was reviewed by the Parks and Recreation Commission on June 25, 2020, and the Pathways Commission on July 14, 2020, and both supported the parkland dedication/plan proposal. Parks and Recreation Staff are also recommending approval of the proposal.
41. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on April 14, 2020 to discuss the proposed preliminary plat.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed PUD is consistent with the Comprehensive Plan.** The proposed PUD is consistent with the uses and densities designated within the 2019 Comprehensive Plan. The Urban Mixed (UM) designation is intended to provide for the infill development and adaptive re-use of areas that surround downtown. Within these areas, a mix of residential and limited commercial uses should be promoted through the development of small urban apartments,

townhomes, and two- to three-story vertically mixed-use buildings. The PUD also contributes to providing a pedestrian connection between the University of Idaho and downtown. Therefore, the Commission finds that the proposed PUD is consistent with the Comprehensive Plan.

2. **The proposed PUD is consistent with the intents and purposes of this Chapter.** The proposed PUD meets the intent of the PUD chapter to permit and encourage innovative, economical, and attractive development; which includes land uses which harmonize with natural features and constraints; which promotes efficient, innovative, economical, attractive, and environmentally sensitive development; and which efficiently phases and locates public and private services and facilities. The proposed mixed-use PUD is an attractive development which utilizes an oddly-shaped property to orient linear townhouses adjacent to Ghormley Park and an existing parking lot. The proposed PUD creates twenty-seven (27) townhouses on smaller lots, which creates a different housing type and more affordable housing options in the City. The 4-story apartment building provides a parking garage and a more urban residential living option for residents.
3. **The proposed PUD is compatible with the character and uses in the surrounding area.** The PUD is consistent with the surrounding area which is primarily a mixture of residential and commercial developments. The proposed PUD provides for development of the subject property, including the general construction and alignment of the pedestrian connection and emergency services access drive between the University of Idaho and downtown.
4. **Public services and utilities are available or can be made available and are adequate to accommodate the proposed PUD.** Public Works has indicated that water, sanitary sewer, and storm sewer systems are readily available in the area and can accommodate the proposed PUD. The subject property has been determined to be developable in the 2012 Comprehensive Water System Plan and the 2011 Comprehensive Sewer System Plan. The subject property has multiple points of access at various locations. There is an existing driveway access off of Sixth Street which is located directly to the east of Patty's Kitchen. An internal courtyard/emergency access drive is also proposed to be constructed in close proximity to the Sixth Street and Deakin Avenue intersection. Lilly Street serves as access from the north of the subject property.
5. **The proposed PUD will not endanger the public health or safety.** There is no evidence that the proposed PUD would have an impact on the public health and safety. The proposed PUD will help serve the need of providing a more affordable housing option of single-family homes on smaller lots.
6. **The residential densities, proposed land uses, and design proposed within the PUD promote the innovative, efficient, economic and attractive development of the subject property.** The proposed PUD with twenty-seven (27) townhouses on smaller lots ranging from 634 to 638 square feet in size provides an efficient and economical home ownership opportunity which is currently limited in the City. The proposed townhouses will have three design options which are attractive and will provide a quality product on smaller lots which are served by an internal courtyard.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Planning and Zoning Commission of the City of Moscow recommends approval of the PUD request for the approximately two (2) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue with no conditions.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this
____ day of _____, 2020.

Wendy McClure, Chair
Planning and Zoning Commission

**BEFORE THE PLANNING AND ZONING COMMISSION
OF THE CITY OF MOSCOW, COUNTY OF LATAH,
STATE OF IDAHO**

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS REGARDING A REQUEST FOR A REZONE OF AN APPROXIMATELY THREE POINT FIVE (3.50) ACRE AREA OF LAND GENERALLY LOCATED NORTH OF THE INTERSECTION OF SIXTH STREET AND DEAKIN AVENUE, KNOWN AS GATEWAY ON SIXTH ADDITION TO THE CITY OF MOSCOW, IDAHO.

WHEREAS, the applicant filed an application for a Rezone on June 26, 2020; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on July 22, 2020; and

WHEREAS, having reviewed the application, including all exhibits entered, and having considered the issues presented by the applicant and the opponents:

THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Planning and Zoning Commission considered the request pursuant to the City of Moscow 2009 Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The subject property is an approximately three point five (3.50) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue.
3. The subject property is currently vacant except for two parking lots and access drive on the northeastern portion of the site. Ghormley Park is located to the west of the subject property, self-storage units and Cedar Veterinary Clinic to the north, a multi-family residential neighborhood to the northeast, and Patty's Kitchen Restaurant and the University of Idaho to the south.
4. The subject property is relatively flat and Paradise Creek across Sixth Street and is flows through the property located to the southwest.
5. The subject property is currently designated as Urban Mixed (UM). UM designated areas,
"are intended to provide for the infill development and adaptive re-use of areas that surround downtown. Within these areas, a mix of residential and limited commercial uses should be promoted through the development of small urban apartments, townhomes, and two- to three-story vertically mixed-use buildings. The urban mixed area should provide a pedestrian connection between the University of Idaho and downtown, and provide space for a variety of housing alternatives, niche retail, restaurants, artist studios, and personal and professional services. Off-street parking should be required, but the requirements should be reduced in this area due to the likely number of non-motorized travel the uses will attract."

6. The residential neighborhood to the east, the commercial corridor along Sixth Street, and Legacy crossing to the southeast are also within the UM designation. Ghormely Park to the west is designated as Parks and Open Space, the University of Idaho campus to the southwest is designated as University (U), and commercial properties to the north are designated as Auto-Urban Commercial (AU-C).
7. Sixth Street is currently designated by the Thoroughfare Plan as a collector street and Lilly Street is designated as a local neighborhood street.
8. The subject property is currently located within the Motor Business (MB), Multiple Family Residential (R-4), Central Business (CB), and University (U) Zoning Districts and is proposed to be rezoned to a combination of Multiple Family Residential (R-4) and Central Business (CB).
9. According to the Zoning Code the R-4 Zoning District is,

“Provides for the most intense residential land uses permitted in the community. It is to be applied where activity levels are high and adequate public facilities are available, especially near the University of Idaho campus or the City Central Business Zoning District. Adequate transportation access should be given high priority in determining the appropriate location for R-4 zoning districts.”
10. Uses permitted within the R-4 Zone include single family dwellings, two family dwellings, twinhomes, townhouses, and multi-family dwellings. Also permitted are professional offices, bed and breakfasts, daycare facilities, and parking lots.
11. The minimum lot size for parcels within the R-4 Zone is 5,000 sf or 800 sf per dwelling unit, whichever is greater, for single-family, two-family, and multi-family dwellings; 2,250 sf for twinhome dwellings; and 1,800 sf for townhouse dwellings. The minimum lot width is for single-family, two-family, and multi-family dwellings is 50 feet; 25 feet for twinhomes; and 18 feet for townhouses.
12. According to the Zoning Code the purpose of the CB Zoning District,

“is to provide a location for groups of compatible commercial uses having the common characteristic of not involving more than incidental and minimal assembly, fabrication or storage of commodities; for example, establishments dispensing retail commodities, and those providing professional and personal services to the individual. The CB Zoning District is the most intensive commercial Zoning District. To promote pedestrian use, unbroken, street-level, commercial frontage is encouraged in this Zoning District.”
13. A wide range of commercial and residential uses are permitted within the CB Zoning District. There is no minimum lot size or width requirements for lots within the CB Zone.
14. As part of the proposed rezone, the City is expanding the rezone area to correct the zoning on three adjacent properties. Properties that contain apartment buildings at 402 and 410 S. Lilly Street have the University (U) Zone extend across them, likely because of the parking lots that were associated with the University of Idaho to the south. The proposal would be to rezone these two properties to the R-4 Zone which would be more appropriate. Also included is another small portion of the U Zone which extends upon the Cedar Veterinary Clinic property. The proposal would be to eliminate the U Zone and rezone the entire property to MB, which most of the property currently is already.
15. The property is considered developable in the City’s Comprehensive Water System Plan dated January 2012.

16. The property is considered developable in the City's Comprehensive Water System Plan dated January 2012.
17. The subject property has multiple points of access at various locations. There is an existing driveway access off of Sixth Street which is located directly to the east of Patty's Kitchen. This driveway provides access to the existing parking lot in the southeast corner and also provides a connection to Lilly Street and the alley between Lilly Street and Asbury Street.
18. Sixth Street in this location is currently designated as a collector street and is developed with two travel lanes with designated turn lanes, bike lanes, a new furnishing zone with brick pavers and street trees, and 8 ft. wide sidewalks. Paradise Path is located to the southwest of the subject property and follows Paradise Creek to the west.
19. Lilly Street serves as access from the north of the subject property. The northern parking lot is located at the intersection of Lilly Street and Fourth Street, and Lilly Street essentially terminates into the subject property. The portion of Lilly Street from Third Street to the subject property is developed as a 30 ft wide street with intermittent curb and sidewalk and parking on both sides of the street. The current Idaho Central Credit Union project at the southwest corner of Third Street and Lilly Street will be constructing new curbing, tree lawns, and sidewalks on the entire Lilly Street frontage. Currently there is no curbing, tree lawns or sidewalks on ICCU's frontage on the west side of Lilly Street.
20. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on April 14, 2020 to discuss the proposed preliminary plat.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed rezone is consistent with Comprehensive Plan goals, objectives, and implementation actions.** The proposed zoning district is consistent and in conformance with the uses and densities designated within the 2019 Comprehensive Plan. The Urban Mixed (UM) Land Use Designation corresponds with the proposed Multiple Family Residential (R-4) and Central Business (CB) Zones. Therefore, the Commission finds that the proposed rezone is consistent with the Comprehensive Plan.
2. **The proposed rezone would provide for the logical and orderly location of land uses and community services and facilities.** The proposed rezone corrects a conglomeration of zoning districts that currently include the Motor Business (MB), Multiple Family Residential (R-4), Central Business (CB), and University (U) Zoning Districts. The CB Zone largely remains the same and the remainder of the property is proposed to be rezoned to R-4, which is consistent with the adjacent residential neighborhood. The CB Zone will remain a continuation of the Sixth Street corridor which primarily contains a mixture of commercial uses.
3. **The uses expected to occur as a result of the rezone will be compatible with the surrounding area.** The proposed zoning is consistent with adjacent zoning districts and will create a logical and orderly zoning configuration for the subject area.
4. **The size, type, and density of development expected to occur as a result of the rezone will not place an undue burden upon delivery of services provided by any political subdivision within**

the planning jurisdiction. The proposed zoning and uses are suitable for the area and will not unduly burden the neighborhood of public infrastructure.

5. **The size, type, and density of development expected to occur as a result of the rezone can be adequately served by the existing transportation network, public facilities and services.** The subject property has street frontage on Sixth Street to the south and Lilly Street to the north. There are currently sufficient and available public utility services to meet the needs of the development that would be permitted under the proposed zoning districts. Water and sewer connections are readily available in the area and the property has been determined to be developable in the City's Comprehensive Water and Sewer System Plans.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Planning and Zoning Commission of the City of Moscow recommends approval of the rezone request for the approximately three point five (3.5) acre area of land generally located north of the intersection of Sixth Street and Deakin Avenue with no conditions.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this
____ day of _____, 2020.

Wendy McClure, Chair
Planning and Zoning Commission

ORDINANCE NO. 2020 -

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE AMENDMENT OF MOSCOW CITY CODE TITLE 4, CHAPTER 3; PROVIDING FOR THE AMENDMENT OF THE TELECOMMUNICATIONS CODE TO ESTABLISH STANDARDS FOR SMALL WIRELESS FACILITIES; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE BE DEEMED SEVERABLE; AND PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM THE DATE OF ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, in 2001 the City first adopted regulations and development standards specific to telecommunications facilities and antenna towers; and

WHEREAS, since the telecommunications code was initially established there have been federal laws, regulations, and court decisions that have impacted the way telecommunications facilities are permitted and regulated; and

WHEREAS, the implementation of 5G technology will bring much higher data speeds and traffic, but requires small cell installations to accommodate the data demand; and

WHEREAS, small wireless facilities have a shorter range than macrocell towers, which require a greater number of facilities which are typically located in the public right-of-way; and

WHEREAS, with the number and frequency of small cell facilities that are needed to create a 5G network, the City wishes to encourage the location and co-location of transmission equipment on existing structures, reduce visual clutter, promote public safety, and reduce impacts to the existing built environment; and

WHEREAS, the City's existing telecommunications code does distinguish between macrocell facilities and small wireless facilities; and

WHEREAS, establishing predictable and balanced regulations within the authority reserved for local governments is in the best interest of the City; and

WHEREAS, the City desires to update the telecommunications code to protect and promote the public health, safety and welfare of the community, to reasonably regulate wireless communication facilities aesthetics, and to protect and promote the character of the City in a manner consistent with State and Federal laws and regulations; and

WHEREAS, on September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the amendments contained herein and recommended approval to the City Council; and

WHEREAS, on _____, the City Council conducted a public hearing and considered and adopted the amendments contained herein;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MOSCOW, IDAHO, AS FOLLOWS:

SECTION 1: That Moscow City Code Title 4, Chapter 3 be amended as follows:

• • •

H. Telecommunications Facilities.

1. Applicability. This Section shall apply to antenna towers, antenna support structures, antennas and their ancillary facilities (telecommunications facilities) any of which are used to provide commercial telecommunications services. This Section shall not apply to noncommercial antenna towers exclusively used as accessory to a residential use on the same lot.
2. Purpose. The provisions of this Section are intended to ensure that telecommunications facilities are located, installed, maintained and removed in a manner that:
 - a. Minimizes the number of antenna towers throughout the community;
 - b. Encourages the co-location of telecommunications facilities;
 - c. Encourages the use of existing buildings, light or utility poles, water towers or other structures for antenna mounting and discourages construction of new antenna towers;
 - d. Ensures that telecommunications facilities are located and designed to minimize visual impact on the surroundings; and
 - e. Ensures that regulation of telecommunications facilities does not have the effect of prohibiting the provision of telecommunications services, does not unreasonably discriminate among functionally equivalent providers of such services, and allows the provision of adequate area coverage by such services.
3. Definitions.
 - a. *Ancillary Facilities*. Buildings, cabinets, vaults, enclosures, equipment, and the like required for operation of telecommunications systems.
 - b. *Antenna*. Any device that transmits and/or receives radio waves, microwaves, or other electro-magnetic radiation for voice, data or video communications purposes including, but not limited to, television, AM/FM radio, micro-wave, cellular telephone and similar forms of communications.
 - c. *Antenna Support Structure*. Any structure or building not constructed primarily for the purpose of supporting an antenna but that supports an antenna as a secondary or accessory use.
 - d. *Antenna Tower*. Any structure or pole erected primarily for the purpose of supporting one or more antennas that are used to provide commercial wireless communications or telecommunications services.
 - e. *Antenna Tower Height*. The overall vertical length of the antenna tower above ground level.
 - f. *Co-location*. Placement of one or more antenna(s) on an antenna support structure or the placement of an antenna on an antenna tower on which one or more antennas are already located.
 - g. *Lattice Tower*. An antenna tower characterized by a framework of lateral or diagonal cross members that stabilize the tower.

- h. *Monopole*. An antenna tower that consists of a single upright pole, which is self-supporting and without supports or guys.
 - i. *Small Wireless Facility*. A telecommunications facility that meets each of the following conditions:
 - i. The structure on which the antenna facilities are mounted is:
 - (a) Fifty (50) feet or less in height; or
 - (b) No more than ten percent (10%) taller than other adjacent structures; or
 - (c) Not extended to a height of more than ten percent (10%) above the height as a result of the collocation of new antenna facilities.
 - ii. Each antenna (excluding associated antenna equipment) is no more than three (3) cubic feet in volume; and
 - iii. All antenna equipment associated with the facility (excluding antennas) are cumulatively no more than twenty-eight (28) cubic feet; and
 - iv. The facility does not require antenna structure registration under Part 17 of FCC regulations; and
 - v. The facility does not result in human exposure to radiofrequency radiation in excess of the application safety standards specified in FCC Rule 1.1307(b).
 - j. *Telecommunications Facilities*. Antenna towers, antenna support structures, antennas and their ancillary facilities that are used to provide commercial wireless communications or telecommunications services.
 - k. *Temporary Antenna Tower*. An antenna tower established for the purpose of providing tele-communications services on a temporary basis for a special event or to temporarily replace an antenna tower while it is being repaired.
4. General Use Regulations
- a. The installation of lattice towers is prohibited except lattice towers that qualify and are permitted as temporary antenna towers. Replacement, relocation or alteration of non-conforming lattice towers shall be subject to the Nonconformity Regulations in Section 4-1-6 of this Zoning Code.
 - b. A Conditional Use Permit shall be required before the installation, relocation, replacement, and/or alteration of an antenna tower that exceeds thirty-five feet (35') in height in all Zoning Districts.
 - c. Except for small wireless facilities which are subject to the standards contained in Section 6 herein, co-location shall be a permitted use within all zoning districts when located upon existing antenna towers and antenna support structures if the antenna extends no more than fifteen feet (15') above, and projects no more than eight feet (8') horizontally away from the existing tower or support structure. Any co-location of wireless facilities that exceed such limits shall require a Conditional Use Permit.
 - d. A temporary antenna tower as defined herein shall be a permitted use in all zoning districts, subject to site plan approval by the Zoning Administrator. The duration of the temporary antenna tower at the site shall not exceed the special event time or the time reasonably needed to repair the antenna tower in need of repair.
5. General Telecommunication Facility Development Standards
- a. Prohibited Towers. The installation of telecommunications facilities utilizing lattice towers or towers requiring supporting guy wires shall be prohibited.
 - b. Antenna Tower Setback from Highway Right-of-Way. No antenna tower that exceeds sixty feet (60') in height shall be permitted within five hundred feet (500') of US

- Highway 95 and/or State Highway 8 rights-of-way unless the proposed site is in the U, MB, or I Zoning District, in which case the antenna tower shall be set back a minimum of one hundred feet (100') from said right-of-way.
- c. Antenna Tower Setback from Property Lines. Antenna towers shall be separated from the property line of any adjacent property zoned for residential uses at least a distance equal to the height of the antenna tower, and shall be separated from all other adjacent property lines at least a distance equal to one-half (1/2) the height of the antenna tower.
 - d. Security. Every telecommunications facility shall be protected from unauthorized access by appropriate security measures.
 - e. Lighting. No antenna or antenna tower shall be lighted unless required by the Federal Aviation Administration or other state or federal agency having such authority, and such lighting shall not be more than the minimum required by such agency.
 - f. Noise Reduction. Noise generating equipment shall be sound-buffered by means of baffling, barriers, or other suitable means to reduce sound level measured at the property line to forty-five decibels (45 dB).
 - g. Signage. The placement of signage on antenna towers is prohibited, except for the placement of security signage, which shall not exceed six (6) square feet on each side of the antenna tower and shall not be located higher than six feet (6') above grade. Additionally, one security sign not to exceed one (1) square foot may be provided on each fifty feet (50') of wall or fence enclosing the facility.
 - h.
 - i. Aesthetic Considerations.
 - i. Antenna towers shall be painted a neutral color consistent with the natural or built environment of the subject site and the surrounding area unless otherwise required by the Federal Aviation Administration or any other State or Federal agency having such authority.
 - ii. Equipment shelters or cabinets shall have an exterior finish compatible with the natural or built environment of the subject site and the surrounding area and shall also comply with any design guidelines applicable to the particular zoning district in which the facility is located.
 - iii. Antennas and cables shall be of a color identical to or closely compatible with that of the structure to which they are attached unless otherwise required by the Federal Aviation Administration or any applicable state or federal agency. Telecommunications facilities located above ground in or directly adjacent to any residential zoning district shall be surrounded by a minimum six-foot (6') high decorative wall constructed of brick, stone, or textured concrete block. Said wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering. Telecommunications facilities in all other zoning districts shall be surrounded by a minimum six-foot (6') high wall or solid or slatted fence. Said fence or wall shall be surrounded by a Type "A" Landscape Buffer Yard planted adjacent to said wall or fence or at an alternate location providing equal or better buffering.
 - iv. Vehicle or outdoor storage on any antenna tower site is prohibited unless otherwise permitted by the Zoning District in which the tower is located.
 - v. At least one (1) on-site parking stall with a vehicle turnaround area shall be provided at each antenna tower site. The parking area and driveway to it shall

- consist of asphalt, concrete, or gravel.
- vi. Ancillary facilities located above ground for antennas shall be set back a minimum of fifty feet (50') from any adjacent property that is either located within a residential zoning district or utilized for residential purposes, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.
- j. Co-Location Consent for New or Existing Antenna Towers.
- i. Existing Antenna Towers. Prior to the issuance of any permit to relocate, alter or modify any antenna tower, the tower owner shall provide to the City a notarized written commitment to make said antenna tower available for use by others subject to technical and structural limitations and reasonable financial terms. The failure of an antenna tower owner to agree to shared use or to negotiate in good faith with potential users shall be unlawful and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.
 - ii. New Antenna Towers. Any new or relocated antenna tower eighty feet (80') or greater in height shall be designed and constructed to accommodate at least two (2) additional users unless a larger number of users needs to be accommodated as indicated by the response to the Notice provisions herein. As an alternative, a smaller tower may be approved if the tower owner commits in writing to "swap out" to a larger tower, or extend the tower, when needed to allow co-location space for additional service providers. A notarized written commitment to shared use as specified in Subsection 5.j.i above shall be submitted to the Zoning Administrator by the antenna tower applicant. The failure of the owner of an antenna tower built with a capacity for shared use to negotiate in good faith with potential users shall be unlawful and shall be a violation of this Ordinance and, among other remedies of the City, shall be just cause for the withholding of the issuance of future antenna tower permits to such an owner as well as revocation of antenna tower permits for any antenna tower on which co-location is refused or unreasonably hindered.
- k. Antenna Tower Inventories. Prior to the issuance of any permit to install, relocate, replace or alter any antenna tower, the tower owner shall furnish the Zoning Administrator an inventory of all of the owner's antennas and antenna towers in the City of Moscow and within one (1) mile of the City limit boundary. The inventory shall include the reference name or number, or other description of location including a site map(s), structure type, height, type of antenna tower(s) or antenna support structure(s) and height of all existing antennas and an assessment of available ground space for the placement of additional equipment shelters for potential future users.
- l. Notice of Antenna Tower Permit Applications. The applicant for any new antenna tower permit shall have a copy of the application and a summary containing the height, design, location, type and frequency of antennas delivered by certified mail to all known and potential antenna tower users within the service area. Proof of such delivery of the summary shall be submitted with the permit application to the City. Such notification shall be so mailed no less than sixty (60) days prior to the public hearing where the application will be considered and shall specifically solicit co-location discussion between the applicant and recipients of the notice. The Zoning

Administrator may establish a form required to be used for such notifications. Upon request, the Zoning Administrator shall place on a list the name and address of any user or prospective user of antenna towers to receive notification of applications. The failure of the party receiving such Notice to use this process or respond to any such Notice may be considered cause for denying requests by such party for antenna tower permits. Such response shall be provided in writing to the Zoning Administrator within forty-five (45) days of mailing and shall contain a statement specifying desire to co-locate on the applicant's proposed tower and a statement regarding the responder's ability to accommodate the needs of the applicant on an existing tower or support structure owned or operated by the responder.

6. Small Wireless Facility Standards.

- a. Applicability. These standards shall apply to the installation of new small wireless facility antennas or the co-location of small wireless facilities on existing antenna support structures. The City Council may adopt additional small wireless facility design and construction standards by Resolution and the most restrictive provisions of either shall apply.
- b. Approvals. Small wireless facilities shall be subject to the administrative approval of the Zoning Administrator, or their designee, subject to the construction standards and permit and application process contained herein and as established by Resolution of the City Council.
- c. Co-location Upon Existing Antenna Support Structures. Co-location of small wireless facilities upon existing antenna support structures shall be a permitted use subject to the following standards.
 - i. Height of co-location antennas. Small wireless facilities shall not extend more than five feet (5') above and two feet (2') horizontally from the existing antenna support structure.
 - ii. Shrouding of antennas and supporting equipment. All small wireless facility antennas, attendant equipment, and cabling shall be shielded from view by equipment and cable shrouds and/or equipment enclosures that shall be colored gray (RAL 7074) or other similar color as approved by the City.
 - iii. Maximum number of shrouds. Only one equipment shroud, containing all required small wireless facility equipment, shall be installed per antenna support structure. Except, one additional equipment shroud shall be allowed per pole if the antenna is located within the second equipment shroud.
 - iv. Shroud mounting method. Small wireless facility shrouds may be either top or side mounted to an existing antenna support structure, or suspended from strand-mounted to aerial cables as may be approved by the utility cable owner in accordance with the standards contained herein.
 - (a) Side mounted. Side mounted equipment shrouds shall be located in such a manner as to not obstruct pedestrian access on adjacent sidewalks. Where side mounted equipment shrouds are placed above adjacent sidewalks a minimum clearance of eight feet (8') shall be maintained between the bottom of the shroud and mounting hardware and the walking surface. Where side mounted shrouds overhang the adjacent curb or roadway, a minimum clearance of fourteen feet (14') shall be maintained between the bottom of the equipment shroud or mounting hardware to the roadway surface. If the antenna is mounted to the

- side of the pole it shall be located inside a maximum shroud of 5.5 cubic feet in volume with a sixteen inch (16") maximum width.
- (b) Top mounted. If the antenna shroud is located on top of the antenna support structure, the outer diameter shall be fourteen-inch (14") maximum and the antenna shroud shall be no more than five feet (5') tall, including antenna, radio head, mounting bracket, and all other hardware necessary for a complete installation.
 - v. Obstruction of lighting prohibited. Shroud installations upon antenna support structures containing street lights shall not obstruct, interfere with, or diminish the light distribution and lighting levels of the street light fixture.
 - d. Replacement Combination Light and Antenna Towers.
 - i. Existing antenna support structures (such as light poles) may be replaced with new equivalent combination structures intended to accommodate the intended function of the existing antenna support structure and accommodate a small wireless facility subject to the following requirements:
 - (a) The replacement antenna support structure is of the same quality, color, design and style to be consistent with other existing support structures in the surrounding area subject to the approval of the Zoning Administrator;
 - (b) The replacement antenna support structure is of the same height as the existing support structure excluding the top mounted small wireless facility antenna which may exceed the height of the existing antenna support structure and which shall comply with the top mounted shroud standards contained herein;
 - (c) The replacement antenna support structure shall be designed to internally accommodate all necessary small wireless supporting equipment in accordance with the standards required of new small wireless facilities contained herein;
 - (d) The replacement of decorative and/or historic light fixtures shall not be permitted unless the applicant can demonstrate that the proposed replacement antenna support structure will not disrupt or interfere with the visual theme and style of lighting within the surrounding area.
 - e. New Small Wireless Facility Antenna Towers.
 - i. Maximum height. No new small wireless antenna tower may exceed forty feet (40') in height unless a Conditional Use Permit is received to exceed this height limitation.
 - ii. Antenna and equipment shrouding. New standalone or new and/or replacement combination light and small wireless antenna towers shall fully enclose and contain all the small wireless communications equipment, cabling, and antennas, and shall be of a style and color that is consistent with other similar light poles and fixtures within the surrounding area as approved by the City.
 - iii. Maximum number of shrouds. Only one equipment shroud, containing all required small wireless facility equipment, shall be installed per antenna tower
 - iv. Minimum spacing between small wireless facility antenna towers. Small wireless facility antenna towers shall be located no closer than two hundred and fifty feet (250') from another small wireless facility antenna tower. This separation requirement shall not apply to co-locations upon existing antenna support structures or replacement combination light and small wireless antenna towers.
 - v. Antenna tower design. New small wireless antenna towers shall consist of a ten

inch (10”) galvanized straight steel pole, powder coated black over zinc paint, with a foundation base of sixteen inches (16”) in diameter designed to accommodate all necessary supporting equipment and a top antenna shroud of no more than fourteen inches (14”) in diameter. All tower components and antenna shrouds shall be painted a matching black color.

7. Permits Required

- a. A building permit shall be required to construct, install, relocate, replace, or alter any antenna tower. An administrative zoning permit shall be required to locate or replace any antenna on an antenna tower or antenna support structure or for the installation of a small wireless facility. A Conditional Use Permit shall be required as specified in Section 4 herein.
- b. An application for any of the above-mentioned permits shall include or be accompanied by all of the information necessary to determine and document compliance with the regulations established herein. Where no application or permit form exists, the application shall be in the form of a letter signed and dated by the applicant, and the permit issuance shall be in the form of a letter of approval signed and dated by the Zoning Administrator or a dated signature by the Zoning Administrator on the applicable site plan.
- c. Specific permit application submittal requirements shall be determined by the Zoning Administrator and may include, but are not limited to, the following:
 - i. Permit application.
 - ii. Site plan.
 - iii. Elevation drawing(s) of the antenna tower or antenna support structure, antenna(s) and ancillary facilities.
 - iv. Photo simulations from three different perspectives of the installation site illustrating the anticipated visual appearance of the proposed wireless facility (not required for small wireless facilities).
 - v. Description of proposed and required lighting including light locations. Documentation of required lighting, as specified in Section 5.c. herein, may be deferred until prior to issuance of building permit if not available at time of application submittal.
 - vi. Any plans necessary to depict structural requirements.
 - vii. Description of the number and types of antennas being proposed, as well as the expected or known capacity of the antenna tower in terms of the number of antennas the antenna tower can accommodate.
 - viii. Antenna tower or antenna location study specifying the search process by which the proposed site was chosen.
 - ix. Antenna tower inventory as specified in Section 5.k. herein.
 - x. Notarized written commitment to allow co-location/shared use as specified in Section 5.j.i herein (not required for small wireless facilities).
 - xi. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) or radio frequency (RF) emissions standards as established by the Federal Communications Commission (FCC). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.
 - xii. Current FCC license to operate.

- xiii. Documentation of a review by the Federal Aviation Administration (FAA) and/or the Aviation Division of the Idaho Transportation Department (ITD). Such documentation may be deferred until prior to issuance of building permit if not available at time of application submittal.
 - xiv. Name and address of the property owner, telecommunications service provider, and owner of the telecommunications facility on the permit application, and a written statement of approval of the application by the property owner.
 - xv. Description of proposed security measures as required in Section 5.d. herein.
 - xvi. A tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or within a ten-foot radius of the base of such a tree.
8. Findings for Conditional Use Permit.
- a. Before a Conditional Use Permit for an antenna tower may be issued, the applicant must demonstrate, and the Zoning Board of Adjustment must find, compliance with all of the following:
 - i. No existing antenna towers or antenna support structures within the necessary geographic area for the applicant's antenna tower meet the applicant's requirements considering (a) height, (b) structural integrity, or (c) that there are other prohibitive conditions that render existing antenna towers or antenna support structures within the applicant's required geographic area unsuitable.
 - ii. That the design of the antenna tower, including the antennas and ancillary facilities, minimizes visual impact and otherwise complies with provisions and intent of this Section.
 - iii. That the proposed antenna tower location minimizes the number and/or size of antenna towers or antenna support structures that will be required in the area.
 - iv. That the applicant has not previously failed to take advantage of reasonably available shared use opportunities or procedures provided by this Ordinance or otherwise.
 - v. These findings shall be required in addition to those required for the Reasoned Statement of Relevant Criteria and Standards provided in Section 4-8-4 of the Zoning Code.
9. Abandonment and Removal.
- a. All telecommunications facilities shall be removed by the owner of the facility, by the operator of the facility, and/or by the property owner within six (6) months of the time that the facility has substantially ceased being used to provide telecommunications services to the public. Removal shall not be required when the owner or operator of the facility has, within the aforementioned six (6) months, filed with the City a written request to reuse the antenna tower and the City has approved such request. Such written request shall detail the circumstances that justify why the antenna tower should not be removed, why it will be unused for six (6) months or more, and shall commit to a date certain, not to exceed twelve (12) months from the date of last use, by which time the antenna tower will again provide telecommunications services to the public. Before issuance of an antenna tower permit, the applicant for any antenna tower permit shall provide to the City financial security, such as but not limited to an open-ended bond, to ensure removal of the antenna tower and ancillary facilities after the facility is no longer being used to provide telecommunications services to the public.

10. Affirmative Duty to Keep City Informed.

- a. All telecommunications service providers having telecommunications facilities in the jurisdiction of the City shall be required to report in writing to the Zoning Administrator any change in the status of their operations. Change in status shall include, but is not limited to, the following:
 - i. Change in or loss of license from the FCC to operate.
 - ii. Receipt of notice of failure to comply with the regulations of any other authority having jurisdiction over the business or facility.
 - iii. Change in ownership of the company that owns the telecommunications facilities or that provides telecommunications services.
 - iv. Loss or termination of lease with the property owner or the owner of the telecommunications facilities.
 - v. Abandonment of a facility or non-use of a facility for a period of six (6) months or longer.
- b. All telecommunications service providers having facilities in the jurisdiction of the City shall file with the Zoning Administrator an annual written statement verifying continued use of each of their facilities in the City's jurisdiction as well as continued compliance with state and federal agency regulations.

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SECTION 5: SEVERABILITY. Provisions of this Ordinance shall be deemed severable and the invalidity of any provision of this Ordinance shall not affect the validity of remaining provisions. The remaining sections of Title 4 shall be in full force and effect.

SECTION 6: EFFECT ON OTHER ORDINANCES. Where the definitions contained in this Ordinance are in conflict with relevant portions of the City of Moscow, Idaho, Municipal Code, the definitions contained within those portions of the Moscow Municipal Code will be unaffected until such time, if any, as they are amended to be consistent with this Ordinance.

SECTION 7: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2020.

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk