

Moscow City Council



Regular Meeting ~Agenda~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

**Monday
November 16, 2020**

7:00 PM

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

The Moscow Mayor, City Council and Staff welcome you to tonight's meeting. This meeting is open to the public, but is subject to social distancing protocols as recommended in Governor Little's Stay Healthy Guidelines, so the number of attendees at any one time may be limited, and masks will be required of attendees. If you do not have a mask, a disposable mask will be provided. We appreciate and encourage public participation. For regular agenda items, an opportunity for public comment is sometimes provided after the staff report. However, the formality of procedures varies with the purpose and subject of the agenda item; therefore, the Mayor may exercise discretion in deciding when to allow public comment during the course of the proceedings and limitations may be placed on the time allowed for comments. Citizens wishing to comment on business that is not on the agenda will be provided the opportunity to do so during the public comment item on the agenda. If you plan to address the Council, you will find a list of "Tips for Addressing the Council" in the door pocket outside the City Council Chambers. Pursuant to the Governor's Proclamation relating to the conduct of public meetings during the COVID-19 crisis, the meeting will be broadcast. Citizens wishing to comment on business on the agenda are encouraged to communicate with the Mayor and City Council by phone or email (council@ci.moscow.id.us) in order to respect social distancing protocol. Please note that Moscow City Council meetings are televised, videotaped and/or recorded. Thank you for your interest in City government.

PLEDGE OF ALLEGIANCE

CONSENT AGENDA

1. All Consent Items (ACTION ITEM)

A Approval of Moscow City Council November 2, 2020 Minutes - Laurie M. Hopkins

Minutes presented for approval.

ACTION: Approve minutes.

B. Disbursement Report October 2020 - Sarah Banks

Staff presented the October 2020 Accounts Payable Report to Public Works / Finance Committee on November 9, 2020. The Committee received the report and approved the disbursements as presented.

ACTION: Receive the Disbursements Report for the month of October 2020.

C. Idaho Transportation Department Cooperative Lighting Agreement - Bill Belknap

As part of the upcoming U.S. 95 realignment project, the Idaho Transportation Department (ITD) is proposing to install 9 new street luminaires that will extend from the existing bridge crossing of the South Fork of the Palouse River to the future intersection of the new U.S. 95 and old U.S. 95 intersection just south of the CHS Primeland's grain silos. As is common for ITD projects, ITD installs the light fixtures and the City assumes the responsibility for the future electrical and maintenance costs for the luminaires. ITD is requesting that the City enter into the proposed Cooperative Lighting Agreement that documents each parties' responsibilities with regard to the roadway lighting system. Staff is recommending that the Council approve the proposed agreement.

ACTION: Approve the proposed Cooperative Lighting Agreement and Associated Resolution with the Idaho Transportation Department

D. Mutual Aid Agreement with Idaho Department of Lands – Brian Nickerson

The Mutual Assistance Agreement with the Idaho Department of Lands (IDL) allows cooperation among local agencies, including IDL, should a need arise for mutual aid throughout the Ponderosa District and the State of Idaho. This agreement will provide the opportunity for the City to collect reimbursements for apparatus and personnel being deployed in a mutual aid situation. This will also place the Moscow Fire Department along with the Moscow Volunteers as a resource for the state if outside resources are determined to be needed. Deployment to such incidents is not required, however if a request is made and if the apparatus and personnel are available, then the resource is deployed. The option to fill the request is at the discretion of the fire chief or his/her designee. An example was the request for resources for the wildland fires in Orofino this past September. This was reviewed by the Administrative Committee on November 9, 2020 and recommended for approval.

ACTION: Approve the Mutual Assistance Agreement with the Idaho Department of Lands (IDL).

REGULAR AGENDA

2. Staff Recognition Report - Gary J. Riedner

3. Mayors Appointments (ACTION ITEM)

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

5. Public Hearing: Annexation, Comprehensive Plan Land Use Designation, and Zoning Designation for an Approximately 156 Acre Area Proposed to be Annexed into the City of Moscow and Located Directly West of Highway 95 and South of the Current City Limits Boundary (ACTION ITEM) - Mike Ray

The applicant, Schweitzer Engineering Laboratories (SEL), is requesting the annexation, Comprehensive Plan land use designation amendment, and rezoning of an approximately 154-acre

property located directly west of Highway 95 and south of the current City Limits boundary. The applicant is proposing to change the Comprehensive Plan land use designation from a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural to the Auto-Urban Commercial designation. The applicant is proposing to rezone the subject property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone. As a result of the proposed annexation request, there appeared to be three remnant parcels that would become County "islands" which would be completely surrounded by the City of Moscow. In accordance with the City's annexation policy, the owners of the three remnant parcels were contacted and Staff has expanded the annexation request to include the island parcels with the same proposed Comp Plan and zoning designations as the SEL proposal.

The City of Moscow Planning and Zoning Commission conducted a public hearing for the proposed Comprehensive Plan land use designation and rezone on October 14, 2020 and recommended approval with no conditions.

PROPOSED ACTIONS: Conduct the public hearing upon the annexation, Comprehensive Plan land use, and zoning designation and upon consideration of any testimony presented:

1. Approve the Annexation Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary; or consider the Annexation Ordinance on first reading; or reject the Annexation Ordinance; or take other action as deemed appropriate.
2. If the Annexation Ordinance is approved, approve the proposed Comprehensive Plan Land Use Designation Resolution and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria; or reject the proposed Comprehensive Plan Land Use Designation Resolution and direct staff to prepare a Reasoned Statement of Relevant Criteria; or take other action as deemed appropriate.
3. If the Annexation Ordinance is approved and Comprehensive Plan Land Use Designation Resolution is approved, approve the proposed Zoning Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria; or consider the Zoning Ordinance on first reading; or reject the Zoning Ordinance and direct staff to prepare a Reasoned Statement of Relevant Criteria; or take other action as deemed appropriate.

6. Ordinance Amending Title 4, Chapter 3 of Moscow City Code Regarding Amendments to the Telecommunications Code to Establish Standards for Small Wireless Facilities (ACTION ITEM) - Mike Ray

Telecommunications service providers are currently in the process of deploying new cellular wireless technology, referred to as 5G/small cell, throughout the developed world. 5G/small cell high speed deployment will bring much higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers. Since small wireless facilities have a shorter range, they require a greater number of facilities which are typically located in the public right-of-way. 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 at some point in the future, Staff has worked with the Planning and Zoning Commission to draft an ordinance that addresses 5G/small cell installations in the telecommunications code. The proposed ordinance would define small wireless

facilities, re-organize certain sections, make minor grammatical changes, and insert small wireless facility standards. On September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the proposed ordinance and recommended approval to City Council with a minor modification. This item was reviewed by the Public Works/Finance Committee on October 12, 2020 and considered on first reading by the Council on October 19, 2020 and second reading on November 2, 2020.

PROPOSED ACTIONS: Approve the proposed Ordinance under suspension of the rules requiring a third complete reading and that it be read by title and published by summary; or reject the Ordinance; or take such other action deemed appropriate.

7. Transportation Commission Proposed Amendment to Chapter 11, Title 3 of Moscow City Code (ACTION ITEM) - Bill Belknap

Recently, the Transportation Commission has conducted a review of the Chapter 11 of Title 3 of Moscow City Code which addresses the membership and charge of the Transportation Commission. The Commission is recommending amendments to the organization, ex-officio membership, and staff liaison to the Transportation Commission.

PROPOSED ACTIONS: Approve the Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary; or consider the Ordinance on first reading and that it be read by title; or reject the Ordinance; or take such other action deemed appropriate.

REPORTS

City Council

Mayor

Staff

ADJOURN

NOTICE: Moscow City Council and committee meetings are televised, videotaped and/or recorded. Individuals attending the meeting who require special assistance to accommodate physical, hearing, or other impairments, please contact the City Clerk, at (208) 883-7015 or TDD 883-7019, as soon as possible so that arrangements may be made.

Moscow City Council



Regular Meeting ~Minutes~

www.ci.moscow.id.us

Laurie M. Hopkins
City Clerk

208.883.7015

Monday, November 2, 2020

7:00 PM

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

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

PRESENT: Mayor Bill Lambert, Art Bettge, Sandra Kelly, Maureen Laflin, Brandy Sullivan, Gina Taruscio, Anne Zabala

STAFF: Gary J. Riedner, Mia Bautista (Virtual), Bill Belknap (Virtual), David Schott, Dwight Curtis, Kyle Steele (Virtual), Brian Nickerson (Virtual), Amanda Argona, Jen Pfiffner (Virtual), Laurie M. Hopkins (Virtual)

PLEDGE OF ALLEGIANCE

Council Vice President Bettge led the Pledge of Allegiance.

REGULAR AGENDA

1. Approval of Moscow City Council October 19, 2020 Minutes (ACTION ITEM) - Laurie M. Hopkins

Minutes presented for approval.

PROPOSED ACTIONS: Approve minutes as presented; approve minutes with amendments; or take such other action deemed appropriate.

Bettge moved and Taruscio seconded approval of the minutes. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

2. Staff Recognition Report - Gary J. Riedner

None offered.

3. Mayors Appointments (ACTION ITEM)

None offered.

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

Mark Leeper, Disability Action Center, stated October was Disabilities month. In honor of Disabilities month, the group acknowledged the many accessibility points around town with a program called "ADA Rocks". Leeper presented Moscow Rocks poster and the Mayor accepted.

5. Farmers Market Costume Contest Presentation – Amanda Argona

Argona presented pictures of the Farmers Market costume contest participants and the winners

6. Citizen Commission Report - Moscow Tree Commission - David Schott / Ellis Eifert

Curtis congratulated David Schott for Arborist of the Year through the International Society of Arboriculture and presented the award. Schott thanked everyone for their support. He introduced Ellis Eifert to provide the Moscow Tree Commission annual report. Eifert presented the mission, duties and members of the Commission. The Commission events and programs included: hosting the arbor day event, the 27th year for Tree City USA, public outreach and will continue on sound tree pruning practices and downtown tree replacement plan.

7. Acceptance of Berman Estate Land Donation (ACTION ITEM) – David Schott

The City of Moscow has been approached by Hoey Graham, Personal Representative of the Estate of Katrina Berman, and John H. Norton, the attorney for the estate. Mrs. Berman's Will provided for a gift of land to the City of Moscow as a small addition to the western side of Berman Creekside Park. The parcel contains approximately 0.36 acres on the western edge of Berman Creekside Park and will add approximately thirty-two (32) feet to the western boundary of the park. This parcel lies directly west of the parcel of land previously donated to the City of Moscow in November of 1996. The proposed 0.36-acre parcel is expected to have similar conditions as the 0.73-acre parcel donated in 1996, encumbered with a conservation easement to the Palouse Land Trust. Under Idaho Law, any donation or transfer of real property to the City must be accepted by the City Council. Parks and Recreation staff recommends acceptance of the Berman Estate land donation. The Administrative Committee reviewed this on October 26 and recommended acceptance.

PROPOSED ACTIONS: Accept the Berman Estate land donation subject to a conservation easement.

Schott introduced the item as written above and provided photos of the area. The Council had no questions. Taruscio moved to approve the Berman Estate land donation subject to a conservation easement. Seconded by Laflin. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

8. Ordinance Amending Title 4, Chapter 3 of Moscow City Code Regarding Amendments to the Telecommunications Code to Establish Standards for Small Wireless Facilities (ACTION ITEM) - Mike Ray

Telecommunications service providers are currently in the process of deploying new cellular wireless technology, referred to as 5G/small cell, throughout the developed world. 5G/small cell high speed deployment will bring much higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers. Since small wireless facilities have a shorter range, they require a greater number of facilities which are typically located in the public right-of-way. 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 at some point in the future, Staff has worked with the Planning and Zoning Commission to draft an ordinance that addresses 5G/small cell installations in the telecommunications code. The proposed ordinance would define small wireless facilities, re-organize certain sections, make minor grammatical changes, and insert small wireless facility standards. On September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the proposed ordinance and recommended approval to City Council with a minor modification. This item was reviewed by the Public Works/Finance Committee on October 12,

2020 and considered on first reading by the Council on October 19, 2020.

PROPOSED ACTIONS: Approve the proposed Ordinance on second reading under suspension of the rules requiring a third reading and that it be read by title and published by summary; or consider the Ordinance on second reading; or reject the Ordinance; or take such other action deemed appropriate.

Ray introduced the item. Sullivan asked about adding a Whereas that includes a preference to location and configuration. Bautista said a whereas would only show a preference and would not be enforceable from a legal standpoint. Ray provided a drafted whereas to include configuration preferences and a second whereas encouraging location preferences. See attached proposed amendments. Even with the additional whereas's, the City must allow 5G in residential districts in order to comply with the FCC. Another change to the proposed ordinance included the right to require annual emissions testing by a certified radio frequency engineer as permitted by federal and state regulations and if not in compliance, the requirement to be brought into compliance. FCC would determine who pays for the testing. Because they handle the licensing, permitting, certifying certain facilities and any equipment, the City may not be able to require annual testing. The City could test and submit the information to the FCC challenging the company but it would be at City expense. Bautista did not feel comfortable adding language that the companies have to pay for testing when they may not be required to do so per the FCC regulations.

Bettge felt the word "require" goes beyond the scope of the City. Sullivan suggested switching it out with the word "conduct". Bettge feels the location and co-location of equipment on existing structures is acceptable but doesn't like the whereas regarding prioritization of zones. He feels the language is debatable, complex and is not defensible. Kelly feels the wireless company will install a facility where needed, whichever zone. She favors moving roof-mounted and building-mounted preferences to be at the bottom of the list. Zabala likes that the whereas's address overall preferences, not as a regulation.

Ray explained building and roof mounted facilities are limited range and at a certain height ineffective. Colocation preference is based on aesthetics and impact of the area.

Taruscio feels both whereas's still sound like they are related to aesthetics and is not in support of either. Sullivan is in support of moving roof-mounted below existing utility pole mounting in the order of preferences.

Ray explained staff works within the policy and works with the applicant to follow through with Council policy on preference. Belknap clarified having these statements as recitations, staff will have no authority to direct placement on these criteria. When the code is codified, future planners will look at the ordinance, not go back and look at recitations when implementing code as the whereas's are not enforceable. Riedner added the whereas's only provide a background, legislative intent.

Bettge moved to approve the proposed Ordinance on second reading under suspension of the rules requiring a third reading and that it be read by title and published by summary with the deletion of both preference whereas's, the substitution of the word "require" to "conduct" in H.7.c.xi., and addition of the last sentence in H.7.c.xi. Taruscio seconded. Roll Call Vote: Ayes: Three (Bettge, Taruscio, Kelly). Nays: Three (Zabala, Sullivan, Laflin). Abstentions: None. Motion tied. Mayor Lambert voted Aye.

Riedner explained Council cannot waive the readings without a super majority of the council thus can only be considered on second reading. With the Mayor breaking the tie in favor, the ordinance would be considered on second reading and come back at the next meeting.

9. Stormwater Update – Kyle Steele

Steele explained the City received a Phase 2 stormwater permit from the U.S. Environmental Protection Agency, effective October 2019. The permit requires the development of a stormwater program and a number of control measures. The Council held a workshop in February 2020 where staff was directed to bring back an ordinance Spring 2020 with the possibility of assessing fees to fund the program in October 2020. Because of the pandemic and economic uncertainty, the funding mechanism implementation was put on hold until 2021. Staff has been busy with routine operations and maintenance of storm water, enhancing street sweeping, construction reviews and inspections, developing educational plans. Staff has developed seven lesson plans to roll out to the schools over the next year. Staff has created a video to provide the background of the system, physical infrastructure, what the City is doing now, what was identified in the fee study, and next steps going forward. A stormwater specific webpage is being developed which will have a link to the video and related documents.

10. Proposal to Develop Plan to Address Potential for Gender-Neutral Restroom Conversion (ACTION ITEM) - Jen Pfiffner

At the request of the Mayor in response to inquiries and encouragement from citizens and the Human Rights Commission, City staff has conducted preliminary research to determine the potential for converting city-owned restrooms to gender-neutral facilities where feasible. Preliminary research has been conducted to determine an approach to address that request. A review of gender-neutral restrooms in Idaho have been completed to provide background on how other municipalities have or have not addressed the conversion process. An inventory of the existing City of Moscow restroom facilities has also been completed. Facilities include City occupied buildings, City owned but not occupied buildings, and City parks facilities. Should staff receive direction to develop a plan, additional considerations initially identified (certainly not limited to) would include safety, privacy, number of fixtures, accessibility, etc. Additional considerations would include costs for conversion. Staff is seeking City Council direction to develop a phased planning approach for conversion of existing City restrooms to gender-neutral restrooms.

PROPOSED ACTIONS: Recommend Council approve development of a phased planning approach for conversion of existing City restrooms to gender-neutral restrooms, or provide staff further direction.

Pfiffner provided a comparison of several cities and if and how they are transitioning to gender neutral restrooms. Comparison information divided between gender-specific, family, and gender-neutral types included how many and location, whether they were built or converted, is there a policy it was based upon, if there was any public input and any future plans. See attached presentation. The discrimination policy statements from Boise and Idaho Falls are similar to Moscow's. A facility inventory was completed for Moscow parks, park portables, city-occupied facilities and city-owned facilities. Private single-user facilities could have locks installed or changed out and signage update. Blended options, for instance City Hall, could have gender neutral on the second floor and keep first and third gender

specific. A few facilities will need significant planning and possible construction/remodel. Chief Fry reports there has not been any negative issues reported from the Idaho Chiefs of Police Association.

Laflin fully supports creating a plan and using a name for the facilities that is generic so everyone feels welcome to use it. She feels it is important to know what the users and community feel about multi-stall gender-neutral restrooms prior to any conversion. Sullivan would like to move forward with the less complex changes such as switching out signage and locks. Bettge agrees moving forward on the single-stall and gender-neutrality in every place possible. Kelly feels this needs to move forward with the awareness of cost and planning on multi-stalls. Taruscio also agrees and wants to be sure public input is included in the planning.

Riedner confirmed the Council direction is for staff to develop a phased approach and bring it back through Administrative Committee.

Ken Faunce, Human Rights Commission Chair, commented the Commission realizes some bathrooms are more difficult and more expensive and appreciates the City reviewing options. He thinks it is extremely important the approach is in line with the nondiscrimination ordinance. This conversion makes Moscow a more inclusive city.

11. COVID / CARES Act Update and Direction (ACTION ITEM) – Gary J. Riedner

Staff will present an update regarding the City's current COVID-19 response, including authorization for reimbursements under the City's CARES Act allocation.

PROPOSED ACTIONS: Receive status report and authorize requests for reimbursements under the City's CARES Act allocation, or provide staff direction.

Riedner explained at the last Council meeting there was a discussion about metrics. Staff is proposing a special council meeting to take place Monday November 9 and will be gathering more data to review possible trends. He gave a brief history of the two allocations from the state. Staff has identified approximately \$70,000 in specific PPE. The biggest need right now is the number of radios for fire department employees. The City has a radio initiative moving forward for replacement but do not have enough of the old ones where they wouldn't have to share. The City of Idaho Falls received preauthorization for replacement of radios due to inoperability and so fire personnel don't have to share. In regards to the business and non-profit short-term grant program discussion, Moscow lacks the staff to implement the program.

Laflin, were we able to use to pay for overtime the police officers worked. Riedner, overtime last fiscal year was budgeted so not eligible for CARES Act reimbursement.

Bettge moved to authorize requests for reimbursements under the City's CARES Act allocation. Laflin seconded. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

Palouse Knowledge Corridor – Bettge said the group will present to Council soon. On the Washington side the focus is engineering and computer transition. From an Idaho side, focus should be agricultural

product value added and working on enhancing agricultural product use on the Palouse. They are also reviewing group name as it seems too restrictive.

Human Rights Commission – Laflin said the Commission is hosting two social justice forums: November 12 at 7:00 p.m. and December 8, 2020 at 5:00 p.m.

Mayor

The Mayor said he presented and attended the Palouse Basin Water Summit; attended the airport board meeting where it was reported flights are down 52% for the year, nationwide 63%; attended a terminal advisory group meeting, received 8 qualified RFP's and will narrow it down to four with the intent to have a contractor in place by end of this year.

Staff

Riedner reported A Street is open for traffic. Steel posts have been installed at the police station. Staff should be able to move into the Haddock building by March. The City received CBDG grant for Mountainview Park and Indian Hills Park for restrooms, pathways and parking.

ADJOURN

The meeting adjourned at 9:18 p.m.

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

CITY COUNCIL STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

REVIEWED BY

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Disbursement Report October 2020 - Sarah Banks

DESCRIPTION

Accounts Payable Report for the month ending October 31, 2020. A summary of the major expenditures has been approximated by category and represents 97% of the total expenditure of \$4,072,455.58.

Payroll	\$1,110,449.00
FY20 Professional Services	\$152,203.00
FY21 Professional Services	\$47,318.00
FY20 Sanitation	\$306,802.00
FY20 Capital Outlay	\$168,418.00
FY21 Capital Outlay	\$77,187.00
FY20 Capital Outlay - Improvements	\$285,555.00
FY21 Capital Outlay - Improvements	\$82,200.00
FY21 Capital Outlay - Vehicles	\$40,804.00
FY20 Capital Outlay -Buildings	\$801,910.00
Supplies	\$169,507.00
FY20 Utilities	\$82,538.00
Contractual Payments	\$452,328.00
ACH Wells Fargo	\$27,701.00
Insurance	\$135,027.00
Total	\$3,939,947.00

STAFF RECOMMENDATION

Receive the Disbursements Report for the month of October 2020.

PROPOSED ACTIONS

ACTION: Receive the Disbursements Report for the month of October 2020.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Disbursement Report October 2020
2. Cash & Investments OCT 2020
3. Revenue Report October 2020
4. Revenue Report September 2020 (adjusted)

DISBURSEMENTS REPORT FOR OCTOBER 2020															
DATE	FUND NAME	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE	ACCOUNTS PAYABLE ACH	VOID CHECKS	PAYROLL	PAYROLL	GRAND TOTALS
		FY2020	FY2020	FY2020	FY2020	FY2020	FY2020	FY2020	FY2020	FY2020					
		10/1/2020	10/8/2020	10/8/2020	10/15/2020	10/15/2020	10/22/2020	10/22/2020	10/29/2020	10/29/2020	10/12/2020	10/19/2020	10/9/2020	10/23/2020	
		BATCH #													
		00001.10.2020	00009.09.2020	00002.10.2020	00010.09.2020	00003.10.2020	00012.09.2020	00005.10.2020	00006.10.2020	00008.10.2020	10/12/2020 10/12/2020 10/26/2020	10/19/2020 10/20/2020 00002.10.2020 00003.10.2020	00100.10.2020	00200.10.2020	
											00011.09.2020 FY2020 00004.10.2020 FY2021 00007.10.2020 FY2021	96136			
CHECK #'s		96098	96099-96183	96184-96232	96233-96280	96281-96325	46326-46342	96343-96378	96379-96425	96426	Sept./Oct. CC ACH's	96174	21314-21322	21323-21331	
Fund #															
101	GENERAL		26,652.02	239,896.55	14,469.20	11,544.27	6,728.45	5,696.99	80,962.66	2,701.82	5,159.18	(59.37)	327,641.52	336,676.86	1,058,070.15
105	STREETS		29,194.35	28,064.08	20,175.57	367.50	821.98	612.50	1,999.38		210.15		26,674.98	26,320.67	134,441.16
120	RECREATION AND CULTURE		13,265.07	26,249.98	5,502.92	2,062.50	3,362.07	1,325.00	5,709.75		3,240.97	(85.00)	57,708.89	59,127.53	177,469.68
121	MSD COMM. PLAY FIELDS		4,231.64	3,946.94	3,813.80		1,227.22	550.00					2,743.12	2,516.74	19,029.46
123	1912 CENTER					7,916.67									7,916.67
128	TRANSIT CENTER		1,404.04		913.50	105.00									2,422.54
220	WATER		56,143.86	25,464.07	44,344.94	9,141.51	52.39	20,245.68	407.93		805.40	(89.00)	51,908.39	49,670.83	258,096.00
230	SEWER	20,378.88	68,881.36	20,989.72	49,626.00	2,030.63	18,471.58	53,138.49	2,053.67		3,307.60		47,595.86	46,092.89	332,566.68
240	SANITATION		105,360.85	1,230.99			183,819.16		64.13				5,516.95	5,615.20	301,607.28
290	FLEET		19,617.25	43,904.60		4,152.24	884.53		176.12				11,861.62	11,991.72	96,198.84
295	INFORMATION SYSTEMS		86,528.73	82,695.17	20,982.56	27,944.95		89,451.33	9,231.20		198.28		20,367.43	20,417.39	372,205.55
320	WATER CAPITAL PROJECTS		184,952.65		43,426.73		4,648.66		32,650.00		14,586.79				265,678.04
330	SEWER CAPITAL PROJECTS		6,370.99		81,241.05		640.97		62,571.00						150,824.01
340	SANITATION CAPITAL PROJ														0.00
350	CAPITAL PROJECTS		306,934.73		573,724.97		14,976.82		100.00		193.00				895,929.52
355	LID CONSTRUCTION														0.00
380	HAMILTON - PARKS & REC														0.00
590	BONDS & INTEREST														0.00
	TOTAL	20,378.88	909,537.54	472,442.10	861,633.72	65,265.27	235,633.83	171,019.99	195,925.84	2,701.82	27,701.37	(233.37)	552,018.76	558,429.83	4,072,455.58

WIRE Transfers:

Brandy Sullivan

Gina Taruscio

Sandra Kelly

Sarah L. Banks, Finance Director

City of Moscow
Cash and Investments
Balances as of 10/31/2020

Fund		Year to Date Balance
General Fund	\$	6,217,918.79
Street Fund	\$	2,036,983.56
Culture & Recreation	\$	1,386,869.06
MSDCPF	\$	163,550.92
1912 Fund	\$	53,045.53
Transit Center	\$	102,331.60
Water Fund	\$	7,454,989.43
Sewer / WRRF	\$	5,058,903.18
Sanitation Fund	\$	2,853,659.99
Fleet Fund	\$	3,980,659.48
Information Systems	\$	2,353,896.41
Water Capital	\$	3,224,180.04
Sewer Capital	\$	12,879,913.50
Capital Projects	\$	10,674,782.68
Sanitation Capital	\$	6,370,544.97
LID construction	\$	26,451.80
Hamilton	\$	2,067,254.48
Bond & Interest	\$	99,112.81
LID Funds	\$	11,228.65
Payroll Service	\$	995,181.46
Total Cash & Investments	\$	68,011,458.34

RECEIPTS REPORT FOR October 2020

	FUND NAME	Taxes	Franchise Fees	Licenses & Permits	Intergovernmental	Charges for Services	Fines & Penalties	Investment Income	Refunds & Reimbursements	Contributions & Donations	Other	Grand Total
Fund #												
101	GENERAL	0.00	24,542.35	70,329.08	0.00	187,398.63	15,021.00	2,811.04	1,690.99	1,000.00	4,443.08	307,236.17
105	STREETS	0.00	0.00	0.00	0.00	24,467.86	0.00	919.82	382.18	0.00	0.00	25,769.86
120	RECREATION AND CULTURE	0.00	0.00	0.00	5,714.00	5,320.06	0.00	0.00	185.85	2.00	0.00	11,221.91
121	MSD COMMUNITY PLAY FIELDS	0.00	0.00	0.00	5,340.71	0.00	0.00	0.00	0.00	0.00	0.00	5,340.71
123	1912 CENTER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
128	TRANSIT CENTER	0.00	0.00	0.00	0.00	22,565.39	0.00	0.00	0.00	0.00	0.00	22,565.39
220	WATER	0.00	0.00	0.00	0.00	552,571.84	0.00	3,366.38	0.00	0.00	0.00	555,938.22
230	SEWER	0.00	0.00	0.00	0.00	918,782.77	0.00	2,284.40	0.00	0.00	0.00	921,067.17
240	SANITATION	0.00	0.00	0.00	0.00	406,502.76	0.00	1,288.60	0.00	0.00	0.00	407,791.36
290	FLEET	0.00	0.00	0.00	0.00	75,772.05	0.00	1,797.51	180.26	0.00	0.00	77,749.82
295	INFORMATION SYSTEMS	0.00	0.00	0.00	0.00	111,974.00	0.00	1,062.93	0.00	0.00	0.00	113,036.93
320	WATER CAPITAL PROJECTS	0.00	0.00	0.00	0.00	0.00	0.00	1,455.91	0.00	0.00	0.00	1,455.91
330	SEWER CAPITAL PROJECTS	0.00	0.00	0.00	0.00	0.00	0.00	5,816.07	0.00	0.00	0.00	5,816.07
340	SANITATION CAPITAL PROJECTS	0.00	0.00	0.00	0.00	0.00	0.00	2,876.69	0.00	0.00	0.00	2,876.69
350	CAPITAL PROJECTS	0.00	0.00	0.00	-0.03	0.00	0.00	4,820.32	0.00	0.00	0.00	4,820.29
355	LID CONSTRUCTION	0.00	0.00	0.00	0.00	0.00	0.00	11.94	0.00	0.00	0.00	11.94
380	HAMILTON P&R	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
590	BOND & INTEREST	0.00	0.00	0.00	0.00	0.00	0.00	0.02	0.00	0.00	0.00	0.02
595	LID FUNDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL		0.00	24,542.35	70,329.08	11,054.68	2,305,355.36	15,021.00	28,511.63	2,439.28	1,002.00	4,443.08	2,462,698.46

RECEIPTS REPORT FOR September 2020

Fund #	FUND NAME	Taxes	Franchise Fees	Licenses & Permits	Intergovernmental	Charges for Services	Fines & Penalties	Investment Income	Refunds & Reimbursements	Contributions & Donations	Other	Grand Total
101	GENERAL	16,618.98	164,863.08	62,390.28	527,757.61	135,388.80	16,868.46	61,089.58	41,562.79	0.00	5,420.26	1,031,959.84
105	STREETS	2,577.86	0.00	0.00	378,643.25	22,930.76	0.00	16,521.49	162.00	0.00	0.00	420,835.36
120	RECREATION AND CULTURE	0.00	0.00	0.00	0.00	12,779.96	0.00	0.00	4,721.59	20,000.00	-28.52	37,473.03
121	MSD COMMUNITY PLAY FIELDS	0.00	0.00	0.00	5,405.12	0.00	0.00	0.00	0.00	0.00	0.00	5,405.12
123	1912 CENTER	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
128	TRANSIT CENTER	0.00	0.00	0.00	0.00	1,438.71	0.00	629.78	0.00	0.00	154.88	2,223.37
220	WATER	0.00	0.00	0.00	0.00	740,681.51	0.00	32,743.19	-144,058.88	0.00	0.00	629,365.82
230	SEWER	0.00	0.00	0.00	0.00	637,176.50	0.00	44,428.85	905.58	0.00	0.00	682,510.93
240	SANITATION	0.00	0.00	0.00	0.00	548,037.75	0.00	24,516.64	4,000.00	0.00	0.00	576,554.39
290	FLEET	0.00	0.00	0.00	0.00	100,222.61	0.00	31,472.29	-110.00	0.00	0.00	131,584.90
295	INFORMATION SYSTEMS	0.00	0.00	0.00	0.00	117,298.00	0.00	20,133.27	2,973.34	0.00	0.00	140,404.61
320	WATER CAPITAL PROJECTS	0.00	0.00	0.00	236,954.45	0.00	0.00	60,301.79	0.00	0.00	0.00	297,256.24
330	SEWER CAPITAL PROJECTS	0.00	0.00	0.00	0.00	0.00	0.00	110,712.05	0.00	0.00	0.00	110,712.05
340	SANITATION CAPITAL PROJECTS	0.00	0.00	0.00	0.00	0.00	0.00	54,798.55	0.00	0.00	0.00	54,798.55
350	CAPITAL PROJECTS	0.00	0.00	0.00	876,930.38	0.00	0.00	10,904.53	-1,264,000.00	0.00	1,160.48	-375,004.61
355	LID CONSTRUCTION	0.00	0.00	0.00	0.00	0.00	0.00	25.75	0.00	0.00	-106.12	-80.37
380	HAMILTON P&R	0.00	0.00	0.00	0.00	0.00	0.00	2,363.73	0.00	0.00	0.00	2,363.73
590	BOND & INTEREST	2,677.99	0.00	0.00	0.00	0.00	0.00	206.29	0.00	0.00	0.00	2,884.28
595	LID FUNDS	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	TOTAL	21,874.83	164,863.08	62,390.28	2,025,690.81	2,315,954.60	16,868.46	470,847.78	-1,353,843.58	20,000.00	6,600.98	3,751,247.24

COMMITTEE STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

Bill Belknap, Deputy City Supervisor, Community Planning and Design

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Idaho Transportation Department Cooperative Lighting Agreement - Bill Belknap

DESCRIPTION

As part of the upcoming U.S. 95 realignment project, the Idaho Transportation Department (ITD) is proposing to install 9 new street luminaires that will extend from the existing bridge crossing of the South Fork of the Palouse River to the future intersection of the new U.S. 95 and old U.S. 95 intersection just south of the CHS Primeland's grain silos. As is common for ITD projects, ITD installs the light fixtures and the City assumes the responsibility for the future electrical and maintenance costs for the luminaires. ITD is requesting that the City enter into the proposed Cooperative Lighting Agreement that documents each parties' responsibilities with regard to the roadway lighting system. Staff is recommending that the Council approve the proposed agreement. This item was reviewed by the Public Works Finance Committee on November 9, 2020 and recommended for approval.

STAFF RECOMMENDATION

Approve the proposed Cooperative Lighting Agreement and Associated Resolution with the Idaho Transportation Department

PROPOSED ACTIONS

ACTION: Approve the proposed Cooperative Lighting Agreement and Associated Resolution with the Idaho Transportation Department

FISCAL IMPACT

On-going electrical and maintenance expenses for the nine proposed luminaires.

PERSONNEL IMPACT

ATTACHMENTS

1. Resolution 2020- ;Accepting US95 Construction Obligations_final
2. 9294 Moscow Cooperative Lighting Agreement

RESOLUTION NO. 2020 –

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, ACCEPTING THE OBLIGATIONS FOR THE ELECTRICITY AND MAINTENANCE OF THE LIGHTING AFTER THE CONSTRUCTION OF US95 AS STATED IN THE ATTACHED AGREEMENT WITH THE IDAHO TRANSPORTATION DEPARTMENT, TO BE EFFECTIVE UPON ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Idaho Transportation Department, hereafter called the STATE, has submitted an Agreement stating obligations of the STATE and the City of Moscow, hereafter called the CITY, for construction of US95, Thorncreek Road to Moscow, hereafter called the Agreement and attached as Attachment ‘A’; and

WHEREAS, the STATE is responsible for obtaining compliance with laws, standards and procedural policies in the development, construction and maintenance of improvements made to the Federal-aid Highway System when there is federal participation in the costs; and

WHEREAS, certain functions to be performed by the STATE involve the expenditure of funds as set forth in the Agreement; and

WHEREAS, the STATE can only pay for work associated with the State Highway system; and

WHEREAS the CITY is fully responsible for its share of project costs;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow as follows:

1. That the Cooperative Agreement for Federal Aid Highway Project DHP-NH-4110(156), attached as Attachment A, is hereby approved.
2. That the Mayor and the City Clerk are hereby authorized to execute the Agreement on behalf of the CITY.
3. That duly certified copies of the Resolution shall be furnished to the Idaho Transportation Department.

SEVERABILITY. Provisions of this Resolution and said Agreement shall be deemed severable and the invalidity of any provision of this Resolution shall not affect the validity of the remaining provisions.

EFFECTIVE DATE. This Resolution shall be effective upon its passage and approval.

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

Bill Lambert, Mayor

CERTIFICATION. I hereby certify that the above is a true copy of a Resolution passed at a regular meeting of the City Council, City of Moscow, held on _____, _____.

ATTEST:

Laurie M. Hopkins, City Clerk

(Seal)

Attachment A

**COOPERATIVE AGREEMENT
PROJECT NO. DHP-NH-4110(156)
US95, THORNCREEK ROAD TO MOSCOW
LATAH COUNTY
KEY NO. 09294**

PARTIES

This Agreement is made and entered into this _____ day of _____, by and between the Idaho Transportation Department, hereafter called the State, and the City of Moscow, hereafter called the City.

PURPOSE

The State has programmed a project to reconstruct US95 on a new alignment from Thomcreek Rd to Moscow. The purpose of this agreement is to set out the responsibilities of the parties to that end.

Authority for this Agreement is established by Section 40-317, Idaho Code.

The Parties agree as follows:

I. THE STATE WILL:

- 1) Construct lighting and provide the electric hookup to lighting at the Old US-95 Connection location shown on Exhibit A.

II. THE CITY WILL:

- 1) After construction of the project, be responsible for electricity and maintenance of the lighting at the Old US-95 Connection location shown on Exhibit A.

III. GENERAL:

- 1) Sufficient Appropriation. It is understood and agreed that the State and the Sponsor are governmental agencies, and this Agreement shall in no way be construed so as to bind or obligate the State or the Sponsor beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The State and the Sponsor reserve the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.

*Cooperative Agreement
US95, Thomcreek Road to Moscow
Key No. 09294
Page 1*

- 2) This Agreement shall become effective on the first date mentioned above, and shall remain in full force and effect until amended or replaced upon the mutual consent of the State and the City.

EXECUTION

This Agreement is executed for the State by its District Engineer, and executed for the City by the Mayor, attested to by the City Clerk, with the corporate seal of the City of Moscow.

IDAHO TRANSPORTATION DEPARTMENT

District Engineer

ATTEST:

CITY OF MOSCOW

City Clerk

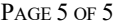
Mayor

(Seal)

By regular/special meeting
On _____

hm:9294 Moscow Coop.docx

*Cooperative Agreement
US95, Thorncreek Road to Moscow
Key No. 09294
Page 2*



**COOPERATIVE AGREEMENT
PROJECT NO. DHP-NH-4110(156)
US95, THORNCREEK ROAD TO MOSCOW
LATAH COUNTY
KEY NO. 09294**

PARTIES

This Agreement is made and entered into this _____ day of _____, _____, by and between the Idaho Transportation Department, hereafter called the State, and the City of Moscow, hereafter called the City.

PURPOSE

The State has programmed a project to reconstruct US95 on a new alignment from Thorncreek Rd to Moscow. The purpose of this agreement is to set out the responsibilities of the parties to that end.

Authority for this Agreement is established by Section 40-317, Idaho Code.

The Parties agree as follows:

I. THE STATE WILL:

- 1) Construct lighting and provide the electric hookup to lighting at the Old US-95 Connection location shown on Exhibit A.

II. THE CITY WILL:

- 1) After construction of the project, be responsible for electricity and maintenance of the lighting at the Old US-95 Connection location shown on Exhibit A.

III. GENERAL:

- 1) Sufficient Appropriation. It is understood and agreed that the State and the Sponsor are governmental agencies, and this Agreement shall in no way be construed so as to bind or obligate the State or the Sponsor beyond the term of any particular appropriation of funds by the Federal Government or the State Legislature as may exist from time to time. The State and the Sponsor reserve the right to terminate this Agreement if, in its sole judgment, the Federal Government or the legislature of the State of Idaho fails, neglects or refuses to appropriate sufficient funds as may be required for the State to continue payments. Any such termination shall take effect immediately upon notice and be otherwise effective as provided in this Agreement.

- 2) This Agreement shall become effective on the first date mentioned above, and shall remain in full force and effect until amended or replaced upon the mutual consent of the State and the City.

EXECUTION

This Agreement is executed for the State by its District Engineer, and executed for the City by the Mayor, attested to by the City Clerk, with the corporate seal of the City of Moscow.

IDAHO TRANSPORTATION DEPARTMENT

District Engineer

ATTEST:

CITY OF MOSCOW

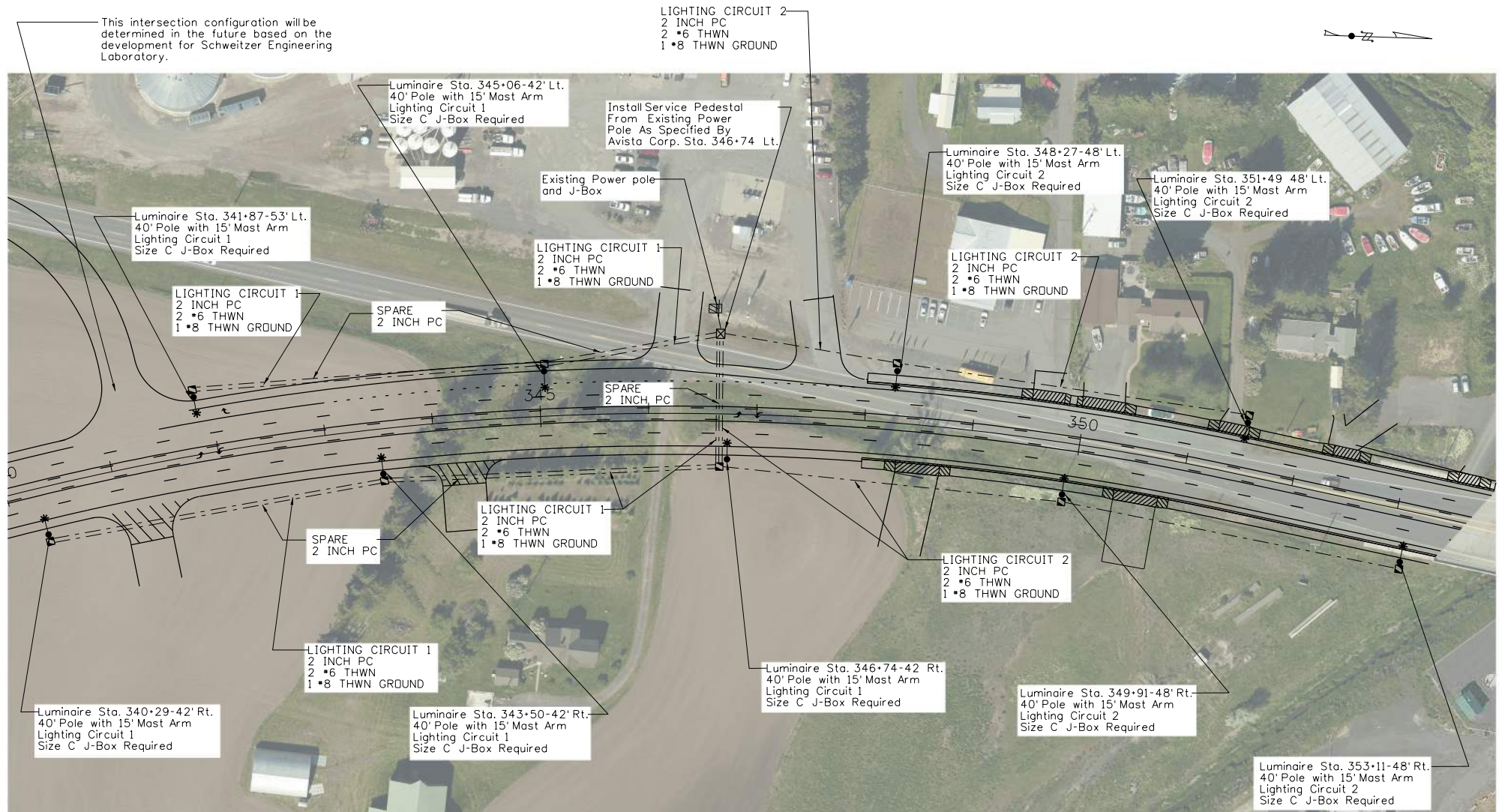
City Clerk

Mayor

(Seal)

By regular/special meeting
On _____

This intersection configuration will be determined in the future based on the development for Schweitzer Engineering Laboratory.



NOTES:

1. SPARE CONDUITS SHALL HAVE A PULL ROPE INSTALLED. ALL SPARE CONDUIT OPEN ENDS SHALL BE LABELED, CAPPED AND SEALED AGAINST MOISTURE FOR FUTURE CONNECTION.
2. CONDUCTOR FILL OF CONDUIT SHALL NOT EXCEED 25%.
3. INSTALL HAZARD WARNING TAPE 1 FOOT ABOVE ALL CONDUIT RUNS.

LEGEND

- * PROPOSED LUMINAIRE
- SIZE C J-BOX
- ⊠ ELECTRICAL SERVICE PEDESTAL
- CONDUIT AND CONDUCTORS



PROJECT NO.

DHP-NH-4110(156)

EXHIBIT - A

THORN CR RD
TO MOSCOW,
PH 1

English

COUNTY
LATAH

KEY NUMBER
09294

SHEET 1 OF 1

DISTRICT 2 - Lewiston, ID

CITY COUNCIL STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

Brian Nickerson

REVIEWED BY

This was reviewed by the Administrative Committee on November 9, 2020 and recommended for approval.

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Mutual Aid Agreement with Idaho Department of Lands – Brian Nickerson

DESCRIPTION

The Mutual Assistance Agreement with the Idaho Department of Lands (IDL) allows cooperation among local agencies, including IDL, should a need arise for mutual aid throughout the Ponderosa District and the State of Idaho. This agreement will provide the opportunity for the City to collect reimbursements for apparatus and personnel being deployed in a mutual aid situation. This will also place the Moscow Fire Department along with the Moscow Volunteers as a resource for the state if outside resources are determined to be needed. Deployment to such incidents is not required, however if a request is made and if the apparatus and personnel are available, then the resource is deployed. The option to fill the request is at the discretion of the fire chief or his/her designee. An example was the request for resources for the wildland fires in Orofino this past September.

STAFF RECOMMENDATION

Approve the Mutual Assistance Agreement with the Idaho Department of Lands (IDL).

PROPOSED ACTIONS

ACTION: Approve the Mutual Assistance Agreement with the Idaho Department of Lands (IDL).

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Mutual Assistance Agreement_MFD and IDL_2020_final Attorney Approved

**COOPERATIVE AGREEMENT – MUTUAL
ASSISTANCE STATE OF IDAHO – STATE
FORESTER**

IDAHO DEPARTMENT OF LANDS

and

MOSCOW FIRE DEPARTMENT

This agreement, made on 11/16/2020, by and between the STATE OF IDAHO, acting by and through the State Forester, Idaho Department of Lands with the approval of the State Land Board of Commissioners, hereinafter referred to as “STATE”, and the City of Moscow, Idaho, a municipal corporation of the State of Idaho, acting by and through the Fire Chief for the MOSCOW FIRE DEPARTMENT with the approval of the City of Moscow, hereinafter referred to as “COOPERATOR”.

RECITALS

WHEREAS, under the provisions of Title 38, Chapter 1, Idaho Forestry Act, Idaho Code, with particular reference to §38–104, the STATE is authorized to enter into cooperative agreements with any county, municipality, association or organization for the detection, prevention or suppression of forest fires, or whose function, desire and/or duty it is to protect any forest or range land from forest or range fires for the purpose of furnishing, operating and maintaining, a protective system for the detection, prevention and suppression of forest or range fires in forest protective districts; and, under the provisions of Idaho Code, Title 31 Chapter 14, Fire Districts, and Title 67, Chapter 23, Miscellaneous Provisions, with particular reference to §31-1417, §31-1430, and §67-2339, the COOPERATOR is authorized to enter into agreements for the purpose of carrying out its duties and obligations; and

WHEREAS, certain of the lands and properties for which STATE and COOPERATOR are independently responsible for the protection from fire are intermingled or adjacent and

WHEREAS, in order to provide more effective and prompt fire suppression on these lands, mutual assistance and cooperation between STATE and COOPERATOR is desirable.

NOW, THEREFORE, the parties hereto, STATE and COOPERATOR, do hereby agree as follows:

ARTICLE I

DEFINITIONS FOR AGREEMENT

1.01 Controlled

The completion of a control line around a fire, any spot fires therefrom, and any interior islands to be saved; burned out any unburned area adjacent to the fire side of the control lines; and cool down all hot spots that are immediate threats to the control line, until the lines can reasonably be expected to hold under the foreseeable conditions.

- 1.02 Containment
The status of a wildfire suppression action signifying that a control line has been completed around the fire, and any associated spot fires, which can reasonably be expected to stop the fire's spread.
- 1.03 Initial Attack
Initial fire suppression response actions taken by the first resources to arrive at a wildfire provided by a fire protection agency for the purposes of engaging in the suppression and/or control of a fire. Initial actions may be size up, patrolling, monitoring, holding action, or aggressive Initial Attack. The kind and number of resources responding to Initial Attack vary depending upon fire danger, fuel type, values to be protected, and other factors. Generally, Initial Attack involves a small number of resources, and incident size is small.
- 1.04 Jurisdiction
The range or sphere of authority related to fire protection agency's legal responsibilities and authority for incident mitigation as established in Idaho Law in conjunction with the procurement of fire protection services from the fire protection agency through its cooperative agreements, contracts, membership fees, tax levies or assessments intended to fund or provide for fire protection services. For Idaho Department of Lands, wildland fire protections services are provided to landowners who pay a Forest Fire Patrol Assessment as per §38-111, Idaho Code.
- 1.05 Protection Area
An area protected from fire by STATE and COOPERATOR as designated on maps described in ARTICLE II of this agreement.
- 1.06 Protecting Agency
The party having jurisdiction is responsible for fire suppression within a protection area.
- 1.07 Firefighting Facilities
The physical equipment, of each protecting agency, used for the suppression of fire.
- 1.08 Personnel
The persons designated by each protecting agency to take part in fire suppression activities.

ARTICLE II

PROTECTION AREA

- 2.01 STATE Protection Area
The Protection Area of STATE shall be indicated on the map labeled Exhibit "A", attached hereto and by this reference made a part hereof.
- 2.02 COOPERATOR Protection Area
The Protection Area of COOPERATOR shall be indicated on the map labeled Exhibit "B", attached hereto and by this reference made a part hereof.

ARTICLE III**MUTUAL ASSISTANCE****3.01 Cooperation**

STATE and COOPERATOR agree to furnish Personnel and Firefighting Facilities to each other to aid in suppression of fires. The Protecting Agency furnishing assistance reserves the right to send Personnel and Firefighting Facilities reasonably available in the judgement of the individual in charge. It is further understood that STATE will be expected to have manpower and equipment available only during closed forest fire season.

3.02 Initial Attack Action

If a fire occurs on or near a mutual boundary, both STATE and COOPERATOR shall promptly send Personnel and firefighting equipment available to start fire control action unless it is mutually understood that only one Protecting Agency will promptly supply the control action.

3.03 Notification

Employees of one Protecting Agency discovering or receiving reports of fires on or threatening lands within the Protection Area of the other Protecting Agency shall report the fires promptly to the responsible Protecting Agency.

3.04 Incident Qualifications

STATE and COOPERATOR recognize each Protecting Agency's professional incident qualification standards as acceptable to their own professional incident qualification standards for the purposes of engaging in cooperative fire suppression actions of mutual benefit. Under this agreement, recognition of Incident Qualifications applies to the Protection Agencies engaged in cooperative initial attack fire suppression actions or situations where both agencies maintain jurisdiction for fire suppression within a common Protection Area.

3.05 Fire Investigation

The STATE and COOPERATOR will protect the origin area of any fire to the best of its ability. The STATE and COOPERATOR will participate in a joint investigation when a fire originates on a Protection Area where each Protecting Agency maintains jurisdiction in fire suppression. The STATE reserves the right to investigate fires originating on, spreading to, or threatening land subject to Forest Fire Protection Assessment.

3.06 Reimbursement

Each Protecting Agency shall assume its own costs incurred under Paragraph 3.01 and 3.02 while engaged in initial attack response not to exceed 24 hours or until containment of the fire achieved, herein, unless reimbursement has been mutually agreed upon in advance and documented by both officers in charge. When reimbursement is in order, payment for Personnel and Firefighting Facilities furnished shall be at the prevailing firefighting equipment and wage rates. When using STATE facilities, the firefighting rate schedule established by the State Forester shall be used. When using COOPERATOR facilities, the rate schedule as established by the Idaho Cooperative Mobilization Agreement (ICMA) will be used. Payment and billing procedures will follow the billing protocols as outlined in the ICMA formerly known as the Fire Service Organization Rate Book.

3.07 Invoice Timeframe

Reimbursement of costs must be invoiced within sixty (60) business days of the last date of incurred expense for the incident.

ARTICLE IV

SUPERVISION

4.01 Regular Procedure

Each Protecting Agency is responsible for assuming direction of action on fires within its Protection Area. Initial action taken by the assisting agency, prior to the arrival of the responsible agency, shall be under the supervision of the assisting agency only until the arrival of the responsible agency unless other arrangements are made in advance.

4.02 Joint Procedure

Each Protecting Agency is responsible for assuming direction of action on fires within its Protection Area. During situations where both agencies maintain jurisdiction for fire suppression within a common Protection Area, initial action will be taken by both agencies and unified command shall be established between the protection agencies for incident supervision purposes.

4.03 Change in Procedures

Whenever it appears advantageous to establish a different procedure for supervision of fire control action, the Protecting Agencies may do so by mutual agreement and documented by both officers in charge. At all other times, the procedures set forth in Paragraphs 4.01 and 4.02, herein, shall be in effect.

ARTICLE V

PREPAREDNESS AND PREVENTION

5.01 Training

STATE and COOPERATOR may engage and participate in integrated training activities and exercises to improve fire response coordination and fire suppression effectiveness. Unless mutually agreed upon in advance, each Protecting Agency shall assume its own costs when engaged in cooperative training activities and exercises.

5.02 Radio Frequencies

STATE and COOPERATOR may share radio frequencies and communication facilities for the purposes of providing a coordinated fire suppression response.

5.03 Operations Plan

STATE and COOPERATOR are encouraged to mutually develop Operations Plans that provide principles, business direction, and guidance in the conduct of cooperative fire control operations. The Operations Plan shall be reviewed annually, and revised as necessary to achieve mutual cooperation and understanding within the framework established under this agreement.

5.04 Fire Prevention

STATE and COOPERATOR may engage and participate in cooperative fire prevention activities and projects of mutual benefit for the purposes of advancing public education and awareness of human caused fires and associated fire prevention mitigation practices. Unless mutually agreed upon in advance, each Protecting Agency engaged in cooperative fire prevention activities or projects will assume its own costs for Firefighting Facilities and Personnel provided to support these activities.

ARTICLE VI

STATEWIDE MOBILIZATION

6.01 STATE Request For Assistance

STATE shall be the single hiring point for Firefighting Facilities and Personnel provided by the COOPERATOR for the purposes of providing fire suppression assistance on wildland incidents where the COOPERATOR maintains no jurisdictional responsibility for fire suppression.

6.02 Procurement

The Idaho Cooperative Mobilization Agreement shall be used by STATE for the purposes of procuring COOPERATOR provided resources in response to COOPERATOR's acceptance of a STATE Request for Assistance.

6.03 Equipment Standards and Incident Qualifications

Firefighting Equipment and Personnel provided by the COOPERATOR shall meet the minimum equipment specifications and incident qualification standards as established in the Idaho Cooperative Mobilization Agreement.

ARTICLE VII

LIMITATIONS – RESPONSIBILITIES

7.01 Limitations

In no event shall either party to this agreement be bound beyond its lawful authority and appropriations available.

7.02 Liabilities

Neither Protecting Agency shall be liable to the other Protecting Agency for any loss or damage.

7.03 Laws and Regulations

Each party hereto agrees to comply with all federal, state, and local laws, rules and regulations pertaining to this agreement including, but not limited to, industrial accident and workman's compensation laws of the State of Idaho.

7.04 Hold Harmless

Unless otherwise limited or prohibited by law (including I.C. §§ 59-1015 through 59-1017, and subject to and in accordance with the Idaho Tort Claims Act, I.C. § 6-901 et seq.), each party agrees to save and hold the other harmless from any claim, liability or damage resulting from any error, omission, or act of negligence by the indemnifying party, its officers, employees or agents in the performance of its responsibilities under this Agreement.

ARTICLE VIII**DURATION-TERMINATION****8.01 Duration**

This agreement shall remain in effect for five years, effective from date of signatures, unless mutually agreed by the parties to extend this agreement. This agreement shall remain in continuous effect until termination pursuant to Paragraph 8.02 herein.

8.02 Termination

This agreement may be terminated at any time by mutual consent of the parties or by one party giving written notice to the other party not less than thirty (30) days prior to effective date of termination.

IN WITNESS WHEREOF, the parties have executed this agreement on the date first hereinabove stated.

<u>STATE</u>		<u>COOPERATOR</u>	
Signature Area/District/Association Representative Idaho Department of Lands		Signature Fire Chief MOSCOW FIRE DEPARTMENT	
Printed Name	Date	Printed Name	Date
State Forester Idaho Department of Lands		Latah County where FSO is located	
		Ponderosa Dist.	
Printed Name	Date	Area/District/Association	

Exhibit A

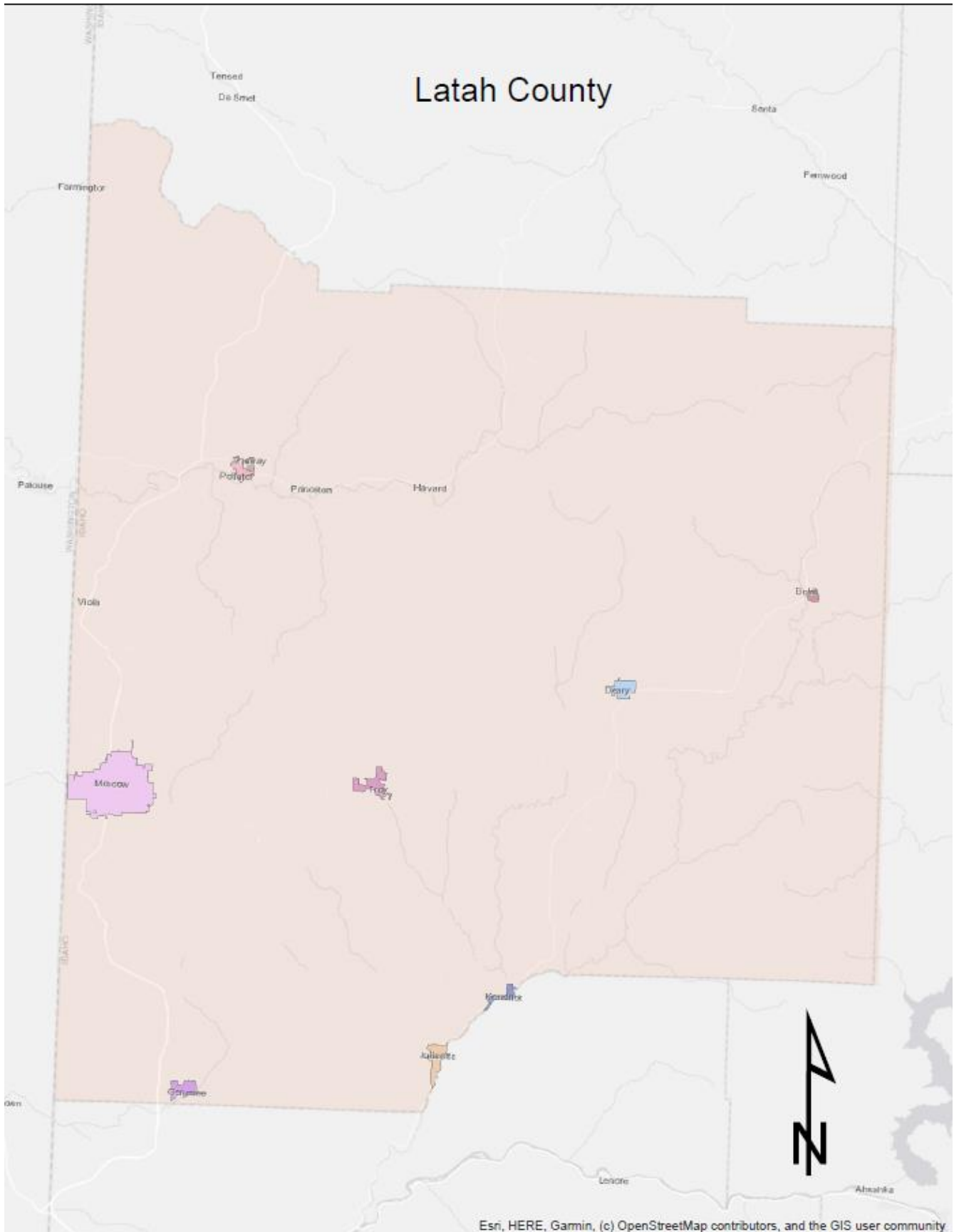
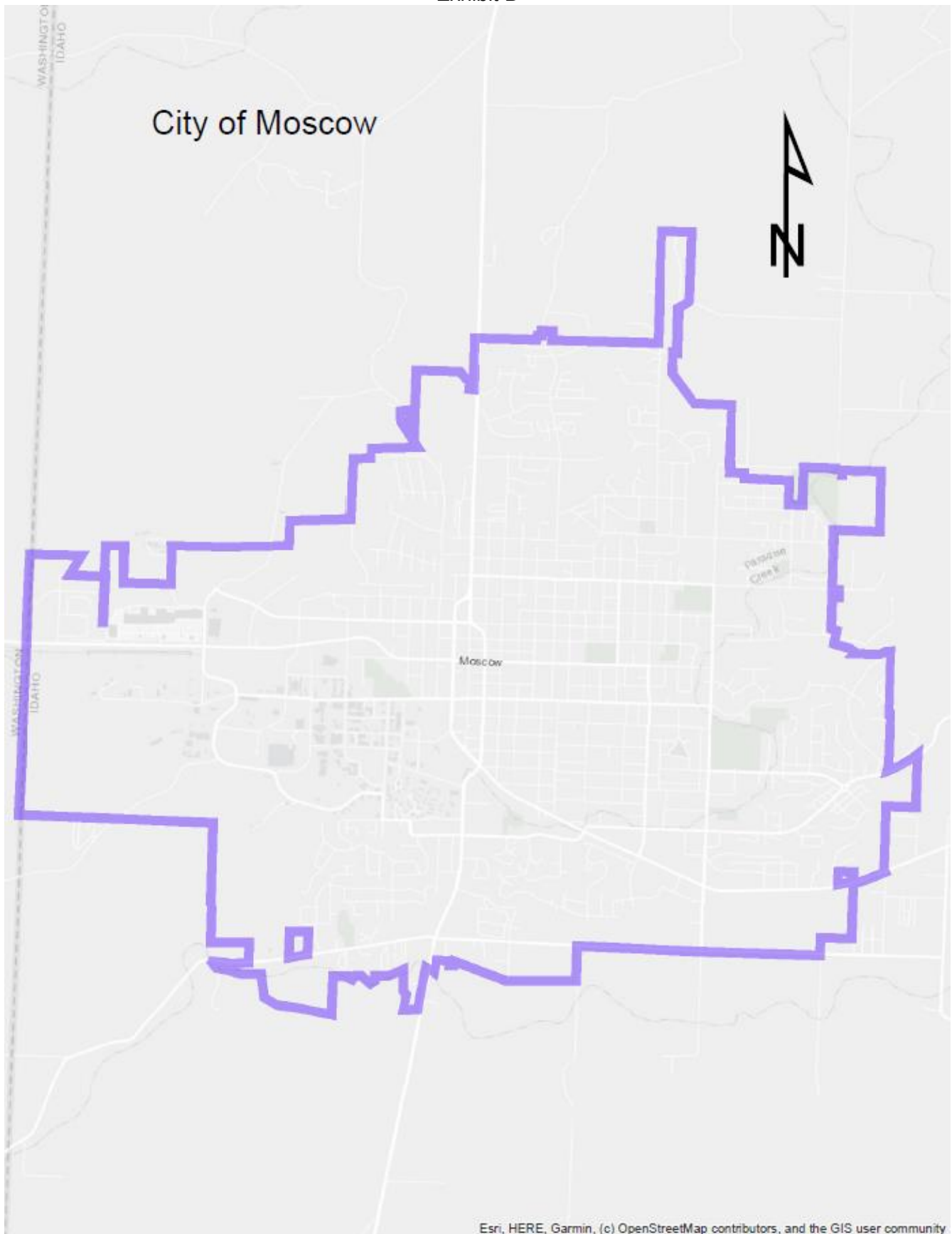


Exhibit B



CITY COUNCIL STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

Michael Ray, Assistant CD Director/Planning Manager

REVIEWED BY

Planning and Zoning Commission

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Public Hearing: Annexation, Comprehensive Plan Land Use Designation, and Zoning Designation for an Approximately 156 Acre Area Proposed to be Annexed into the City of Moscow and Located Directly West of Highway 95 and South of the Current City Limits Boundary (ACTION ITEM) - Mike Ray

DESCRIPTION

The applicant, Schweitzer Engineering Laboratories (SEL), is requesting the annexation, Comprehensive Plan land use designation amendment, and rezoning of an approximately 154-acre property located directly west of Highway 95 and south of the current City Limits boundary. The applicant is proposing to change the Comprehensive Plan land use designation from a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural to the Auto-Urban Commercial designation. The applicant is proposing to rezone the subject property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone. As a result of the proposed annexation request, there appeared to be three remnant parcels that would become County "islands" which would be completely surrounded by the City of Moscow. In accordance with the City's annexation policy, the owners of the three remnant parcels were contacted and Staff has expanded the annexation request to include the island parcels with the same proposed Comp Plan and zoning designations as the SEL proposal.

The City of Moscow Planning and Zoning Commission conducted a public hearing for the proposed Comprehensive Plan land use designation and rezone on October 14, 2020 and recommended approval with no conditions.

STAFF RECOMMENDATION

Conduct the public hearing upon the annexation, Comprehensive Plan land use, and zoning designation and upon consideration of any testimony presented:

1. Approve the Annexation Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary.
2. Approve the proposed Comprehensive Plan Land Use Designation Resolution and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria.
3. Approve the proposed Zoning Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria.

PROPOSED ACTIONS

PROPOSED ACTIONS: Conduct the public hearing upon the annexation, Comprehensive Plan land

use, and zoning designation and upon consideration of any testimony presented:

1. Approve the Annexation Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary; or consider the Annexation Ordinance on first reading; or reject the Annexation Ordinance; or take other action as deemed appropriate.
2. If the Annexation Ordinance is approved, approve the proposed Comprehensive Plan Land Use Designation Resolution and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria; or reject the proposed Comprehensive Plan Land Use Designation Resolution and direct staff to prepare a Reasoned Statement of Relevant Criteria; or take other action as deemed appropriate.
3. If the Annexation Ordinance is approved and Comprehensive Plan Land Use Designation Resolution is approved, approve the proposed Zoning Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria; or consider the Zoning Ordinance on first reading; or reject the Zoning Ordinance and direct staff to prepare a Reasoned Statement of Relevant Criteria; or take other action as deemed appropriate.

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Staff Report
2. Public Hearing Notice
3. Packet
4. P&Z Comp Plan RCS
5. P&Z Rezone RCS
6. P&Z Minutes
7. Schweitzer Annexation_tfk_mb
8. Schweitzer Comp Plan Res_tfk_mb
9. Schweitzer Rezone

COMMUNITY PLANNING AND DESIGN DEPARTMENT STAFF REPORT

HEARING DATE: November 16, 2020

GENERAL INFORMATION

Hearing Body: City Council

Subject: Proposal for Comprehensive Plan Land Use Designation and Zoning Designation for an approximately 156-Acre Area Proposed to be Annexed into the City of Moscow and Located Directly West of Highway 95 and South of the Current City Limits Boundary: LUP2020-0023

Attachments:

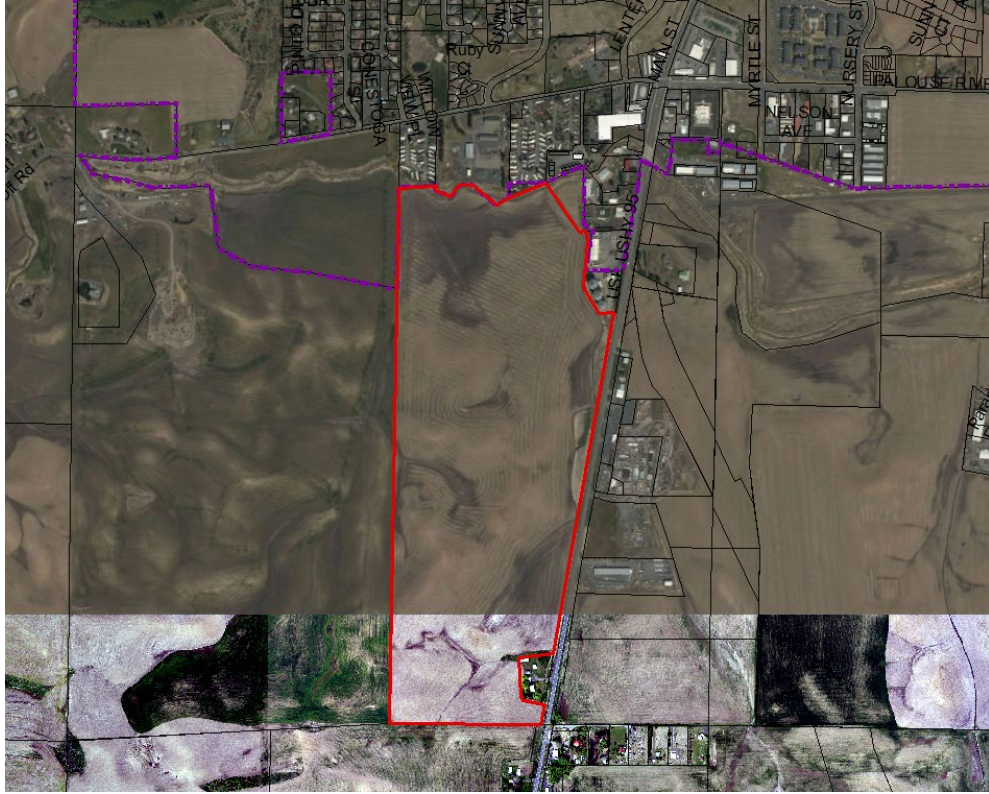
1. Notice of Public Hearing
2. Annexation and Rezone Request
3. Record of Survey
4. Legal Description
5. Neighborhood Meeting Materials

Prepared by: Mike Ray, AICP – Planning Manager

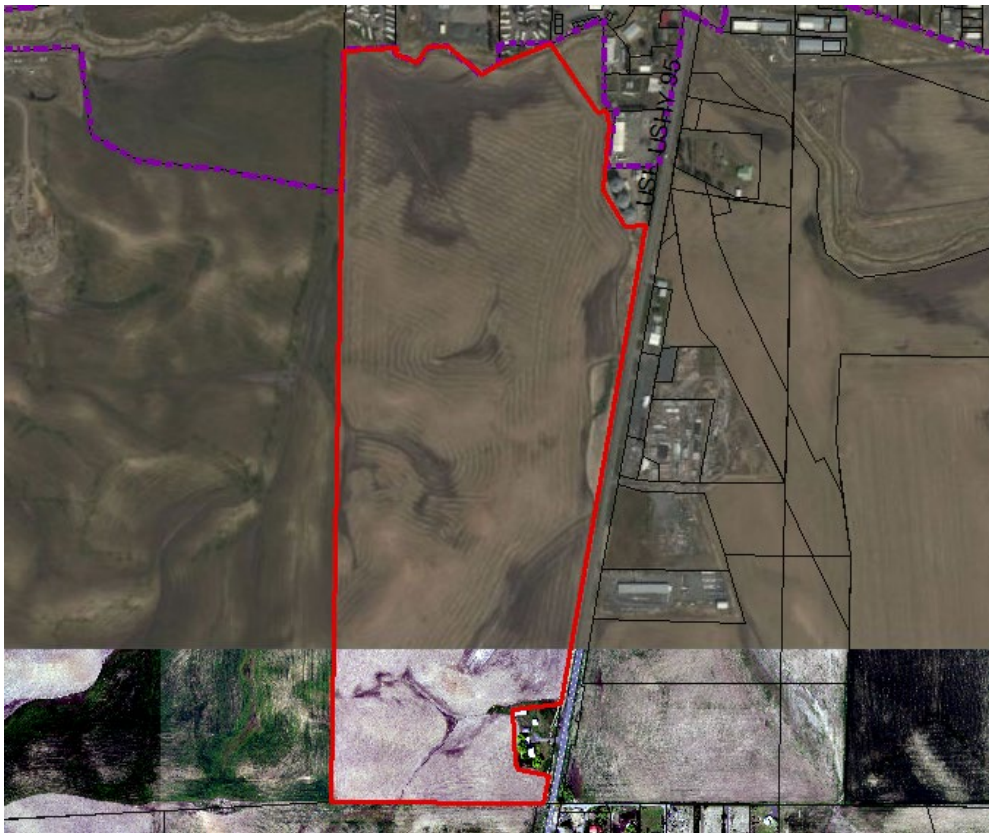
STAFF REVIEW

Proposal: The applicant, Schweitzer Engineering Laboratories, is proposing a rezone and a Comprehensive Plan Land Use Designation amendment for an approximately 154-acre property proposed to be annexed into the City of Moscow and located directly west of Highway 95 and south of the current City Limits boundary. The current Comprehensive Plan Land Use Designation is a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural and the proposed designation is the Auto-Urban Commercial designation. The zoning on the subject property is currently Agriculture Forestry (AF) and the proposal is to rezone to the Motor Business (MB) Zone. Prior to annexation, the Planning and Zoning Commission is required to review the subject property and provide the City Council with a recommendation regarding the appropriate future land use designation and zoning designations to be applied to the subject property upon annexation, which occurred on October 14, 2020.

Site and Area Land Use: The subject property is a 154-acre parcel that is actively being used for agricultural production. The subject property is surrounded by primarily agricultural land to the west and the south, manufactured home parks and Idaho Transportation Department's service yard to the north, and a commercial business park to the northeast. Commercial uses to the east include Early Bird Building Supply, Wasankari Construction, Germer Construction, Primeland Cooperative, Bonkerz Play Center, Dale's Boats, Mundy's Welding, and also various residential uses.



Vicinity Map



Aerial of Subject Property

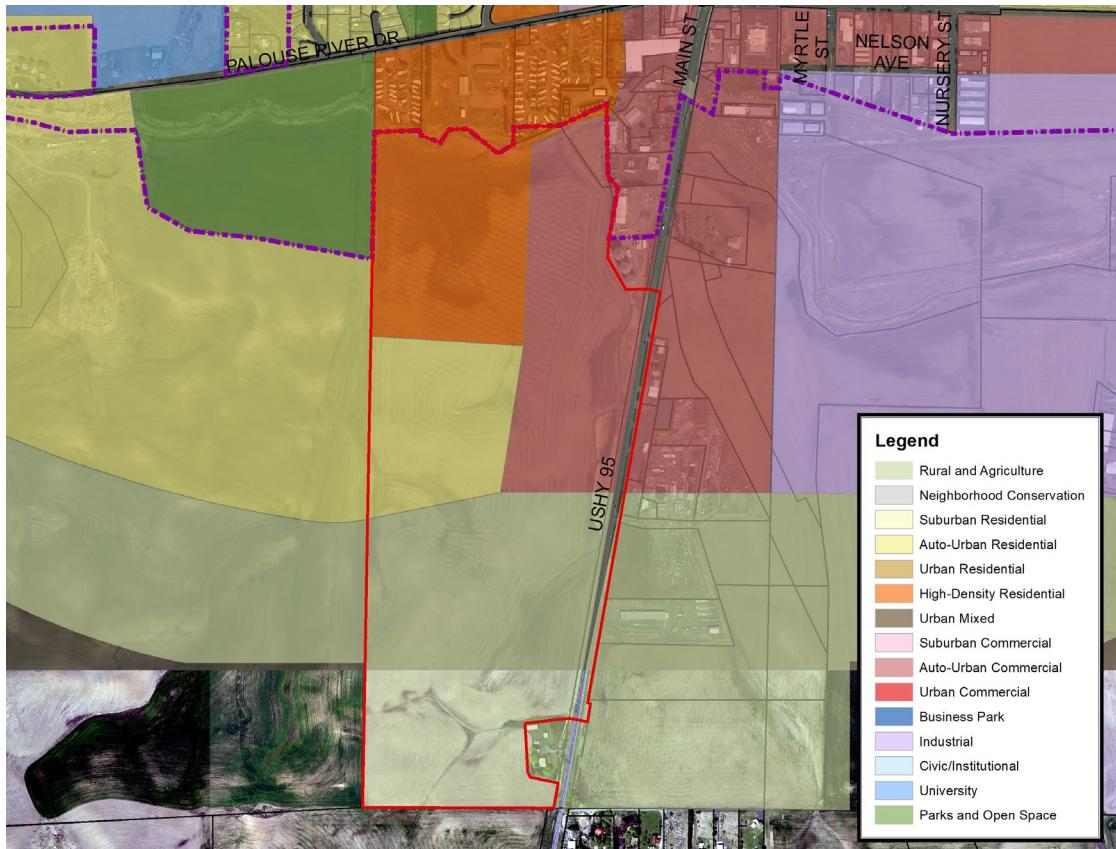


Three Island Properties (green, red, and blue cross-hatched areas)

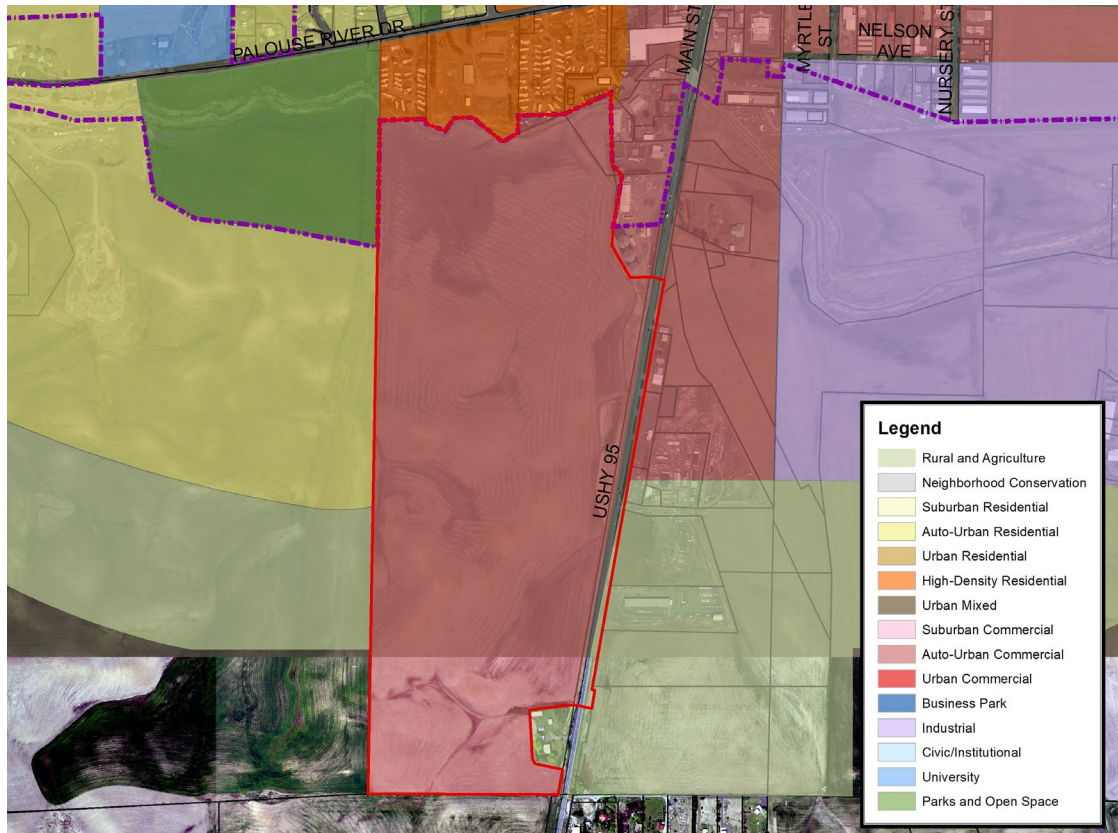
As a result of the annexation request and the location of the current City Limits boundary, there appears to be three remnant parcels which would become County, "islands" that would be completely surrounded by the City of Moscow (shown in the green, red, and blue cross-hatching above). In circumstances such as this, it has historically been the City's policy that whenever an annexation request is received that would result in the creation of islands, that those properties also be included in the proposed annexation to allow for the efficient extension of services and to prevent the fragmentation of local government. The Council had previously adopted Resolution 2007-01 which established a policy regarding annexation of properties with the Area of City Impact, which stated that property located adjacent to the City shall be annexed when the property is completely surrounded by the City. In accordance with the City's annexation policy, the owners of the three remnant parcels were contacted and Staff has expanded the annexation request to include the island parcels with the same proposed Comp Plan and zoning designations as the SEL proposal. The total area of the three parcels is approximately 2 acres in size, which increases the total annexation area to approximately 156 acres in size.

Comprehensive Plan: Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural and the proposed designation is the Auto-Urban Commercial designation. According to the 2019 Comprehensive Plan, Auto-Urban Commercial designated areas are intended to,

“Provide for commercial services and developments that are motor vehicle oriented or those which require large amounts of land. These areas should be located adjacent to existing commercial developments and along major arterials where the vehicle traffic can be accommodated. Developments within these designations should be required to provide significant landscaping which would be applied to enhancing areas along the street edge, screening parking lots, and buffering adjacent uses. Such areas are most appropriately zoned Motor Business (MB).”



Current Comprehensive Plan Land Use Designations



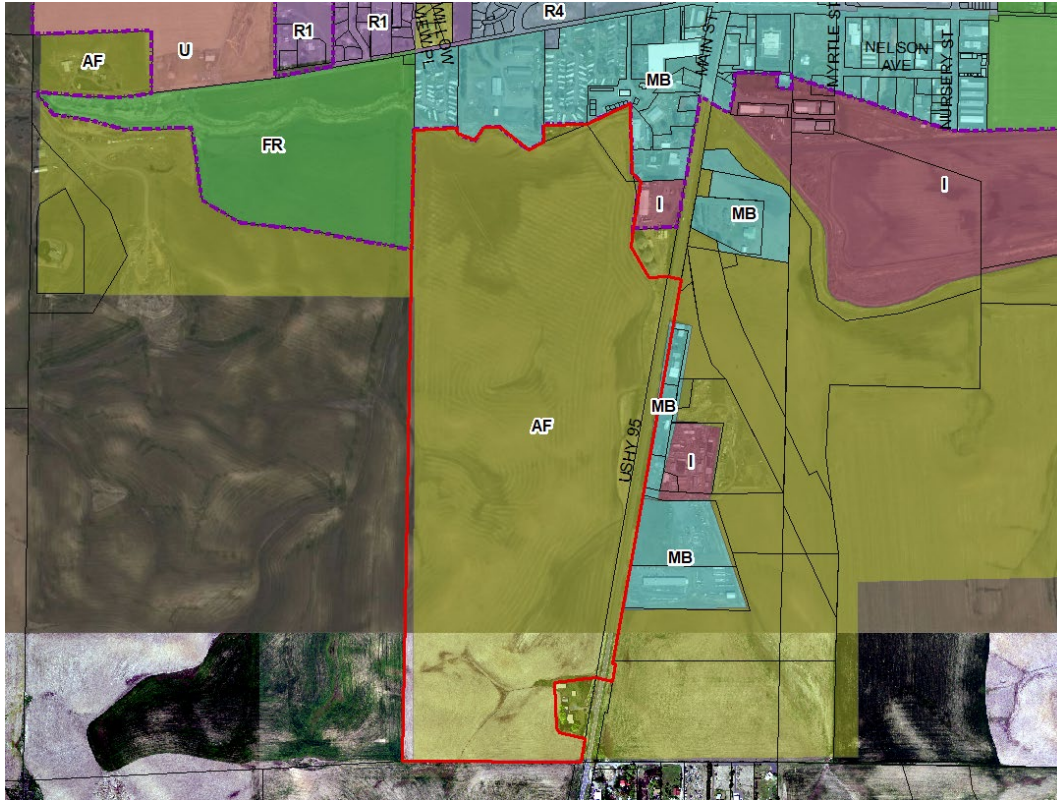
Proposed Comprehensive Plan Land Use Designation

Zoning: The subject property and adjacent properties immediately to the west, south, and some properties to the east are located in Latah County and are currently zoned Agriculture/Forestry (AF). The properties to the east which are commercial are within the Motor Business (MB) or Industrial (I) Zones, and properties to the north within the City are primarily zoned MB. The City’s west Palouse River Drive Playfields property to the northwest is located within the Farm Ranch and Outdoor Recreation (FR) Zone. The applicant is proposing to rezone the 154-acre parcel from the Agriculture/Forestry (AF) Zone to the Motor Business (MB) Zone.

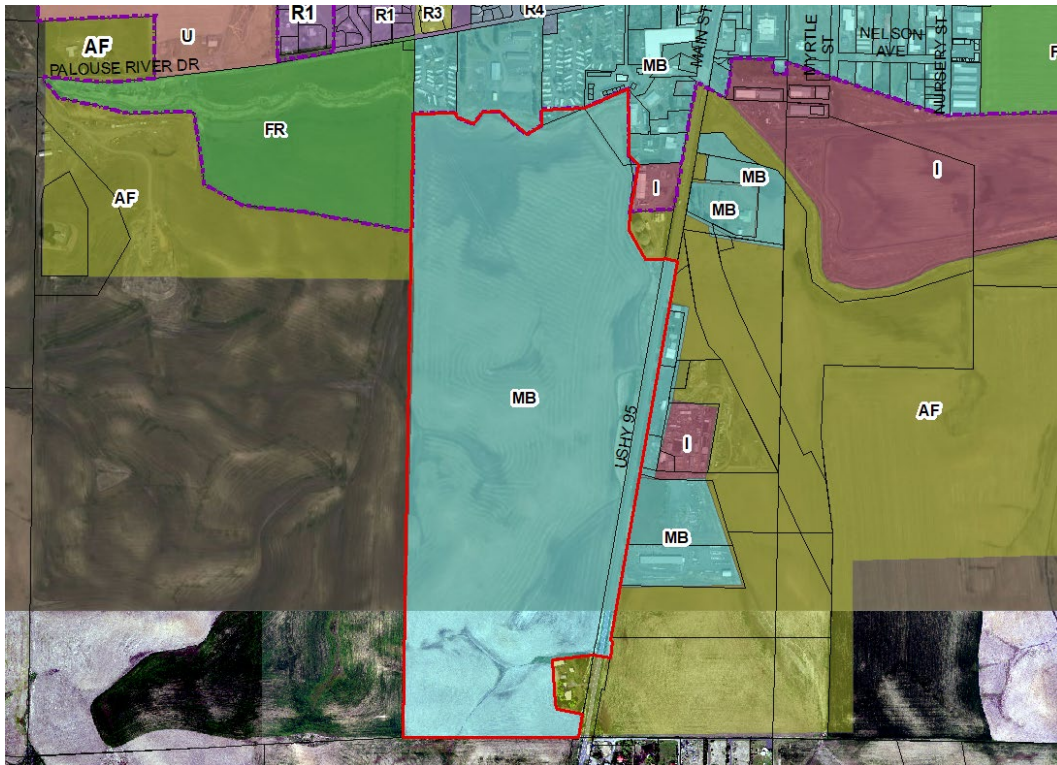
According to the City of Moscow Zoning Code, the MB Zone is,

“provide for the location and grouping of compatible uses having similar operation as they involve enterprises which depend primarily on the transient motor vehicle-based trade. By concentrating such uses the City intends to increase public convenience when utilizing such services and, within the regulation, to allow such activities to render the maximum service.”

Uses permitted within the MB Zone include retail enterprises, offices, eating and drinking establishments, printing and publishing houses, religious institutions, residential uses, hotels and motels, off-street parking facilities, kennels, storage facilities, laundromats, and light manufacturing.



Existing Zoning



Proposed Zoning

Access, Streets, Traffic: The subject property has property frontage along Highway 95. Highway 95 is designated as a National Highway and is developed as a 24 foot wide paved roadway with northbound and southbound travel lanes and minimal gravel shoulders on both sides.

Utilities: As part of the City's Capital Improvement Plan, sanitary sewer is proposed to be extended approximately 1600 feet further south of the nearest main location which is near the South Fork Palouse River Bridge. Water mains will be extended approximately 400 feet further south down the old US95 right-of-way and both utilities will terminate approximately 1600 feet south of the South Fork Palouse River Bridge. The design for the project should be completed this fall and the project should go out to bid early spring. The intent is to have the utilities extended in the summer of 2021.



Utilities (Water mains in blue and sanitary sewer in green)

Other Issues: The applicant conducted a neighborhood meeting with affected property owners within 600 ft. of the subject property on September 10, 2020 to discuss the proposal. All neighborhood meeting materials are attached to your packet.

The City of Moscow Planning and Zoning Commission conducted a public hearing for the proposed Comprehensive Plan land use designation and rezone on October 14, 2020 and recommended approval with no conditions.

RECOMMENDATIONS:

Staff recommends that the Council conduct the public hearing upon the annexation, Comprehensive Plan land use, and zoning designation and upon consideration of any testimony presented:

1. Approve the Annexation Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary.
2. Approve the proposed Comprehensive Plan Land Use Designation Resolution and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria.
3. Approve the proposed Zoning Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary and adopt the Planning and Zoning Commission Reasoned Statement of Relevant Criteria.

NOTICE OF PUBLIC HEARING

Proposal for Comprehensive Plan Land Use Designation and Zoning Designation for an approximately 156 Acre Property Proposed to be Annexed into the City of Moscow and Located Directly West of Highway 95 and South of the Current City Limits Boundary: LUP2020-0023

A public hearing at which you may be present and speak will be conducted by the Moscow Council at which time the following proposition will be discussed for land generally shown on the vicinity map below:

- Annexation of the approximately 156-acre subject property.
- Comprehensive Plan Land Use Designation amendment from a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural to the Auto-Urban Commercial designation.
- Rezoning of the subject property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone.

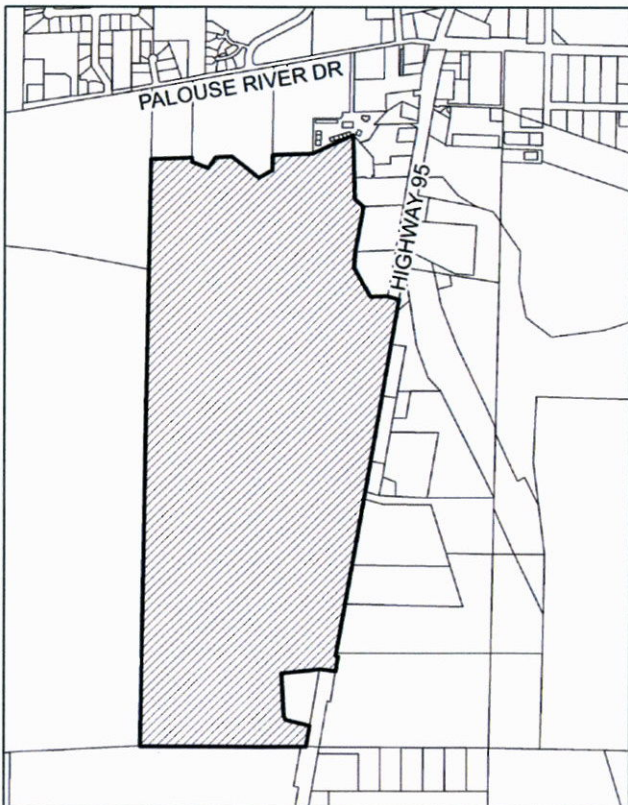
The City of Moscow Planning and Zoning Commission conducted a public hearing for the proposed Comprehensive Plan Land Use Designation and Rezone on October 14, 2020 and recommended approval with no conditions.

MEETING DATE: Monday, November 16, 2020

HEARING LOCATION: Council Chambers, Second Floor, Moscow City Hall
206 East Third Street, Moscow, Idaho

MEETING TIME: 7:00 p.m.

Note: Meeting start time is not necessarily indicative of the start time for review of the application advertised in this notice. Multiple hearings and/or agenda items may make it difficult to determine start time for review of application advertised in this notice, which could occur late in the meeting.



The file containing information on this matter is available for public review (an appointment may be necessary) at the Community Planning Dept. located in the Paul Mann Building, 221 East Second Street, Moscow, Idaho. You may also call 208-883-7035 to get a meeting agenda, further information about the application or the public meeting process, and/or to request a meeting with City Staff. Public participants desiring to submit textual materials (excluding petitions) to the decision-making board shall do so at least five (5) calendar working days in advance of the scheduled meeting to the Community Planning Dept. Additionally, you may obtain further information about the public hearing process and procedures on the City's Website: <http://id-moscow.civicplus.com/593/Public-Hearing-Notices>

Laurie M. Hopkins, Moscow City Clerk


Jennifer Fleischman, Deputy City Clerk

Published: October 31, 2020

**SCHWEITZER ENGINEERING LABORATORIES, INC.**

2350 NE Hopkins Court • Pullman, WA 99163-5603 USA

Phone: (509) 332-1890 • Fax: (509) 332-7990

Internet: www.selinc.com

September 10, 2020

Mike Ray, Assistant Director / Planning Manager
City of Moscow
206 E. Third Street
Moscow, ID 83843

RE: Request for Annexation and Rezoning
Parcel #RP39N05W190360, Highway 95 S, 150 acres

Dear Mike:

Schweitzer Engineering Laboratories, Inc. is requesting the approx. 150 acre parcel off Highway 95 S, Moscow, ("Deesten Farm") to be considered for Annexation into the City of Moscow and Rezone from Agricultural/Forest to Motor Business.

Enclosed with this submittal are:

- Neighborhood meeting minutes, sign-in sheet, preliminary site map, notice of Neighborhood Meeting.
- Rezone Application with payment of \$990.00 (check # 00526781)
- We are in the process of having an ALTA survey completed, which will follow this packet in approximately one week, but prior to September 23.
- Legal description of the subject property

We appreciate your help and consideration on this project. Please feel free to contact us if there are any questions or if clarification of anything is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Jana Schultheis", written in a cursive style.

Jana Schultheis
Vice President of Property

JS: dt
Encl (7)



**CITY OF MOSCOW
COMMUNITY DEVELOPMENT**
Ph.: 208-883-7035
Fax: 208-883-7033
apeterson@ci.moscow.id.us

For City Use Only			
Date Received		9/11/2020	
Dept	Fee Type	Fees	Paid
CD	Application Fee	\$990 \$895	\$990
Receipt Number		LUP2020-0023	

APPLICATION FOR ZONING AMENDMENT

(Please type or print plainly with blue ink.)

GENERAL INFORMATION

1. Applicant

Name: Schweitzer Engineering Laboratories, Inc. Telephone: (509) 332-1890
2350 NE Hopkins Court, Pullman, WA 99163
 (Home address)

Relationship to affected property (please check one):

Owner ☐ Purchaser ☒ Lessee ☐ Other ☐ (explain below)

2. Owner of Affected Property (if other than applicant)

Name: Deesten Farms, LLC Telephone: 208.669.1230
Hwy. 95, Moscow, Idaho 838 1700 Little Bear Ridge Road, Troy, Idaho 83871
 (Home address)

3. Location of Affected Property: West and adjacent to Hwy 95, south of and adjacent to the City of

Legal Description: Moscow. Parcel No. RP39N05W190360. See attached legal desc.
 (Subdivision) (Block) (Lot)

If described by Metes and Bounds, please attach deed on a separate sheet.

INFORMATION ON REQUESTED REZONE

4. Proposal: The applicant requests a rezone on the above-described property as follows:

From: Latah County - Ag. Forest to: City of Moscow - MB Motor Business
 (Current zoning) (Proposed zoning)

5. Reason: Applicant requests a rezone for the following reason(s): The applicant requests annexation into the City of Moscow with a comprehensive plan amendment and zoning reclassification to Motor Business for the purpose of constructing uses allowed within the MB zone.

6. Before the Moscow Planning and Zoning Commission can approve a zoning amendment request, the Commission must first make findings of compliance with the following five Relevant Criteria and Standards. Please indicate in the spaces provided below what you believe to be justification showing compliance with each item:

A. The proposed rezone is consistent with Comprehensive Plan goals, objectives, and implementation actions.

See Attached.

B. The proposed rezone would provide for the logical and orderly location of land uses and community services and facilities.

See Attached.

C. The uses expected to occur as a result of the rezone will be compatible with the surrounding area.

See Attached.

D. 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.

See Attached

E. The size, type, and density of development expected to occur as a result of the rezone can be adequately served by existing transportation network, public facilities and services.

See Attached.

Notification: The Idaho Code requires that all property owners located within 300 feet of the affected property receive notification of the public hearing to be conducted by the Planning and Zoning Commission regarding any rezone request.

The Planning and Zoning Commission shall have the authority to require any additional information they consider necessary to render a fair decision and recommendation on a rezone request. The Commission may recommend and the City Council may require additional conditions and limitations as specified in Section 4-9-3C of the Moscow Code.

All questions addressed on this application and the application itself must be filed with the Moscow City Planner at least twenty-one (21) days prior to the hearing date. The applicant will be notified by the City as to the time and place of the hearing pertaining to this application. The applicant or his/her duly-appointed representative must be present at the public hearings held before both the Planning & Zoning Commission and the City Council.

The following materials must be included with this application:

1. Application fee.
2. If a legal description of the affected property is given by Metes and Bounds, a separate sheet containing that description.

I understand this information is a public record and may be posted to a public website.

Applicant's Signature

DocuSigned by:

Denise Bohman

Deesten Farms, LLC
Managing Member

78E98D86E4A340F...

Property Owner's Signature

Date

9/9/2020

9/4/2020

Date

Schweitzer Engineering Laboratories, Inc.
September 2020

Application for Zoning Amendment
(Continued from Application)

6A. The proposed rezone is consistent with the Comprehensive Plan goals, objectives, and implementation actions.

- Chapter 1. Community Vision
 - The proposal provides for sustainable, incremental growth while preserving and enhancing the distinctive characteristics of Moscow, and its rich and vibrant economic, cultural, social, and physical environments.
 - 1.4.2 Natural Resources, Implementation Action 1. The development will be located adjacent to existing developed areas where city utilities and other public services will be readily available.
- Chapter 2. Land Use
 - 2.7.1 General Land Use and Community Character. The proposal will direct land use to meet future community desires and needs and conserve the natural resource of the South Fork of the Palouse River, along the property's northern boundary, through orderly development.
 - 2.7.7 Land Uses (map). The proposal is located within the Auto-Urban Industrial land use designation on the Existing Land Use map and Auto-Urban Commercial on the Future Land Use maps. The proposed zoning is consistent with this designation.
- Chapter 3. Community Mobility
 - 3.11.1 General Community Mobility. The project will consider plans for the orderly development and continuity of the city street and pathways systems and efficient delivery of services.
 - 3.11.5 Bicycle Mobility. The project will accommodate a future east/west bicycle route along its northern boundary, adjacent to the South Fork of the Palouse River.
- Chapter 4 Parks and Recreation
 - 4.10.2 Linear Park. The project will consider space along the South Fork of the Palouse River for a future linear pathway to provide recreation and utility access. The City of Moscow also owns designated parkland known as the West Palouse River Drive/cyclocross adjacent to the subject property for use as a public park serving South Moscow.
- Chapter 5 Public Utilities Services and Growth Capacity
 - 5.9.1 General Goals. The city has been fulfilling the goals of this chapter by extending utilities to South Moscow in order to provide for sustainable growth and the efficient delivery of public facilities, utilities, and services. The extension of these utilities also directs growth to areas that can efficiently and

Schweitzer Engineering Laboratories, Inc.
September 2020

economically be served with public services and utilities while planning for future capacity needs.

- 5.9.2 Potable Water. The city is providing for safe and sustainable water supply that meets the future needs of the community.
- 5.9.3 Sanitary Sewer. The city is providing for orderly and efficient collection and treatment of wastewater services to the community into the future.

- **Chapter 6. Economic Development**

- 6.6.1. Regional Economic Context. The CPA and rezone will provide economic growth and employment opportunities to the region.
- 6.6.2. Leveraging Existing Assets. The applicant is an established international employer. Uses anticipated to be developed on the subject property will diversify the local economy and enhance the character of Moscow. The property's proximity to downtown will help strengthen the downtown core, while not inhibiting downtown redevelopment. The proposed uses will strengthen the regional economy and utilize the strengths and assets of the region.
- 6.6.3. Growing Compatible Industries. The property is currently within the Moscow Area of City Impact, which anticipates annexation and defers land use decisions to the City.
- Proposal would increase the supply of land available for modern commercial, office, and light industrial uses.
- 6.6.5 Business Development Costs. The City of Moscow is proactively installing sewer and water sufficient to serve the proposal area, thereby providing increased certainty for investment by the applicant in industrial uses within the southern part of the city.
- The City will extend sewer and water to the property in 2021, per the city's capital facility plan, ensuring infrastructure is in place prior to development.

6B. The proposed rezone would provide for the logical and orderly location of land uses and community services and facilities.

- The proposed annexation, comprehensive plan amendment and rezone will help fulfill the logical and orderly planned use for this property, as outlined in the comprehensive plan and recently adopted South Moscow District Plan in terms of use and location.

6C. The uses expected to occur as a result of the rezone will be compatible with the surrounding area.

- The proposed rezone is Motor Business, which allows a wide variety of commercial, office, and light industrial uses. Because the subject property is within an anticipated annexation area, adjacent uses to the south have historically been agricultural. Uses

Schweitzer Engineering Laboratories, Inc.
September 2020

to the north, within city limits, are older commercial, sales, service, and residential. The future uses within the subject rezone will be compatible with these existing uses and likely to facilitate investment into existing businesses.

6D. 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 uses anticipated on the subject property will not place an undue burden on delivery of services. The City of Moscow will be extending sewer and water with adequate capacity to this property specifically to help spur growth and economic development. The Idaho Transportation Department will be realigning and reconstructing Hwy 95 east of the site and providing roadway access to this property to improve transportation in South Moscow.

6E. The size, type, and density of development expected to occur as a result of the rezone can be adequately served by existing transportation network, public facilities and services.

- The City of Moscow will be extending sewer and water with adequate capacity to this property specifically to help spur growth and economic development. The Idaho Transportation Department will be realigning and reconstructing Hwy 95 east of the site and providing roadway access to this property to improve transportation in South Moscow.

Section 19, T39N, R5W, BM

Surveyor Narrative

- The purpose of this survey was to locate, monument and map the boundaries of that parcel of land described in Quitclaim Deed, Instrument, #585032,
- The north line of the Northeast Quarter of Section 19 was located to establish the Basis of Bearings and primary boundary control. That Parcel described in Quitclaim Deed, Instrument, #585032 was rotated to project basis and located accordingly.

Basis of Bearings

The Basis of Bearings for this survey is identical to the Idaho Coordinate System, West Zone, NAD 83 as shown between the found northwest corner of the Northeast Quarter and the found northeast corner of the Northeast Quarter of Section 19, said bearing being N88°09'59"E.

Surveyor's Certificate

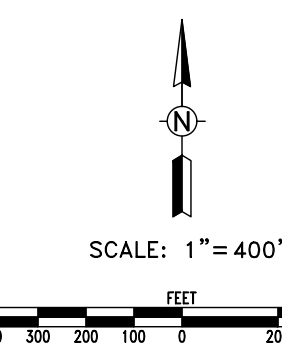
I, Michael E. Dahlin, PLS #17534, State of Idaho, do hereby certify that the survey represented by this map was performed by me or under my supervision in accordance with the laws of the State of Idaho and at the request of Denise Tooley in September 2020.

Survey References:

- Allen Tracts, Instrument #166352, Book 4 of Plats Page 21, By M. Jensen, PE #632.
- Warranty Deed, Instrument #200605, Book 138 of Deeds, Page 631, Deesten to State of Idaho.
- Unrecorded ITD survey.
- Warranty Deed, Instrument #241265, Book 163 of Deeds, Page 92, Deesten to to Bailey.
- Warranty Deed, Instrument #275244, Deesten to Latah County Grain Growers, Inc.
- Deed of Dedication, Instrument #275249, for easement for public use for street or alley purposes, Deesten & Latah County Grain Growers, Inc to the City of Moscow.
- Warranty Deed Instrument #289151, Deesten to Chesnut.
- Record of Survey, Instrument #336475, by L. Hodge PE/LS #3003.
- Deed of Dedication & Correction, Instrument #337015 to correct Deed of Dedication, Instrument #337015, Deesten & Latah County Grain Growers, Inc to the City of Moscow.
- Highway Right-of-Way Plans, Federal Aid Project #18-A(2), Page 5 of 6.
- Warranty Deed, Instrument #381241, Deesten to Latah County Grain Growers, Inc. (CHS-Moscow, Inc.).
- Warranty Deed, Instrument #386744, Deesten to Burrage.
- Record of Survey, Instrument #387155, by L. Hodge PE/LS #3003.
- Warranty Deed, Instrument #399677, Deesten to Burrage.
- Record of Survey, Instrument #524459, by L. Hodge PE/LS #3003.
- Record of Survey, Instrument #571343, by A. Younger, PLS #12724.
- Quitclaim Deed, Instrument #575310, Lester to Abiel Mobile Home Community LLC.
- Record of Survey, Instrument #577923, by J. Goettsche, PLS #9584.
- Warranty Deed, Instrument #579983, Deesten to Althebury.
- Unrecorded Survey by J. Goettsche, PLS #9584 in 2016.
- Quitclaim Deed, Instrument #585032, Martin C. Deesten Family Trust to Deesten Farms, LLC.

Legend

- Found Monument as Described
- Set 5/8" Diameter Rebar w/Aluminum Cap Stamped "PLS 17534"
- Found 5/8" Diameter Rebar, No Cap or Plastic Cap Stamped as Noted
- Found Right-of-Way Monument
- Set 1/2" Diameter Rebar w/ Yellow Plastic Cap Stamped "Easement PLS 17534"
- Calculated Position
- Reference Number - See Survey References
- Subject Parcel Boundary Line
- Other Parcel Boundary Line
- Section/Section Subdivision Line
- Centerline
- Right-of-Way
- Easement



NO. _____ AT THE REQUEST OF: _____
DATE & HOUR: _____
HENRIANNE WESTBERG
LATAH COUNTY RECORDER
FEE \$ _____ BY _____

Surveyor's Information and Seal

Michael E. Dahlin, Inc.
P.O. Box 8728
405 S. Washington Street
Moscow, ID 83843-0828
(208) 882-3526

Professional Engineer
Land Surveying
Site Mapping

RIM ROCK CONSULTING, INC.

120 WEST 25 STREET #102 TULSA, OKLA 74103-3853 (918) 485-5339 rimrock@rimrockconsulting.net

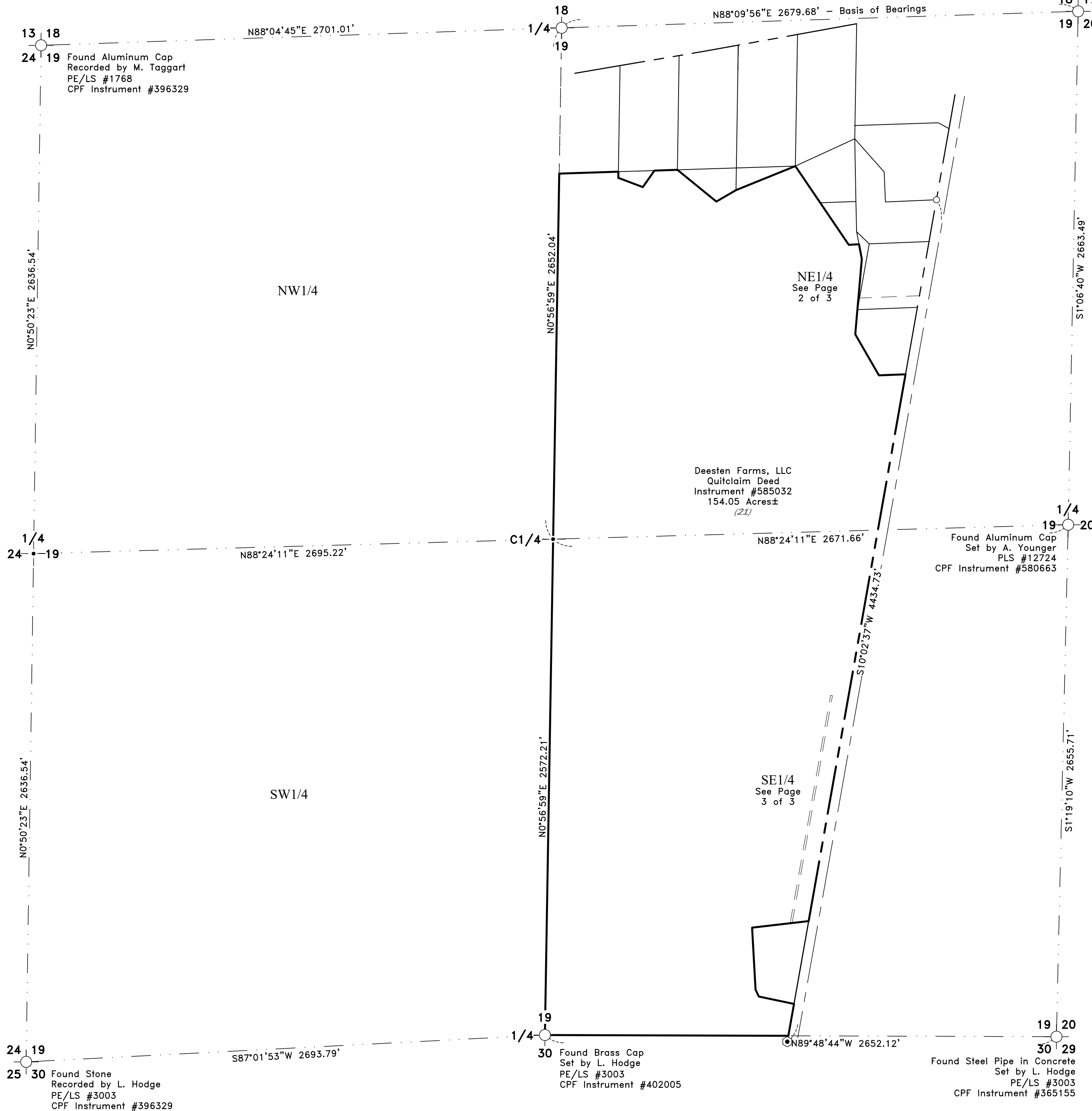
PROFESSIONAL LAND SURVEYOR
STATE OF IDAHO
MICHAEL E. DAHLIN
PLS #17534

PRELIMINARY
NOT FOR RECORDING

Record of Survey for:
Schweitzer Engineering Laboratories
Latah County, Idaho

Drafted by: SW
Checked by: MED
File Name: 4358 ROS.dwg
Tab: Pg 1
Plot Style Default.ctb
Project: 4358-08-20
Date: 9/18/20

1 of 3



Surveyor Narrative

1. The purpose of this survey was to locate, monument and map the boundaries of that parcel of land described in Quitclaim Deed, Instrument, #585032,
2. The north line of the Northeast Quarter of Section 19 was located to establish the Basis of Bearings and primary boundary control. That Parcel described in Quitclaim Deed, Instrument, #585032 was rotated to project basis and located accordingly.

Basis of Bearings

The Basis of Bearings for this survey is identical to the Idaho Coordinate System, West Zone, NAD 83 as shown between the found northwest corner of the Northeast Quarter and the found northeast corner of the Northeast Quarter of Section 19, said bearing being N88°09'59"E.

Surveyor's Certificate

I, Michael E. Dahlin, PLS #17534, State of Idaho, do hereby certify that the survey represented by this map was performed by me or under my supervision in accordance with the laws of the State of Idaho and at the request of Denise Tooley in September 2020.

Survey References:

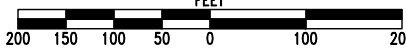
1. Allen Tracts, Instrument #166352, Book 4 of Plats Page 21, By M. Jensen, PE #632.
2. Warranty Deed, Instrument #200605, Book 138 of Deeds, Page 631, Deesten to State of Idaho.
3. Unrecorded ITD survey.
4. Warranty Deed, Instrument #241265, Book 163 of Deeds, Page 92, Deesten to to Bailey.
5. Warranty Deed, Instrument #275244, Deesten to Latah County Grain Growers, Inc.
6. Deed of Dedication, Instrument #275249, for easement for public use for street or alley purposes, Deesten & Latah County Grain Growers, Inc to the City of Moscow.
7. Warranty Deed Instrument #289151, Deesten to Chesnut.
8. Record of Survey, Instrument #336475, by L. Hodge PE/LS #3003.
9. Deed of Dedication & Correction, Instrument #337015 to correct Deed of Dedication, Instrument #337015, Deesten & Latah County Grain Growers, Inc to the City of Moscow.
10. Highway Right-of-Way Plans, Federal Aid Project #18-A(2), Page 5 of 6.
11. Warranty Deed, Instrument #381241, Deesten to Latah County Grain Growers, Inc. (CHS-Moscow, Inc.).
12. Warranty Deed, Instrument #386744, Deesten to Burrage.
13. Record of Survey, Instrument #387155, by L. Hodge PE/LS #3003.
14. Warranty Deed, Instrument #399677, Deesten to Burrage.
15. Record of Survey, Instrument #524459, by L. Hodge PE/LS #3003.
16. Record of Survey, Instrument #571343, by A. Younger, PLS #12724.
17. Quitclaim Deed, Instrument #575310, Lester to Abiel Mobile Home Community LLC.
18. Record of Survey, Instrument #577923, by J. Goettsche, PLS #9584.
19. Warranty Deed, Instrument #579983, Deesten to Altebury.
20. Unrecorded Survey by J. Goettsche, PLS #9584 in 2016.
21. Quitclaim Deed, Instrument #585032, Martin C. Deesten Family Trust to Deesten Farms, LLC.

Legend

- Found Monument as Described
- Set 5/8" Diameter Rebar w/Aluminum Cap Stamped "PLS 17534"
- Found 5/8" Diameter Rebar, No Cap or Plastic Cap Stamped as Noted
- Found Right-of-Way Monument
- Set 1/2" Diameter Rebar w/ Yellow Plastic Cap Stamped "Easement PLS 17534"
- Calculated Position
- Reference Number - See Survey References
- Subject Parcel Boundary Line
- Other Parcel Boundary Line
- Section/Section Subdivision Line
- Centerline
- Right-of-Way
- Easement



SCALE: 1"=200'



NO. _____ AT THE REQUEST OF: _____

DATE & HOUR: _____

_____ M.
HENRIANNE WESTBERG
LATAH COUNTY RECORDER

FEE \$ _____ BY _____

Surveyor's Information and Seal

Michael E. Dahlin, Inc.
P.O. Box 8728
405 S. Washington Street
Moscow, ID 83845
(208) 882-3520

Lead Surveying
Site Mapping

RTM ROCK CONSULTING, INC.

120 WEST 25 STREET #102 Moscow, Idaho 83845 208.882.3539 mmr@rtmrockconsulting.net

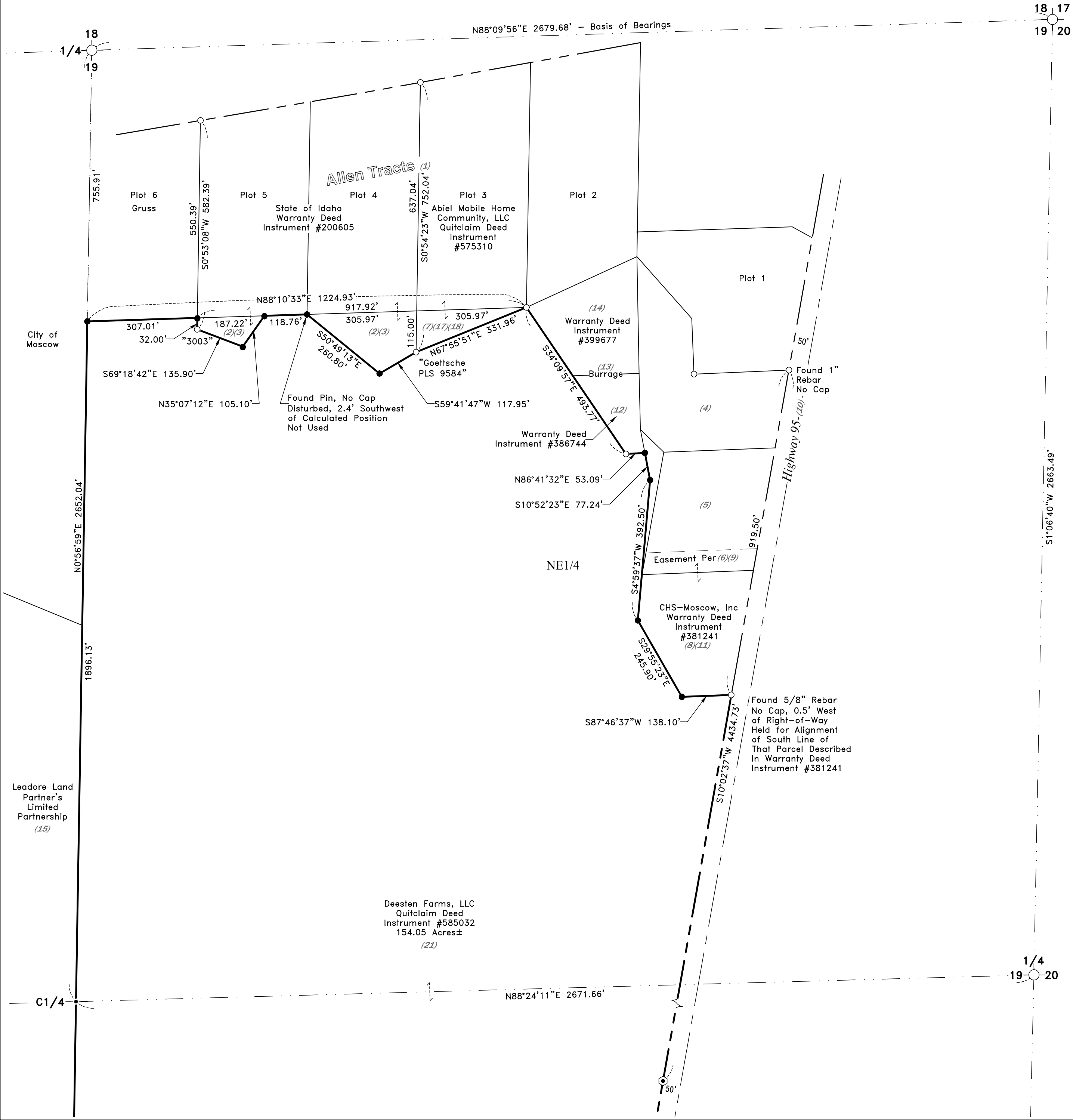
Professional Land Surveyor Seal

PROFESSIONAL LAND SURVEYOR
STATE OF IDAHO
MICHAEL E. DAHLIN
PLS #17534

PRELIMINARY
NOT FOR RECORDING

Record of Survey for:
Schweitzer Engineering Laboratories
Latah County, Idaho

Drafted by:	SW
Checked by:	MED
File Name:	4358 ROS.dwg
Tab:	Pg 2
Plot Style	Default.ctb
Project:	4358-08-20
Date:	9/18/20



ALTA COMMITMENT FOR TITLE INSURANCE SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

Need a survey of the
property of the property.

EXHIBIT "A" LEGAL DESCRIPTION

PARCEL 1

A parcel of land ("Parcel 1") located in the NE1/4 of Section 19, Township 39 North, Range 5 West Boise Meridian, County of Latah, State of Idaho and more particularly described as follows:

BEGINNING at the southwest corner of Plot 6, Allen Tracts, as shown by the recorded plat thereof (Book 4 of Plats at Page 20) the same being situated upon the quarter section line S. 00°22' E. 758.4 feet from the North quarter-corner of Section 19, Township 39 North, Range 5 West, B.M.; thence N. 87°12' E., along the southern boundary of Plots 6, 5, 4, and 3 of said Allen Tracts, 1224 feet; thence N. 64°28' E., along the southern boundary of Plot 2 of said Allen Tracts, 338.8 feet to a one inch steel peg; thence S. 42°44' E. 230.2 feet to a one inch steel peg; thence S. 03° 10' E. 155.1 feet to a steel peg; thence N. 86°46' E. along the southern line of Plot 1 of said Allen Tracts, 265 feet to a one inch steel peg situated upon the western right of way line of that certain State Highway known as FAP 18-A(2); thence S. 09°09' W., along the west line of said highway right of way, 1718.85 feet, more or less, to a point on the quarter section line lying approximately 950.6 feet West of the E. 1/4 corner of said Section 19, Township 39 North, Range 5 West, B.M., thence S. 87°28' W., along the East-West quarter section line running through said Section 19, 1713.47 feet, more or less, to the center of said Section 19; thence N. 00°22' W., on the North-South quarter section line in said Section 19 to the PLACE OF BEGINNING.

EXCEPTING THEREFROM those portions deeded to the State of Idaho, as more fully set out in that certain Right of Way Deed recorded in Book 99 of Deeds at Page 33 and in that certain Right of Way Deed recorded under Recorder's Fee No. 200605 in Book 138 of Deeds at Page 631.

ALSO EXCEPTING THEREFROM those portions deeded, as more fully set out in that certain Warranty Deed recorded under Recorder's Fee No. 241265, in that certain Warranty Deed recorded under Recorder's Fee No. 275244, in that certain Deed of Dedication recorded under Recorder's Fee No. 275249 and amended under that certain Deed of Dedication & Correction recorded under Recorder's Fee No. 337015, in that certain Warranty Deed recorded under Recorder's Fee No. 289151, in that certain Warranty Deed recorded under Recorder's Fee No. 381241, in that certain Warranty Deed recorded under Recorder's Fee No. 386744, and in that certain Warranty Deed recorded under Recorder's Fee No. 399677.

PARCEL 2

A parcel of land ("Parcel 2") more particularly described as the W 1/2 of the SE1/4 of Section 19, Township 39 North, Range 5 West Boise Meridian, County of Latah, State of Idaho.

Parcel 2 should have exceptions, for adjacent properties and highway right of way at southeast corner.

PARCEL 3

A parcel of land ("Parcel 3") lying and being in the E 1/2 of the SE 1/4 of Section 19, Township 39 North, Range 5 West Boise Meridian, County of Latah, State of Idaho, and West of the west line of the right of way of State Highway No. 95, and more particularly described as follows:

BEGINNING at the northwest corner of the E1/2SE1/4 of said Section 19; thence N. 87°06' E. 353.4 feet on the north line of said E1/2 SE1/4 of Section 19 to a point on the west line of the right of way of State Highway No. 95; thence following said west line of the right of way of State Highway No. 95, S. 09°01' W. 1348.6 feet; thence S. 14°38' W. 560.0 feet to a

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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File No. 20420

ID ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18)

Page 2 of 3



ALTA COMMITMENT FOR TITLE INSURANCE SCHEDULE A

ISSUED BY
STEWART TITLE GUARANTY COMPANY

point on the West line of said E1/2 SE1/4; thence N. 00°01' W. 1856.3 feet along said west line of the E1/2 SE1/4 to the POINT OF BEGINNING.

EXCEPTING THEREFROM that portion deeded to the State of Idaho, as more fully set out in that certain Right of Way Deed recorded in Book 99 of Deeds at Page 10.

ALSO EXCEPTING THEREFROM A parcel of land situated in the Southeast Quarter of Section 19, Township 39 North, Range 5 West, Boise Meridian, Latah County, State of Idaho and more particularly described as follows:

Commencing at a steel pipe marking the Southeast Corner of said Section 19, from which a brass cap marking the Northeast Corner of said Section 19 bears North 01°12'55" East a distance of 5319.20 feet; thence North 82°53'20" West a distance of 1371.27 feet to an iron pin on the West Right of Way of Highway 95 and the Point of Beginning; thence North 78°03'33" West a distance of 186.11 feet to an iron pin; thence North 25°36'20" West a distance of 39.50 feet to an iron pin; thence North 03°13'01" West a distance of 322.09 feet to a 5/8 inch rebar with a PLS 9584 cap; thence North 83°24'08" East a distance of 295.28 feet to a 5/8 inch rebar with a PLS 9584 cap on the West Right of Way of Highway 95; thence South 10°02'37" West along the West Right of Way of Highway 95 a distance of 436.32 feet to the Point of Beginning.

This page is only a part of a 2016 ALTA® Commitment for Title Insurance. This Commitment is not valid without the Notice; the Commitment to Issue Policy; the Commitment Conditions; Schedule A; Schedule B, Part I - Requirements; and Schedule B, Part II - Exceptions; and a countersignature by the Company or its issuing agent that may be in electronic form.

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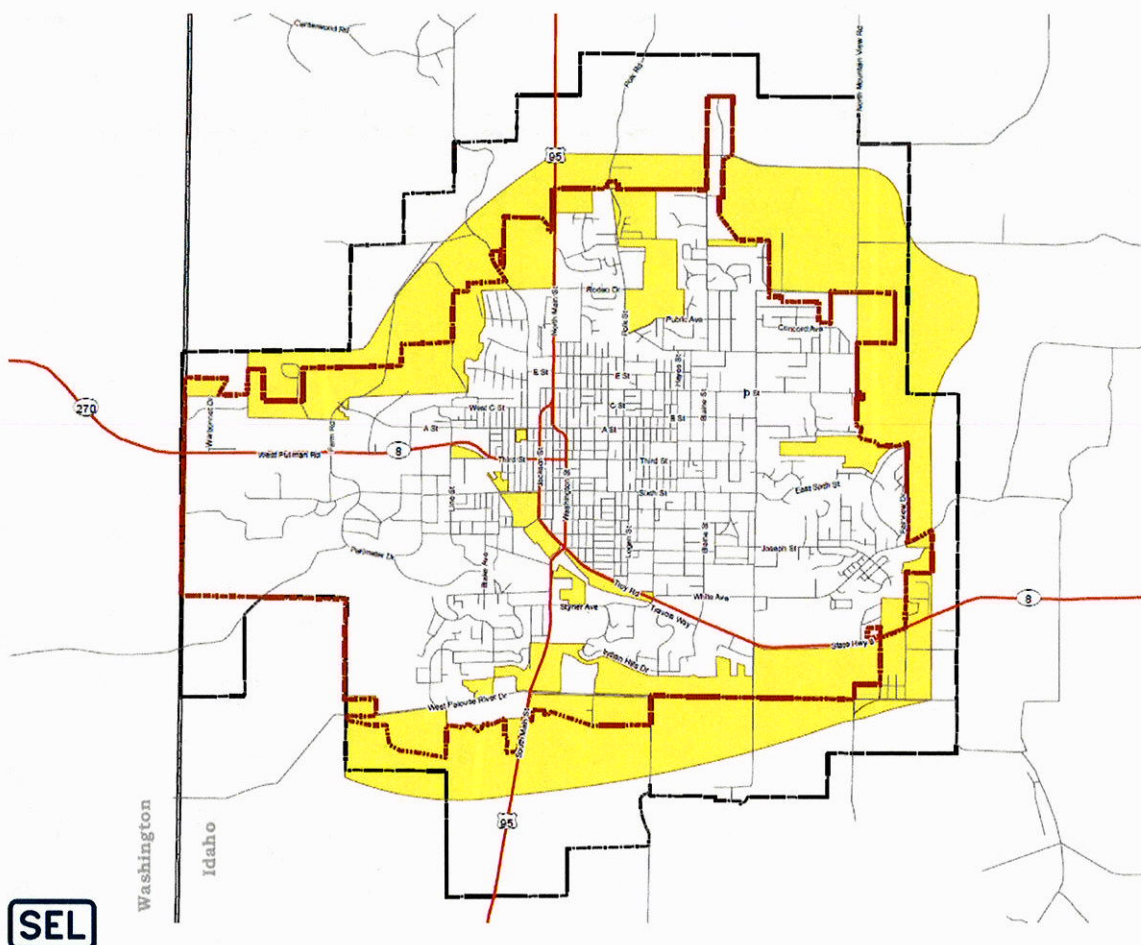
File No. 20420

ID ALTA Commitment For Title Insurance Schedule 8-1-16 (4-2-18)

Page 3 of 3







Notice of Neighborhood Meeting



*The proposed annexation boundary shown is approximate only.
It is Parcel RP39N05W190360.*

A neighborhood meeting will be held Thursday, September 10, 2020 at 5:30 pm at the University of Idaho Arboretum south entrance, 1200 West Palouse River Drive*.

The purpose of this meeting will be to discuss a proposal to annex and rezone approximately 150 acres west of Hwy 95, adjacent to city limits, into the City of Moscow for uses allowed within the Motor Business zoning designation.

*attendees shall maintain a physical distancing of 6-feet from non-household members or wear a face covering.

For more information, please contact Denise Tooley of Schweitzer Engineering Laboratories, Inc. (509) 339-2783 or denise_tooley@selinc.com



Meeting Minutes

Thursday, September 10, 2020, 5:30 PM

Present: Teresa Heitmann, Schweitzer Engineering Laboratories, Inc.
Project Name: Annexation and rezone of farmland along Hwy 95 S, Moscow, Idaho
Meeting Type: Neighborhood Meeting
Meeting Location: U of I Arboretum, 1200 West Palouse River Dr, Moscow, ID

Meeting Purpose

Presentation and discussion of the proposed annexation and rezone of existing farmland, which is under purchase contract.

Meeting

The meeting was called to order at 5:30 and was open to neighbors.

Teresa Heitmann (SEL) opened the meeting by introducing general information about SEL to the group. She presented two posters; one depicting the subject property site and the other showing City of Moscow's proposed South entrance improvements. She explained the purpose of requesting annexation was so that the land would be included in future utility expansion. The rezone would be from AG/F to Motor Business. The land will be used for future expansion based on business demand.

Teresa asked the group for questions or concerns.

Q: When will you be developing the land?

A: We have no immediate plans. We are focusing on purchasing the land at the moment.

Q: So there are no plans at all for buildings?

A: Not currently.

Several said they were happy SEL was coming to Moscow, and one person said, "welcome to Moscow!"

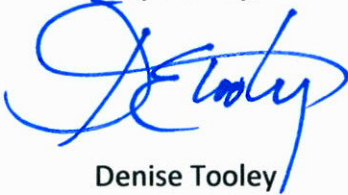
One individual expressed concern over increasing traffic and asked that SEL consider this factor in planning. He suggested adding a turning lane because there are already so many near-misses along Hwy 95. This was noted and will be considered in SEL future planning.

One individual wanted to be sure SEL wasn't going to "build a bunch of apartments" on the land. She said she thought SEL provided affordable housing for its employees. Teresa explained that SEL does not provide housing.

Attached is a list of neighbors in attendance.

Hearing no additional questions or concerns, meeting adjourned at 6:19 PM

Respectfully,

A handwritten signature in blue ink, appearing to read "D. Tooley", with a stylized, cursive script.

Denise Tooley

Lead Administrative Assistant – Property Management Department
Schweitzer Engineering Laboratories Inc.

Meeting Attendance Sheet

Project Name: Highway 95 South,
 Meeting Type: Neighborhood Meeting
 Meeting Location: U of I Arboretum, 1200 West Palouse River Dr, Moscow, ID
 Meeting Time: 9/10/20 @ 5:30PM

NAME	MAILING ADDRESS
Denise Bohman & Brent Janet Poitra	1700 Little Bear Rdg Rd Tray, Id 83871 2350 NE Hopkins Ct Pullman, WA 99163
Amber Townsley	105 Swooshyline Dr. Pullman WA
Doug / Melanie Wasankari	2730 Hwy 95 South Moscow PO BOX 8867 Moscow ID 83843
Godie Tooling & Denise Tooling	1382 Bristol Rd Moscow, ID 83843
Mike & Betty Kaufman	2985 MAYFAIR RIDGE LEWISTON, ID 83501
Sean Wilson on behalf of the estate of Janice Clyde	128 E 3rd St Moscow, ID 83843
Randal Ormond	1161 KASPER RD moscow 83843
Don & Joella	4189 Hwy 95 South Agent for Beverly Anderson
From SEL: Frank Frank Hamell	SEL

Kenneth Helm

Idaho Transportation Dept
Lewiston, ID

**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 THE REVIEW OF AN APPROXIMATELY ONE-HUNDRED FIFTY (150) ACRE AREA OF LAND PROPOSED TO BE ANNEXED INTO THE CITY OF MOSCOW AND LOCATED DIRECTLY WEST OF HIGHWAY 95 AND SOUTH OF THE CURRENT CITY LIMITS BOUNDARY.

WHEREAS, the applicant filed an application for Annexation, Comprehensive Plan Land Use Designation, and Rezone on September 11, 2020; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on October 14, 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 2019 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 150-acre property proposed to be annexed into the City of Moscow and located directly west of Highway 95 and south of the current City Limits boundary.
3. Under Idaho Code, prior to the annexation of property within the City, the Planning and Zoning Commission must conduct a public hearing and make a recommendation to the City Council as to the appropriate land use designation and zoning designation to be applied to the property upon annexation.
4. The subject property is actively being used for agricultural production and is surrounded by primarily agricultural land to the west and the south, manufactured home parks and Idaho Transportation Department's service yard to the north, and a commercial business park to the northeast. Commercial uses to the east include Early Bird Building Supply, Wasankari Construction, Germer Construction, Primeland Cooperative, Bonkerz Play Center, Dale's Boats, Mundy's Welding, and also various residential uses.
5. Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural.

6. The applicant has proposed to change the Comprehensive Plan land use designation to the Auto-Urban Commercial designation.
7. According to the 2019 Comprehensive Plan, Auto-Urban Commercial designated areas are intended to,
“Provide for commercial services and developments that are motor vehicle oriented or those which require large amounts of land. These areas should be located adjacent to existing commercial developments and along major arterials where the vehicle traffic can be accommodated. Developments within these designations should be required to provide significant landscaping which would be applied to enhancing areas along the street edge, screening parking lots, and buffering adjacent uses. Such areas are most appropriately zoned Motor Business (MB).”
8. The subject property and adjacent properties immediately to the west, south, and some properties to the east are located in Latah County and are currently zoned Agriculture/Forestry (AF).
9. The properties to the east which are commercial are within the Motor Business (MB) or Industrial (I) Zones, and properties to the north within the City are primarily zoned MB. The City’s west Palouse River Drive Playfields property to the northwest is located within the Farm Ranch and Outdoor Recreation (FR) Zone.
10. The subject property has property frontage along Highway 95. Highway 95 is designated as a National Highway and is developed as a 24-foot-wide paved roadway with northbound and southbound travel lanes and minimal gravel shoulders on both sides.
11. As part of the City’s Capital Improvement Plan, sanitary sewer is proposed to be extended approximately 1600 feet further south of the nearest main location which is near the South Fork Palouse River Bridge. Water mains will be extended approximately 400 feet further south down the old US95 right-of-way and both utilities will terminate approximately 1600 feet south of the South Fork Palouse River Bridge. The design for the project should be completed this fall and the project should go out to bid early spring. It is anticipated that the utilities will be extended in the summer of 2021.
12. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on September 10, 2020 to discuss the proposal.
13. Based upon the availability of public services, constructed adjacent roadway, access and surrounding land use patterns, the Commission concludes that it is appropriate for the property to be designated as AU-C upon annexation into the City of Moscow.

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 Comprehensive Plan amendment is consistent with Comprehensive Plan goals, objectives, and implementation actions.** The proposed and existing Auto-Urban Commercial designation for the subject property is consistent with the purposes, goals, objectives and policies of the Comprehensive Plan and is consistent with the surrounding properties, as well as the surrounding land use and development patterns.

2. **The proposed Comprehensive Plan amendment would provide for the logical and orderly location of land uses, community services and facilities.** The Commission finds that the proposed designation of AU-C is logical and harmonious with the surrounding land uses and development, and is consistent with the land use designations of the surrounding property to the northeast and east of the subject property.
3. **The uses expected to occur as a result of the Comprehensive Plan amendment will be compatible with the surrounding area.** The zoning districts that are consistent with the AU-C designation exist within the current City Limits boundary to the north, northeast, and east. The adjacent properties to the north and east are primarily commercial.
4. **The size, type, and density of development expected to occur as a result of the Comprehensive Plan amendment will not place an undue burden upon delivery of services provided by any political subdivision within the planning jurisdiction.** The proposed designation is suitable for the area and will not unduly burden the neighborhood of public infrastructure. The subject property has direct access, via national highway, as well as sufficient and available public utility services to meet the needs of existing and future development. As part of the City's Capital Improvement Plan, sanitary sewer and water mains will be extended approximately 1600 feet to the south of the South Fork Palouse River Bridge. It is anticipated that the utilities will be extended in the summer of 2021.
5. **The proposed Comprehensive Plan amendment is deemed to be appropriate in consideration of changing conditions within the community that are not reflected within the current Comprehensive Plan (such as new development or re-development, land use patterns and/or trends, traffic patterns and/or volume, market demands, community vision and/or needs, capital improvements, or new or revised City plans).** The Commission finds that the land use patterns within the immediate vicinity of the subject property have been transitioning into more Auto-Urban Commercial uses. The Auto-Urban Commercial land use designation is consistent with commercial properties adjacent to the north, northeast, and east and a portion of the subject property is already within the Auto-Urban Commercial designation. The proposed change would increase the size of the Auto-Urban Commercial designation upon the subject property.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Planning and Zoning Commission recommends approval of the proposed Comprehensive Plan Land Use Designation change request for the approximately one-hundred fifty (150) acre property from the combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural designations to the Auto-Urban Commercial designation with no conditions.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this 4 day of November, 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 THE REZONE OF AN APPROXIMATELY ONE-HUNDRED FIFTY (150) ACRE AREA OF LAND PROPOSED TO BE ANNEXED INTO THE CITY OF MOSCOW AND LOCATED DIRECTLY WEST OF HIGHWAY 95 AND SOUTH OF THE CURRENT CITY LIMITS BOUNDARY FROM THE AGRICULTURE FORESTRY (AF) ZONE TO THE MOTOR BUSINESS (MB) ZONE.

WHEREAS, the applicant filed an application for Annexation, Comprehensive Plan Land Use Designation, and Rezone on September 11, 2020; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on October 14, 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 2019 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 150-acre property proposed to be annexed into the City of Moscow and located directly west of Highway 95 and south of the current City Limits boundary.
3. Under Idaho Code, prior to the annexation of the property within the City, the Planning and Zoning Commission is required to review the subject property and provide the City Council with a recommendation regarding the appropriate future land use designation and zoning designation to be applied to the subject property upon annexation.
4. The subject property is actively being used for agricultural production and is surrounded by primarily agricultural land to the west and the south, manufactured home parks and Idaho Transportation Department's service yard to the north, and a commercial business park to the northeast. Commercial uses to the east include Early Bird Building Supply, Wasankari Construction, Germer Construction, Primeland Cooperative, Bonkerz Play Center, Dale's Boats, Mundy's Welding, and also various residential uses.

5. Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural.
6. The applicant has concurrently proposed to change the Comprehensive Plan land use designation to the Auto-Urban Commercial designation.
7. According to the 2019 Comprehensive Plan, Auto-Urban Commercial designated areas are intended to,

“Provide for commercial services and developments that are motor vehicle oriented or those which require large amounts of land. These areas should be located adjacent to existing commercial developments and along major arterials where the vehicle traffic can be accommodated. Developments within these designations should be required to provide significant landscaping which would be applied to enhancing areas along the street edge, screening parking lots, and buffering adjacent uses. Such areas are most appropriately zoned Motor Business (MB).”
8. The subject property and adjacent properties immediately to the west, south, and some properties to the east are located in Latah County and are currently zoned Agriculture/Forestry (AF).
9. The properties to the east which are commercial are within the Motor Business (MB) or Industrial (I) Zones, and properties to the north within the City are primarily zoned MB. The City’s west Palouse River Drive Playfields property to the northwest is located within the Farm Ranch and Outdoor Recreation (FR) Zone.
10. The applicant is proposing to rezone the subject property from the Agriculture/Forestry (AF) Zone to the Motor Business (MB) Zone.
11. According to the City of Moscow Zoning Code, the purpose of the MB Zoning District is:

“provide for the location and grouping of compatible uses having similar operation as they involve enterprises which depend primarily on the transient motor vehicle-based trade. By concentrating such uses the City intends to increase public convenience when utilizing such services and, within the regulation, to allow such activities to render the maximum service.”
12. Uses permitted within the MB Zone include retail enterprises, offices, eating and drinking establishments, printing and publishing houses, religious institutions, residential uses, hotels and motels, off-street parking facilities, kennels, storage facilities, laundromats, and light manufacturing.
13. The subject property has property frontage along Highway 95. Highway 95 is designated as a National Highway and is developed as a 24-foot-wide paved roadway with northbound and southbound travel lanes and minimal gravel shoulders on both sides.
14. As part of the City’s Capital Improvement Plan, sanitary sewer is proposed to be extended approximately 1600 feet further south of the nearest main location which is near the South Fork Palouse River Bridge. Water mains will be extended approximately 400 feet further south down the old US95 right-of-way and both utilities will terminate approximately 1600 feet south of the South Fork Palouse River Bridge. The design for the project should be completed this fall and the project should go out to bid early spring. It is anticipated that the utilities will be extended in the summer of 2021.

15. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on September 10, 2020 to discuss the proposal.

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 rezone is consistent with the proposed 2019 Comprehensive Plan Land Use Designation of Auto-Urban Commercial.
2. **The proposed rezone would provide for the logical and orderly location of land uses and community services and facilities.** The proposed MB Zone is a continuation of the current zoning designation of property adjacent to the north, northeast, and east. The proposed zoning and uses are consistent with the surrounding area and will not unduly burden the neighborhood of public infrastructure.
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. The adjacent properties in along the Highway 95 corridor are all primarily commercial except for a few residential properties located within the MB Zone on the west side of the highway.
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 area 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 access via Highway 95, which can adequately serve any proposed development allowed in the MB Zone. As part of the City's Capital Improvement Plan, sanitary sewer and water mains will be extended approximately 1600 feet to the south of the South Fork Palouse River Bridge. It is anticipated that the utilities will be extended in the summer of 2021.

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 one-hundred fifty (150) acre property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone with no conditions.

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



Wendy McClure, Chair
Planning and Zoning Commission

PLANNING & ZONING COMMISSION



Wendy McClure
Commission Chair

~Meeting Minutes~
October 14, 2020

Mike Ray
Staff Liaison

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

208.883.7008

McClure called the meeting to order at 7:00 PM

MEMBERS PRESENT: Wendy McClure, Chair; Joel Hamilton (virtual), Michael Nelsen, Robb Parish (virtual), Nels Reese, Victoria Seever, Dennis Wilson

MEMBERS ABSENT: Rich Beebe, Scott Gropp

STAFF IN ATTENDANCE: Jennifer Fleischman, Sandra Kelly, Mike Ray

1. Approval of Minutes from September 23, 2020

Reese moved for approval of the minutes, seconded by Nelsen. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

2. Public Comment

None.

3. Public Hearing: Proposal for Comprehensive Plan Land Use Designation and Zoning Designation for an approximately 150 Acre Property Proposed to be Annexed into the City of Moscow and Located Directly West of Highway 95 and South of the Current City Limits Boundary: LUP2020-0023

1. *Comprehensive Plan Land Use Designation amendment from a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural to the Auto-Urban Commercial designation.*

2. *Rezoning of the subject property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone.*

Ray presented the application as indicated above, reminding that the Commission makes a recommendation to City Council of the appropriate zone and Comprehensive Plan designation prior to annexation. Imagery of the proposed site was shown, going into detail about the different zoning and land use areas in question. Ray explained what an Auto-Urban Commercial designation is intended for as well as a Motor Business Zone's intended use in the City of Moscow. He gave a quick overview of the planned realignment of Highway 95 and the City's Capital Improvement Plan which includes the extension of sanitary sewer and water mains to be constructed in 2021. Ray mentioned a plan to prevent "islands" of Latah County land if the property was annexed into the city, providing details about the particular problematic locations and what work is currently being done to address this.

Reese inquired whether it was a burden for the water and sewer lines to be extended and the City does not have an issue with it as it is part of the current Capital Improvement Plan.

McClure opened the public hearing at 7:13 PM

Jana Schultheis (applicant), Pullman, spoke about Schweitzer Engineering Laboratories' (SEL) desire and need to expand their facilities. She clarified that there is not currently a set project for this parcel of property, but this purchase and annexation request is set to be utilized within the next few years. Parish asked the applicant if the Motor Business (MB) zoning designation would give SEL enough flexibility for potential future uses and Schultheis agreed that MB is the desired zoning designation.

Rick Beebe, Moscow, spoke in favor of the proposal. Mr. Beebe mentioned a desire to grow and expand Moscow further with 300 acres directly west of SEL's property. Beebe asked that the Commission consider this plan when deliberating on the SEL annexation and rezone request.

Karl Tyler, Missoula MT, spoke in favor of SEL's request.

Jennifer Tengono, Moscow, spoke neutrally in representation of Karl Tyler's estate. Asked that information regarding utilities and access points to the adjacent properties be included in the Commission's recommendation to City Council.

McClure closed the public hearing at 7:26 PM

Reese and McClure were in favor of the Rezone and Land Use Designation for SEL's property. Parrish spoke with concern about the public hearing comments and requested information regarding a recommendation considering adjacent properties. Ray suggested that those conditions would be more appropriately addressed during the annexation hearing before City Council. Hamilton and Seever echoed their approval of the proposed requests.

Parrish moved for approval of the Comprehensive Plan Land Use Designation as recommended by Staff, seconded by Seever. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Reese moved for approval of the Rezone as recommended by Staff, seconded by Wilson. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

Parrish motioned to direct Staff to prepare the Reasoned Statement of Relevant Criteria and Standards for both the Comprehensive Plan Land Use Designation and Rezone, seconded by Nelsen. Vote by Acclamation: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

5. Review of Draft Sign Code

The Supreme Court Case, Reed vs. Town of Gilbert, in 2015 clarified when municipalities may impose content-based restrictions on signage. There are various places within the Sign Code which apply content-based restrictions and need to be amended to comply with the Supreme Court's ruling. Staff has completed a draft ordinance to convert portion of the sign code into table format and will review the progress with the Commission.

Ray reviewed the draft Sign Code as presented in previous meetings, with the updated changes as requested in the last meeting. He provided some clarification to the Commissioners about what signs would fall under the different sections.

Commission discussed increasing the number of temporary signs allowable on residential properties to three (3). It was decided to increase the number to (3) three signs per residential property in the code. Some more clarification occurred in regards to the consecutive period for temporary signs in non-residential areas. Discussion around making the code clearer in that section as well as the commercial uses section.

Ray reviewed the updated changes for temporary signs in the City right-of-way and asked for recommendations in regards to sign size for institutional uses in residential zones. Commissioners agreed

with Staff's suggestion to include a larger sign allowance of 32sf per freestanding or monument sign for institutional uses within residential zones, as well as the opportunity to increasing to 48sf with a Conditional Use Permit. After Staff makes the proposed changes, the draft code will be reviewed by the Legal Department and ready for final review at the December meeting.

4. Transportation Commission Meeting Report

Transportation Commission met on October 8 and discussed changes to the Transportation Commission City Code and Street Standards. Next meeting is scheduled for November 12.

5. Announcements

- Next regularly meeting is November 4, with a tentative field trip for the Public Art Lighting ordinance review scheduled for 6:00 PM at the north couplet.
- Last 2020 meeting scheduled for December 9.

The meeting adjourned at 8:10 PM



Wendy McClure, Chair

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY OF MOSCOW, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING THAT LAND DESCRIBED IN SECTION 1 OF THIS ORDINANCE, AND GENERALLY SHOWN ON EXHIBIT "A" ATTACHED HERETO AND INCORPORATED BY THIS REFERENCE, BE ANNEXED TO THE CITY OF MOSCOW; PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE BE DEEMED SEVERABLE; PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM AND AFTER PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, land described in Section 1 of this Ordinance is adjacent to City limits on one (1) side; and

WHEREAS, the owner of the one-hundred fifty-four (154) acre parcel, Schweitzer Engineering Laboratories (SEL), has requested to be annexed into the City of Moscow; and

WHEREAS, consistent with the Moscow annexation policy set forth in Resolution 2007-01, the City has expanded the annexation area described in Section 1 to include three (3) parcels that would be completely surrounded by the City as a result of the proposed SEL annexation; and

WHEREAS, Idaho Code Section 50-222 authorizes City annexation of tracts of land adjacent to the City; and

WHEREAS, the Moscow Planning and Zoning Commission held a public hearing regarding this matter on October 14, 2020; and

WHEREAS, the Moscow Mayor and City Council held a public hearing regarding this matter on November 16, 2020;

NOW THEREFORE, be it ordained by the Mayor and Council of the City of Moscow as follows:

SECTION 1: LEGAL DESCRIPTION. This Ordinance shall apply to the following described lands in Moscow, Latah County, Idaho, to-wit:

A parcel of land located in the East Half of Section 19, Township 39 North, Range 5 West, Boise Meridian, Latah County, Idaho, described as follows:

Commencing at the northwest corner of the Northeast Quarter of Section 19, thence along the west line of said Northeast Quarter, S0°56'59"W, 755.91 feet to the southwest corner of Plot 6 of Allen Tracts Addition to Latah County and the Point of Beginning:

Thence along the south line of said Plot 6, N88°10'33"E, 307.01 feet to the southwest corner of Plot 5 of Allen Tracts and a point on the west line of that parcel described in Warranty Deed, Instrument #200605;

Thence along said west Line, S0°53'08"W, 32.00 feet to the southwest corner of that parcel described in Warranty Deed, Instrument #200605;

Thence along the southerly boundary of said parcel, the following five courses:

Thence S69°18'42"E, 135.90 feet;

Thence N35°07'12"E, 105.10 feet, also to the south line of Plot 5 of Allen Tracts;

Thence also along the south line of said Plot 5, N88°10'33"E, 118.76 feet to the southwest corner of lot 4 of Allen Tracts;

Thence S50°49'13"E, 260.80 feet;

Thence N59°41'47"E, 117.95 feet to the southeast corner of that parcel described in Warranty Deed, Instrument #200605 and the southwest corner of that parcel described in Quitclaim Deed, Instrument #575310;

Thence along the east line of that parcel described in Warranty Deed, Instrument #200605 and along the west line of that parcel described in Quitclaim Deed, Instrument #575310, N0°54'23"W, 115.00 feet to the southwest corner of Plot 3 of Allen Tracts;

Thence along the south line of said Plot 3, N88°10'33"E, 305.97 feet to the southwest corner of Plot 2 of Allen Tracts;

Thence along the south line of said Plot 2, N65°27'57"E, 338.81 feet to the southeast corner of said Plot 2 and the northeast corner of that parcel of land described in Warranty Deed, Instrument #399677;

Thence along the east line of said parcel and the east line of that parcel of land described in Warranty Deed, Instrument #386744, S1°03'56"E, 481.70 feet to the northwest corner of that parcel of land described in Quitclaim Deed, Instrument #483891;

Thence along the northeasterly line of that parcel described in Quitclaim Deed, Instrument #483891, S46°55'27"E, 91.30 feet to the north line of that parcel of land described in Warranty Deed, Instrument #275244;

Thence along the west line of that parcel of land described in Warranty Deed, Instrument #275244, S10°12'45"W, 346.70 feet to the southwest corner of said parcel;

Thence S87°49'49"W, 0.51 feet to the westerly boundary of that parcel of land described in Warranty Deed, Instrument #381241;

Thence along said westerly boundary the following two courses:

Thence S4°59'37"W, 128.33 feet;

Thence S29°55'23"E, 245.90 feet to the southwest corner of that parcel described in Warranty Deed, Instrument #381241;

Thence along the south line of that parcel described in Warranty Deed, Instrument #381241, N87°46'37"E, 138.10 feet to the southeast corner of that parcel described in Warranty Deed, Instrument #381241 and the west right-of-way line of Highway 95;

Thence S79°57'23"E, 100.00 feet to the east right-of-way line of Highway 95;

Thence along said east right-of-way line the following three courses:

Thence S10°02'37"W, 2765.23 feet to highway station 1299+50, 50.00 feet right;

Thence S79°57'23"E, 25.00 feet;

Thence S10°02'37"W, 114.81 feet;

Thence leaving said east right-of-way line, N79°57'23"W, 125.00 feet to the west right-of-way line of highway 95 and the northeast corner of that parcel of land described in Warranty Deed, Instrument #579983;

Thence along the north line of said parcel, S83°24'08"W, 295.28 feet to the northwest corner of said parcel;

Thence along the west line of said parcel the following two courses:

Thence S3°13'01"E, 322.09 feet;

Thence S25°36'20"E, 39.50 feet to the southwest corner of said parcel;

Thence along the south line of said parcel, S78°03'33"E, 186.11 feet to the southeast corner of said parcel and the west right-of-way line of Highway 95;
Thence along said west right-of-way line, S10°02'37"W, 167.76 feet to the south line of the Southeast Quarter of Section 19;
Thence along said south line, N89°48'44"W, 1262.13 feet to the southwest corner of said Southeast Quarter;
Thence along the west line of said Southeast Quarter, N0°56'59"E, 2572.21 feet to the southwest corner of the Northeast Quarter of Section 19;
Thence along the west line of said Northeast Quarter N0°56'59"E, 1896.13 feet to the Point of Beginning.

Parcel contains 163.48 acres, more or less.

SECTION 2: ANNEXATION. The land described in Section 1 of this Ordinance be and the same hereby is annexed to the City of Moscow, Idaho and declared a part of the City of Moscow, Idaho; and, the City Engineer is hereby ordered to make the necessary amendments to the official maps of the City of Moscow which are on file at 221 East 2nd Street, Moscow, Idaho.

SECTION 3: 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.

SECTION 4: 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

RESOLUTION 2020 - __

A RESOLUTION OF THE CITY OF MOSCOW, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE DESIGNATION OF AN APPROXIMATELY ONE-HUNDRED FIFTY-SIX (156) ACRE PROPERTY LEGALLY DESCRIBED HEREIN AND AS SHOWN ON EXHIBIT "A" ATTACHED HERETO, AND INCORPORATED HEREIN BY THIS REFERENCE, AS AUTO-URBAN COMMERCIAL (AU-C); PROVIDING THAT THIS RESOLUTION BE IN EFFECT UPON ITS PASSAGE AND APPROVAL.

WHEREAS, the owner of the one-hundred fifty-four (154) acre parcel, Schweitzer Engineering Laboratories (SEL), has requested to be annexed into the City of Moscow; and

WHEREAS, consistent with the Moscow annexation policy set forth in Resolution 2007-01, the City has expanded the annexation area described below to include three (3) parcels that would be completely surrounded by the City as a result of the proposed SEL annexation; and

WHEREAS, in accordance with Idaho Code 50-222 and Chapter 65, Title 67, the City must determine the appropriate Comprehensive Plan Land Use Designation for the subject property upon annexation; and

WHEREAS, the subject property is currently located within the City of Moscow Area of City Impact and is designated as a combination of Auto-Urban Commercial, High-Density Residential, Auto-Urban Residential, and Rural and Agricultural upon the City of Moscow Comprehensive Plan; and

WHEREAS, the Planning and Zoning Commission, after conducting a duly noticed public hearing on October 14, 2020, and recommended that the Comprehensive Plan Land Use Designation of the subject property be changed to Auto-Urban Commercial (AU-C) upon annexation into the City of Moscow; and

WHEREAS, the Moscow City Council conducted a public hearing on November 16, 2020 and passed a motion to approve the designation of the subject property as Auto-Urban Commercial (AU-C) upon Annexation;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Moscow, Idaho as follows:

That the Comprehensive Plan Land Use Designation of the approximately one-hundred fifty-six (156) acres legally described below, be designated as Auto-Urban Commercial (AU-C) upon annexation into the City of Moscow, Idaho.

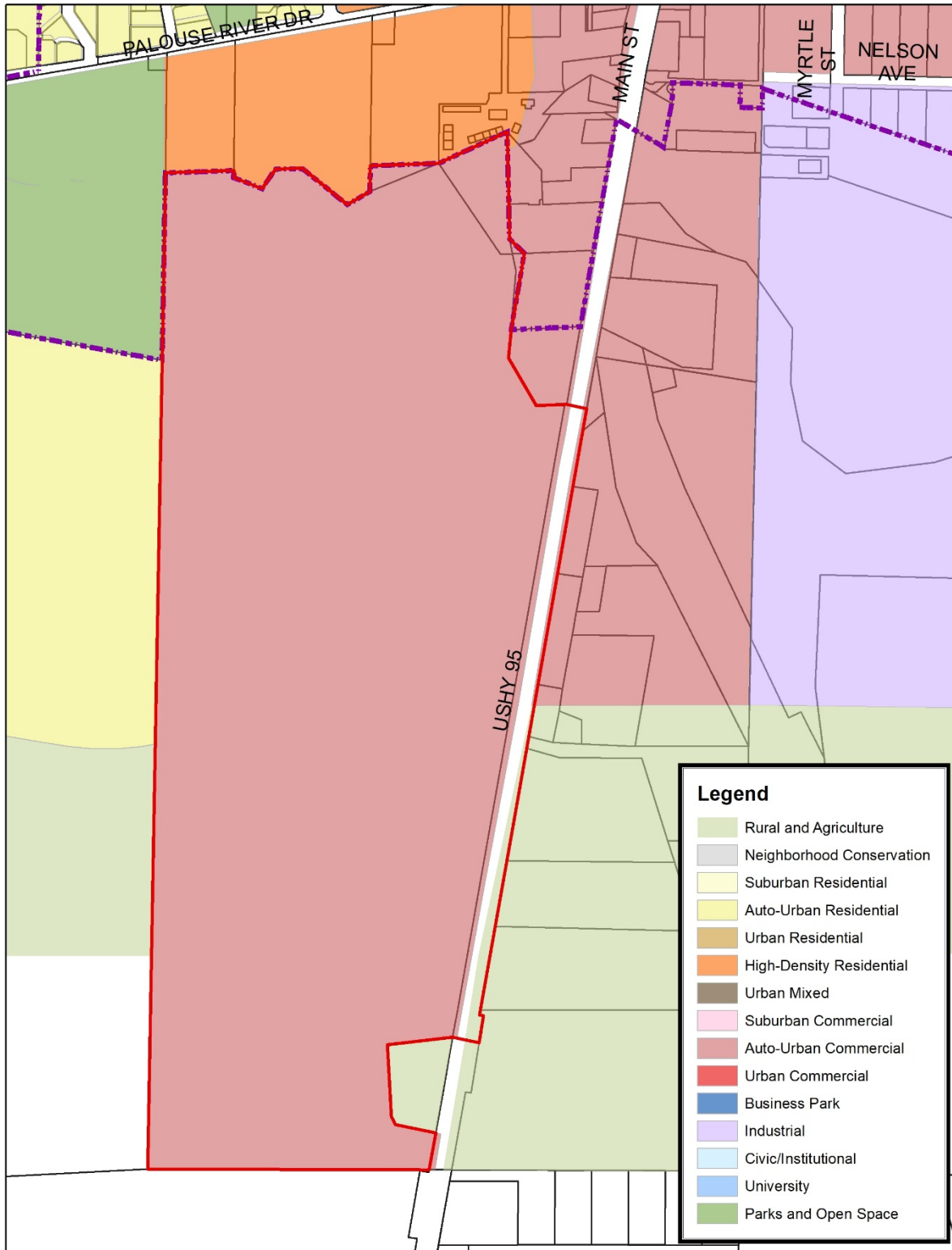
PASSED by the City Council and **APPROVED** by the Mayor this _____ day of _____, 2020.

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

EXHIBIT "A"



ORDINANCE NO. 2020 -

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE ZONING OF AN APPROXIMATELY ONE-HUNDRED FIFTY-SIX (156) ACRE PROPERTY, DESCRIBED IN SECTION 1 OF THIS ORDINANCE, AS MOTOR BUSINESS (MB); PROVIDING THAT THE PROVISIONS OF THIS ORDINANCE BE DEEMED SEVERABLE; PROVIDING FOR THIS ORDINANCE TO BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the lands described in Section 1 of this Ordinance are currently zoned Agriculture/Forestry (AF) within the City of Moscow Area of City Impact; and

WHEREAS, the proposed change from Agriculture/Forestry (AF) to Motor Business (MB) is consistent with the proposed 2019 Comprehensive Plan Land Use Designation of Auto-Urban Commercial (AU-C); and

WHEREAS, the proposed uses that would be allowed by the proposed zoning are consistent and compatible with the surrounding land uses, provide for the logical, orderly and efficient development of the subject property, and are consistent with the City of Moscow Comprehensive Plan; and

WHEREAS, on October 14, 2020, Moscow Planning and Zoning Commission held a duly noticed public hearing and recommended approval of zoning the subject property MB; and

WHEREAS, the Moscow City Council conducted a duly noticed public hearing and passed a motion to approve this zoning on November 16, 2020;

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

SECTION 1: LEGAL DESCRIPTION.

This Ordinance shall apply to the following described lands in Moscow, Latah County, Idaho, to-wit:

SECTION 2: ZONING. That the property described in Section 1 be and the same hereby is zoned Motor Business (MB); and, the City Engineer is hereby ordered to make the necessary amendments to the official maps of the City of Moscow which are on file at 221 East 2nd Street, Moscow, Idaho.

SECTION 3: 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.

SECTION 4: EFFECT ON OTHER ORDINANCES. Where the definitions contained in this Ordinance are in conflict with relevant portions of City of Moscow, Idaho Municipal Code, the definition contained within those portions of the Moscow Code will be unaffected until such time, if any, as they are amended to be consistent with this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

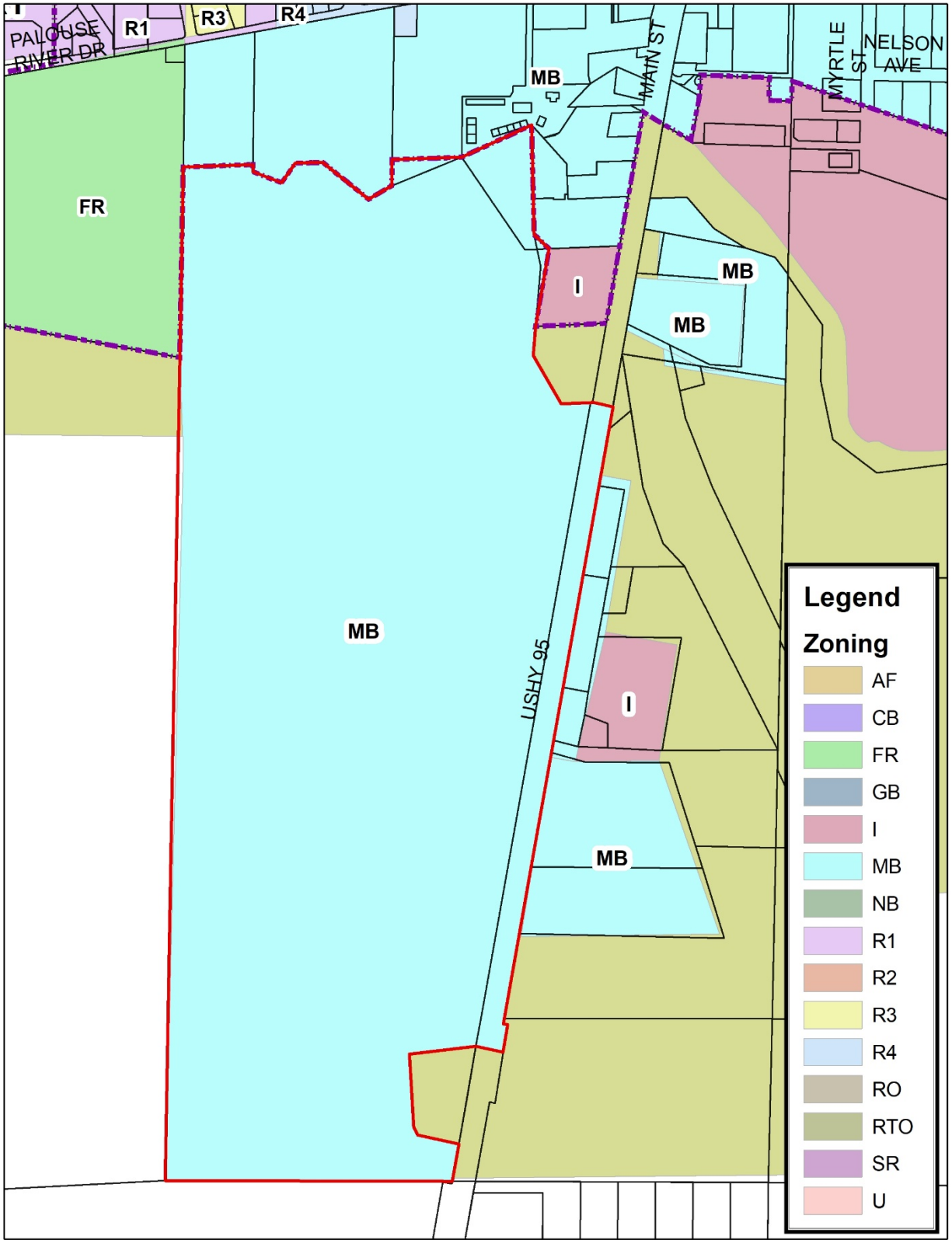
PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2020.

Bill Lambert, Mayor

ATTEST:

Laurie M. Hopkins, City Clerk

EXHIBIT "A"



CITY COUNCIL STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

Michael Ray, Assistant CD Director/Planning Manager

REVIEWED BY

Public Works/Finance Committee

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Ordinance Amending Title 4, Chapter 3 of Moscow City Code Regarding Amendments to the Telecommunications Code to Establish Standards for Small Wireless Facilities (ACTION ITEM) - Mike Ray

DESCRIPTION

Telecommunications service providers are currently in the process of deploying new cellular wireless technology, referred to as 5G/small cell, throughout the developed world. 5G/small cell high speed deployment will bring much higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers. Since small wireless facilities have a shorter range, they require a greater number of facilities which are typically located in the public right-of-way. 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 at some point in the future, Staff has worked with the Planning and Zoning Commission to draft an ordinance that addresses 5G/small cell installations in the telecommunications code. The proposed ordinance would define small wireless facilities, re-organize certain sections, make minor grammatical changes, and insert small wireless facility standards. On September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the proposed ordinance and recommended approval to City Council with a minor modification. This item was reviewed by the Public Works/Finance Committee on October 12, 2020 and considered on first reading by the Council on October 19, 2020 and second reading on November 2, 2020.

STAFF RECOMMENDATION

Approve the proposed Ordinance under suspension of the rules requiring a third complete reading and that it be read by title and published by summary.

PROPOSED ACTIONS

PROPOSED ACTIONS: Approve the proposed Ordinance under suspension of the rules requiring a third complete reading and that it be read by title and published by summary; or reject the Ordinance; or take such other action deemed appropriate.

FISCAL IMPACT

PERSONNEL IMPACT

N/A

ATTACHMENTS

1. Ordinance
2. Staff Memo
3. Legal Memo
4. P&Z Minutes
5. Public Hearing Notice
6. Public Comments
7. Chaney Comments
8. Hall Comments
9. Staff Memo - Chaney Hall Response

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, which is the basis for updating the City's telecommunication regulations; and

WHEREAS, the implementation of 5G technology will bring significantly higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers; and

WHEREAS, since small wireless facilities have a shorter range by which they transmit data, they 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 wireless 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 in order to 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 with minor modifications; and

WHEREAS, on October 19, 2020 the City Council conducted a public hearing and considered the amendments contained herein on first reading; and

WHEREAS, on November 2, 2020 the City Council considered the amendments contained herein on second reading; and

WHEREAS, on November 16, 2020 the City Council considered and adopted the amendments contained herein on third reading;

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~~ is used to provide commercial telecommunications services. This Section shall not apply to noncommercial antenna towers ~~exclusively used~~ exclusively 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 guy wires.
 - 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 co-location 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) is 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) or any rule that subsequently replaces 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 telecommunications 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 as permitted as lattice towers that qualify and are permitted as temporary antenna towers subject to Section 4.d. herein. Replacement, relocation or alteration of non-conforming lattice towers shall be subject to the Nonconformity Regulations in Section 4-1-6-7 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~~ (35²) feet in height in all Zoning Districts.
 - c. ~~Co-location shall be a permitted use if the property upon which such antenna is located is within one of the following Zoning Districts: U, RO, NB, RTO, CB, GB, MB, or I. An antenna may be co-located as a permitted use on existing antenna towers and antenna support structures in all zoning districts if the antenna extends no more than~~

- ~~eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from the existing tower or support structure. Colocation shall also be a permitted use on nonconforming antenna towers if the antenna extends no more than eighteen feet (18') above, and projects no more than eight feet (8') horizontally away from the nonconforming antenna tower. 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 (15) feet above, and projects no more than eight (8) feet 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, as determined by the Zoning Administrator.
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') feet in height shall be permitted within five hundred feet (500') feet 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') feet 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 adjacent property lines in all other zones by 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. NoEvery antenna andor antenna tower shall not 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. In any SR, R-1, R-2, R-3, or R-4 Zoning District, and in all other Zoning Districts when the adjacent property is zoned SR, R-1, R-2, R-3, or R-4 or occupied by a dwelling, hospital, school, library, or nursing home or similar use, 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). 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 no more than 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') feet above grade.

Additionally, one security sign not to exceed one (1) square foot may be provided on each fifty (50) lineal feet (50') of wall or fence enclosing the facility.

~~Antenna towers shall be separated from the property line of any adjacent property zoned SR, R-1, R-2, R-3, or R-4 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.~~

h. 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 ~~SR, R-1, R-2, R-3, and R-4 Zoning Districts~~ residential zoning district shall be surrounded by a minimum six (6') 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 (6') 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 for temporary use by authorized personnel. The parking area and driveway to it shall consist of asphalt, concrete, or gravel.
- vi. ~~Ancillary facilities located above ground for antennas in or directly adjacent to any SR, R-1, R-2, R-3, or R-4 Zoning District shall be set back a minimum of twenty-five feet (25') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties. Above ground ancillary facilities in any other Zoning District shall be located a minimum of fifty feet (50') from any SR, R-1, R-2, R-3, or R-4 zoned property, unless the applicant can demonstrate that the specific proposal will present no greater adverse visual and audio impacts to surrounding properties.~~ Ancillary facilities located above ground for antennas shall be set back a minimum of fifty (50) feet 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.

- i. Co-~~Location~~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') feet 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.i6-a.~~ 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.
- j. 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 ~~the Area of City Impact~~ 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.
- k. 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 as identified by a list maintained by the Community Development Department. 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 ~~Zoning Administrator decision or Board of Adjustment~~ the public hearing at which 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. ~~Additionally, the Zoning Administrator shall cause notice of any required public hearing for a proposed antenna tower to be mailed to owners of property within six hundred feet (600') of the permit application site not less than sixty (60) days prior to the public hearing.~~

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 (5) feet above and two (2) feet 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 (8) feet 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 (14) feet 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 (16) inch maximum width.
- (b) Top mounted. If the antenna shroud is located on top of the antenna support structure, the outer diameter shall be fourteen (14) inch maximum and the antenna shroud shall be no more than five (5) feet 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 (40) feet 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 fifty feet (250') from any other 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 (10) inch galvanized straight steel pole, powder coated black over zinc paint, with a foundation base of sixteen (16) inches in diameter designed to accommodate all necessary supporting equipment and a top antenna shroud of no more than fourteen (14) inches 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 5.6.e. 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.j.6.e. herein.
 - x. Notarized written commitment to allow co-location/shared use as specified in Section 5.i.i.6 herein (not required for small wireless facilities).
 - xi. Documentation by a certified radio frequency engineer demonstrating compliance with current 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. Upon the

construction of a small wireless facility, the City reserves the right to conduct annual NIER and RF emissions testing, as permitted by Federal and State regulations, by a certified radio frequency engineer to verify that the facility is in compliance with FCC standards. If the facility is found to not be in compliance with FCC standards, the City shall require the facility to be brought into compliance in accordance with the applicable Master License Agreement.

- 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.b.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.
- 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.

...

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

DRAFT

Memo

To: Mayor and City Council

From: Mike Ray, AICP - Planning Manager

Date: October 6, 2020

Re: Amendment of Moscow City Code Title 4, Chapter 3 Regarding Amendments to the Telecommunications Code to Establish Standards for Small Wireless Facilities

Telecommunications service providers are currently in the process of deploying new cellular wireless technology, referred to as 5G/small cell, throughout the developed world. Historically, cellular communication systems were designed to transport voice communications, which were easily handled with tall, high-power communications towers. As technology has evolved and wireless data demand has grown, those legacy towers have become overwhelmed with wireless data traffic. 5G/small cell high speed deployment will bring much higher data speeds and traffic through the use of higher-frequency radio waves, which have a shorter range than the frequencies used by previous cell phone towers. Since small wireless facilities have a shorter range, they require a greater number of facilities which are typically located in the public right-of-way.

In 2001, the City first adopted regulations and development standards specific to telecommunications facilities and antenna towers. Since 5G/small cell technology was not in existence at that time, the City's existing telecommunications code does not distinguish between the larger macrocell towers and small cell facilities. Since the existing code only contemplates macrocell towers, the co-location (locating an antennae and equipment on an existing structure such as a utility or light pole) is permitted by-right throughout the City without any standards. Therefore, there are currently no aesthetic, public safety, and visual clutter standards that would apply to small cell facilities in the existing code. In implementing a small cell program, the following objectives have been identified: Provide reasonable access to provide desired services; minimize visual clutter upon utility poles; ensure installations are as aesthetically pleasing as possible; ensure that installations do not obstruct sidewalks and roadways and do not interfere with light fixture function; create a permitting system that can facilitate processing of applications within the allotted time period; and coordinate with utility and street light owners.

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. Under the Telecommunications

Act, local jurisdictions have to provide telecommunications providers reasonable access within the public right-of-way and cannot effectively deny their ability to provide service. Additionally, local governments are prohibited from regulating wireless communications facilities based upon radio frequency (RF) emissions and effectively prohibiting delivering telecommunications services.

In September of 2018, the FCC issued a Declaratory Ruling that was intended to streamline the permitting of 5G/small cell deployments. The FCC ruling included maximum fees that can be charged for small cell applications and right-of-way use, new “shot clock” decision time frames for small cell applications (60 days for a co-location upon an existing utility pole and 90 days for a new standalone small cell tower), and a new appeal process for shot clock violations. The City Attorney has provided a legal memo regarding the regulations and limitations that pertain to the deployment of 5G/small cell facilities which is attached to this memo. The legal memo provides an analysis on RF limitations, fees, aesthetics, underground infrastructure, and minimum spacing of small cell facilities.

With the likelihood of 5G/small cell deployment in Moscow at some point in the future, Staff has worked with the Planning and Zoning Commission to draft an ordinance that addresses 5G/small cell installations in the telecommunications code. The proposed ordinance would define small wireless facilities, re-organize certain sections, make minor grammatical changes, and insert small wireless facility standards. The small wireless facility standards would apply to the installation of new small wireless facility antennas or the co-location on existing support structures. There are three categories of installations: Co-location upon existing antenna support structures; replacement combination light and antenna towers; and new small wireless facility antenna towers.

Co-location upon existing antenna support structures would be a permitted use and would be subject to standards such as height of antennas, shrouding of antennas and supporting equipment, maximum number of shrouds, shroud mounting method, and prohibiting the obstruction of lighting. Replacement combination light and antenna towers would apply to existing support structures such as light poles that would be replaced with a combination small wireless facility and the originally intended function (i.e. light pole). Standards for this type of installation would include requiring the replacement to be the same quality, color, design, style, and height as the existing structure, designed to internally accommodate all supporting equipment, and restricting the replacement of historic fixtures. New small wireless facility antenna towers would only apply to new towers and would be subject to standard such as maximum height, fully enclosed antenna and equipment shrouding, limiting the maximum number of shrouds, setting a minimum spacing distance between small cell antenna towers, and requiring a specific tower design.

While the Planning and Zoning Commission was researching and working on the draft 5G/small cell ordinance over the past year, the Sustainable Environment Commission was also discussing the RF emissions concerns that both commissions had received public comments on. The draft ordinance was presented to the Sustainable Environment Commission at their regular meeting on June 16, 2020 by Staff and the

Chair of the Planning and Zoning Commission to discuss a potential unified recommendation. After a lengthy discussion, the SEC voted to recommend that the P&Z 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 when appropriate.

On September 9, 2020, the Planning and Zoning Commission conducted a public hearing upon the proposed ordinance and recommended approval to City Council with a minor modification. The proposed ordinance has been scheduled for a public hearing before City Council at the Council's upcoming October 19, 2020 meeting.



ATTORNEY-CLIENT PRIVILEGED

LEGAL MEMORANDUM

DATE: June 12, 2020

TO: Mike Ray, Planning Manager

FROM: Mia Bautista, City Attorney

RE: Municipality Limitations regarding Deployment of 5G Small Wireless Facilities

C: Gary J. Riedner, City Supervisor
Bill Belknap, Deputy City Supervisor

QUESTION PRESENTED

Whether there are limitations placed on municipalities regulation of 5G Small Wireless Facilities in the Cities Rights of Way? Specifically, whether the City is permitted to deny an application for a 5G Small Wireless Facility based on concern for adverse health effects due to RF emissions?

SHORT ANSWER

Yes, the City has limitations regarding the requirements and restrictions we place on the deployment of Small Wireless Facilities within our city limits and in our rights-of-way.

No, the City is not permitted to deny an application for a 5G Small Wireless Facility based on concern for adverse health effects as long as the applicant is complying with the FCC's existing regulations regarding RF emissions. The City is also not permitted to outright deny the deployment of Small Wireless Facilities within our city limits.

RELEVANT STATUTES AND REGULATIONS

47 U.S.C. 224, 253 and 332(c)(7)

Federal Communications Commission, Declaratory Ruling and Third Report and Order, In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure

Investment, WT Docket No. 17-79 and WC Docket No. 17-84, Adopted September 26, 2018, FCC 18-133 (116 pages).

Federal Communications Commission, Declaratory Ruling and Third Report and Order, In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 and WC Docket No. 17-84, Adopted August 2, 2018, FCC 18-111 (140 pages).

DEFINITION – SMALL WIRELESS FACILITY

The FCC relies upon the following definition of “Small Wireless Facilities,” consistent with section 1.1312(e)(2), encompasses facilities that meet the following conditions:

- (1) The facilities—
 - (i) are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - (ii) are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - (iii) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume;
- (3) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (4) The facilities do not require antenna structure registration under part 17 of this chapter;
- (5) The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- (6) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

BACKGROUND

The history of the implementation and evolution of telecommunication regulations is extensive, which is evidenced by the lengthy Declaratory Rulings of the Federal Communications Commission (FCC). This legal memorandum is not intended to be an in-depth review and analysis of the FCC’s authority to issue authoritative interpretations of the relevant United States Code

(USC), or an in-depth analysis of the numerous issues discussed, but to focus on the limited questions presented.

The Federal Communications Commission (FCC), under the leadership of Chairman Pai, has made it clear that it “is pursuing a comprehensive strategy to Facilitate America’s Superiority in 5G Technology (the 5G FAST Plan). The Chairman’s strategy includes three key components: (1) pushing more spectrum into the marketplace; (2) updating infrastructure policy; and (3) modernizing outdated regulations.” -fcc.gov/5G

The FCC believes that we are on the brink of a technological revolution and failure to speed up the implementation and deployment of enhanced 4G and 5G networks could have negative effects on job and economic growth. The FCC found regulatory requirements were unnecessarily impeding deployment of wireless broadband networks and took steps to remove or reduce those impediments to serve a greater public interest with its Declaratory Rulings. The Declaratory ruling contained in FC 18-133, is intended to clear the different and conflicting views regarding the scope and nature of the limits imposed on state and local governments through USC Sections 253 and 332.

DISCUSSION

The Commission has observed that, “Each local government may believe it is simply protecting the interests of its constituents. The telecommunications interests of constituents, however, are not only local. They are statewide, national and international as well. We believe that Congress’ recognition of this fact was the genesis of its grant of preemption authority to this Commission.” (FCC 18-133, Pg. 22-23).

The Commission provided significant legal and legislative history to support its interpretation of the applicable United States Code regarding what particular requirements would be preempted and addressed various court rulings interpreting the same statutes. The Declaratory Rulings address fees and other state and local requirements that govern the deployment of small facilities.

The FCC’s Third Report and Order and Declaratory Ruling, FCC 18-111, explains that 47 USC 224, grants the FCC with broad authority “to regulate attachments to utility-owned and controlled poles, ducts, conduits, and rights-of-way.” The Act further authorizes the FCC to “prescribe rules to: ensure that the rates, terms, and conditions of pole attachments are just and reasonable; require utilities to provide nondiscriminatory access to their poles, ducts, conduits, and rights of way to telecommunications carriers...” (Pg. 4).

The FCC Declaratory order, FCC 18-111, specifically states “Section 253(a) of the Act specifies that ‘[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.’ Notwithstanding that clear admonition, some states and localities have adopted moratoria on the deployment of telecommunications services or telecommunications facilities, including explicit refusals to authorize deployment and dilatory tactics that amount to *de facto* refusals to allow deployment. To provide regulatory certainty and further deployment, we issue this Declaratory Ruling making clear that such state and local moratoria violate section

253(a) and strike at the heart of the ban on barriers to entry that Congress enacted in that provision.” (Pg. 84)

The FCC Declaratory Order also states “As the Eighth Circuit has explained, section 253(a) of the Act provides ‘a rule of preemption[]’ that articulates a reasonably broad limitation on state and local governments’ authority to regulate telecommunications providers.”¹ Section 253(b) provides an exception for state requirements that are competitively neutral, consistent with section 254 of the Act, and “necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.”² Section 253(c) provides another set of exceptions to the limits on state and local authority by specifying that nothing in section 253 “affects the authority of a State or local government to manage their public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for the use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.” Section 253(d) requires the Commission, after notice and comment, to preempt the enforcement of specific state or local requirements that are contrary to section 253(a) or (b) “to the extent necessary to correct such violation or inconsistency.”³ Pursuant to section 253(d), the Commission has preempted both state and local actions that prohibit or have the effect of prohibiting the ability of any entity to provide telecommunications services, such as a locality’s denial of franchise applications from a new competitor,⁴ provisions in state

¹ *Level 3 Commc’ns, LLC. v. City of St. Louis, Mo.*, 477 F.3d 528, 531–32 (8th Cir. 2007) (*Level 3*).

² 47 U.S.C. § 253(b); see also *Western Wireless Corp. Petition for Preemption of Statutes and Rules Regarding the Kansas State Universal Service Fund Pursuant to Section 253 of the Communications Act of 1934*, File No. CWD 98-90, Memorandum Opinion and Order, 15 FCC Rcd 16227, 16231–32, para. 9 (2000).

³ 47 U.S.C. § 253(d). In the discussion below, we discuss the relation between subsections (d) and (a) and find that the former does not preclude us from issuing this *Declaratory Ruling* under subsection (a). See *infra* section IV.B.3.

⁴ See *Classic Telephone, Inc.; Petition for Preemption, Declaratory Ruling and Injunctive Relief*, CCBPol 96-10, Memorandum Opinion and Order, 11 FCC Rcd 13082, 13101, para. 36 (1996) (*Classic Telephone*).

codes that protect rural incumbents,⁵ and a state grant of an exclusive license to provide telecommunications services.⁶” (Pg. 84)

Declaratory Ruling FCC 18-111, makes it clear that USC Section 253(a) bars state and local moratoria on telecommunication services and facility deployment because they “prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunication service.”

47 U.S.C. 253 in its entirety states,

§253. REMOVAL OF BARRIERS TO ENTRY

(a) In general

No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

(b) State regulatory authority

Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 of this title, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

(c) State and local government authority

Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

(d) Preemption

If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b) of this section, the Commission shall

⁵ See *Public Utility Commission of Texas et al., Petitions for Declaratory Ruling and/or Preemption of Certain Provisions of the Texas Public Utility Regulatory Act of 1995*, CCBPol 96-14 et al., Memorandum Opinion and Order, 13 FCC Rcd 3460, 3466, para. 13 (1997) (*Public Utility Comm’n of Texas*); *Silver Star Telephone Company, Inc. Petition for Preemption and Declaratory Ruling*, CCB Pol 97-1, Memorandum Opinion and Order, 12 FCC Rcd 15639, 15658, para. 42 (1997), *aff’d sub nom. RT Commc’ns, Inc. v. FCC*, 201 F.3d 1264 (10th Cir. 2000) (*RT Commc’ns*).

⁶ See *Connect America Fund (Sandwich Isles Communications, Inc.) Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary and Sections 36.611 and 69.2(hh) of the Commission’s Rules*, WC Docket No. 10-90, CC Docket No. 96-45, Memorandum Opinion and Order, 32 FCC Rcd 5878, 5888, para. 26 (2017).

preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

(e) Commercial mobile service providers

Nothing in this section shall affect the application of section 332(c)(3) of this title to commercial mobile service providers.

(f) Rural markets

It shall not be a violation of this section for a State to require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) of this title for designation as an eligible telecommunications carrier for that area before being permitted to provide such service. This subsection shall not apply—

(1) to a service area served by a rural telephone company that has obtained an exemption, suspension, or modification of section 251(c)(4) of this title that effectively prevents a competitor from meeting the requirements of section 214(e)(1) of this title; and

(2) to a provider of commercial mobile services.

(June 19, 1934, ch. 652, title II, §253, as added Pub. L. 104–104, title I, §101(a), Feb. 8, 1996, 110 Stat. 70.)

In the Matter of Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79 and WC Docket No. 17-84, Declaratory Ruling and Third Report and Order, Adopted September 26, 2018, FCC 18-133, the Commission stated.

“9. In the Declaratory Ruling, we note that a number of appellate courts have articulated different and often conflicting views regarding the scope and nature of the limits Congress imposed on state and local governments through Sections 253 and 332. We thus address and reconcile this split in authorities by taking three main actions.

10. First, we express our agreement with the U.S. Courts of Appeals for the First, Second, and Tenth Circuits that the “materially inhibit” standard articulated in 1997 by the Clinton-era FCC’s California Payphone decision is the appropriate standard for determining whether a state or local law operates as a prohibition or effective prohibition within the meaning of Sections 253 and 332.

11. Second, we note, as numerous courts and prior FCC cases have recognized, that state and local fees and other charges associated with the deployment of wireless infrastructure can unlawfully prohibit the provision of service. At the same time, courts have articulated various approaches to determining the types of fees that run afoul of Congress’s limits in Sections 253 and 332. We thus clarify the particular standard that governs the fees and charges that violate Sections 253 and 332 when it comes to the Small Wireless Facilities at issue in this decision.⁹ Namely, fees are only permitted to the extent that they are nondiscriminatory and represent a reasonable approximation of the locality’s reasonable costs. In this section, we also identify specific fee levels for the deployment of Small Wireless Facilities that

presumptively comply with this standard. We do so to help avoid unnecessary litigation over fees.

12. Third, we focus on a subset of other, non-fee provisions of local law that could also operate as prohibitions on service. We do so in particular by addressing state and local consideration of aesthetic concerns in the deployment of Small Wireless Facilities, recognizing that certain reasonable aesthetic considerations do not run afoul of Sections 253 and 332. This responds in particular to many concerns we heard from state and local governments about deployments in historic districts.” (Pg. 3-4)

Excerpts that address the Commission’s ruling on Radio Frequency (RF) emissions, fees, aesthetics, underground infrastructure, and spacing requirements are included below.

RF Limitations:

The Declaratory Ruling made it clear that the Small Wireless Facilities are subject to the same RF emissions exposure limits that are already in place. This Ruling does not modify the RF exposure limits for Small Wireless Facilities. The City is not permitted to deny an application for a Small Wireless Facility if the RF exposure limits are within the approved range already established.

Fees:

The Declaratory Ruling’s decision regarding fees is as follows:

Based on our review of the Commission’s pole attachment rate formula, which would require fees below the levels described in this paragraph, as well as small cell legislation in twenty states, local legislation from certain municipalities in states that have not passed small cell legislation, and comments in the record, we presume that the following fees would not be prohibited by Section 253 or Section 332(c)(7): (a) \$500 for non-recurring fees, including a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five, or \$1,000 for non-recurring fees for a new pole (i.e., not a collocation) intended to support one or more Small Wireless Facilities; and (b) \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW. (FCC 18-133, Pg 45).

Aesthetics:

The Declaratory Ruling addressed aesthetic requirements and concluded that, “aesthetics requirements are not preempted if they are (1) reasonable, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and published in advance.” (FCC 18-133, Pg. 45). The Declaratory Ruling further explains that “in order to establish that they are reasonable and reasonably directed to avoiding aesthetic harms, aesthetic requirements must be objective—i.e., they must incorporate clearly-defined and ascertainable standards, applied in a principled manner—and must be published in advance. ‘Secret’ rules that require applicants to guess at what types of deployments will pass aesthetic muster substantially increase providers’ costs without providing any public benefit or addressing any public harm. Providers cannot design

or implement rational plans for deploying Small Wireless Facilities if they cannot predict in advance what aesthetic requirements they will be obligated to satisfy to obtain permission to deploy a facility at any given site.” (FCC 18-133, Pg. 45).

Underground Infrastructure:

Imposing a regulation that all infrastructure be deployed underground would likely amount to an effective prohibition and not permitted, but there may be circumstances that would justify requiring such. (FCC 18-133, Pg. 46).

Minimum Spacing:

Imposing minimum spacing requirements are permitted so long as they are reasonable aesthetic requirements, safety requirements, or any other articulable reasonable basis that is made publicly available in advance. (FCC 18-133, Pg. 46). Consideration should be given to the current practice of spacing requirements, if we make the minimum spacing requirements more restrictive than our current practice we need to be able to articulate the reasonable basis for the difference.

CONCLUSION

The City is allowed to:

- 1) Develop application criteria and processes, so long as the criteria and processes are reasonable, clearly defined and ascertainable;
- 2) Develop reasonable and targeted construction standards;
- 3) Charge the presumptively reasonable fees set by the FCC or set fees that are nondiscriminatory and represent a reasonable approximation of the City’s reasonable cost;
- 4) Implement reasonable and not overly burdensome aesthetic restrictions/requirements that may include factors such as:
 - a. Technically feasible;
 - b. Compatibility with nearby land uses;
 - c. Traffic safety;
 - d. Coordinate various uses;
 - e. Protect integrity of historic, cultural, and scenic resources;
 - f. Minimum spacing; and
 - g. Underground infrastructure in specific circumstances.

The City is not allowed to:

- 1) Place a moratoria on the deployment of 5G Small Wireless Facilities in our community;
 - a. No express moratoria where we implement laws, regulations, or legal requirements that expressly by their terms, prevent or suspend the acceptance, processing or approval of applications or permits.
 - b. No de facto moratoria, where our local actions would effectively halt or suspend the application process.
- 2) Deny an application for installing 5G Small Wireless Facilities on the basis it will produce RF emissions;

- 3) Implement criteria or standards that will “materially inhibit” the deployment of Small Wireless Facilities.

Please note there are cases pending and additional actions pending with the FCC that may impact some of the conclusions reached in this memo. I will continue to follow the progress of those cases and watch for any additional guidance or orders the FCC may publish. I do not believe the fact that there is pending lawsuits or matters scheduled before the FCC should slow us down from moving forward with finalizing and implementing our ordinance, application and permitting process.

PLANNING & ZONING COMMISSION



Wendy McClure
Commission Chair

p&z@ci.moscow.id.us

~Meeting Minutes~
September 9, 2020

Mike Ray
Staff Liaison

208.883.7008

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

McClure called the meeting to order at 7:01 PM

MEMBERS PRESENT: in person: Wendy McClure, Chair; Mike Nelsen, Robb Parish, Victoria Seever, Dennis Wilson

via Zoom: Joel Hamilton

MEMBERS ABSENT: Rich Beebe, Nels Reese

STAFF IN ATTENDANCE: Mike Ray, Sandra Kelly, Jennifer Fleischman

1. Approval of Minutes from August 12, 2020 [ACTION ITEM]

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

2. Public Comment

None.

3. Public Hearing: Legislative Hearing 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 [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 presented about amendment of Moscow City Code. Gave brief background of cellular communication systems while reviewing historical and current cellular tower styles housed in Moscow. Provided images of proposed 5G cell tower modifications and addressed visual clutter concerns. Outlined Small Cell Program objectives:

- Provide reasonable access to provide desired services
- Minimize visual clutter upon utility poles
- Ensure installations are as aesthetically pleasing as possible

- Ensure that installations do not obstruct sidewalks and roadways and do not interfere with light fixture function
- Create a permitting system that can facilitate processing of applications with allotted time period dictated by FCC
- Coordinate with utility and street light owners

Presented on the background of the Telecommunications Act and the FCC new ruling that was intended to streamline the permitting of 5G small cell deployments. This affects the maximum fees that can be charged for small cell applications and right-of-way use, decision time frames for small cell applications, and appeal process for violations.

Existing telecommunications code was briefly touched on, noting that small cells are not currently addressed in the City Code. Staff provided a draft Small Cell Ordinance Amendment with several stipulations that would change current code to include Small Cell regulation rules:

- Defining Small Wireless Facilities and Facility standards
- Addresses co-location standards upon existing support structures
- Replacement of existing antenna support structures
- New small wireless facility antenna tower standards

Sustainable Environment Commission recommended that the P&Z Commission continue with the Small Cell Ordinance draft provided by Staff. SEC would move forward with a recommendation in the future if the legal landscape changes and health concerns are allowed to be addressed.

Ray indicated that a lot of the public comments have been implemented into the draft Ordinance. One common concern was also changed to add more clarification addressing the FCC regulations regarding radio frequency compliance. An amended draft ordinance incorporating the additional requirements was distributed for the Commission's consideration.

McClure asked if the FCC standards should change and become more stringent, should that be addressed in the Ordinance. Ray indicated that the Ordinance would accommodate any changes to the FCC as it speaks to the current regulations. Staff recommendation is to forward the proposed draft Ordinance to City Council.

McClure mentioned that the majority of the negative public comments have been in regards to health and safety, and requesting small cells not be placed in residential zones, however the City doesn't appear to have the liberty to prevent that and asked if that was Staff's impression as well. Ray responded affirmatively.

Wilson asked about the 40ft limit for the poles, which Ray indicated would be from grade. Hamilton said he liked the additions that Staff made to the draft Ordinance and McClure agreed.

Public hearing opened at 7:25pm.

Public hearing closed at 7:25pm.

Seever brought up the concerns about the health effects and how little the Commissioners can do in changing current FCC regulations. Parish commends the Commissioners on doing so much work to create an Ordinance that tries to limit Small Cell within the current parameters set by FCC and proposes coming back to address this Ordinance again in the future to see if anything else can be improved.

Seever thanked Mia Bautista, City Attorney, for working so hard on handling this issue. McClure agrees that everything was done that the Commission and City could do in regards to the ordinance.

Hamilton moved to recommend approval of the draft Ordinance with the proposed redline adjustments, seconded by Nelson. Motion was approved with acclamation.

5. Public Art Lighting Discussion [ACTION ITEM]

With the installation of the recent public art project, there has been some discussion amongst Staff regarding the lighting of public art in the City. Currently the majority of lighting is required to be full cut-off with up-lighting only permitted in certain circumstances. The Art Department would like to request that the Commission review the current lighting ordinance to see if there's a possibility of providing an exemption from the full cut-off requirement for public art.

Ray presented background on Public Art Lighting, including proposal by artists to add lighting to current art installation in Moscow. Art installation pictures and lighting plans were shown. A memo from Arts Department to support lighting for other art installations around town was also reviewed. The current outdoor lighting ordinance requires that all lights be full cut-off, with some exceptions in residential areas.

Seever requested a definition of “full cut-off” and Ray explained the stipulations. Non-residential full cut-off lighting is exempted in limited scenarios. There is a possibility of addressing amendments to the code for lighting of public art that could be woven into the current exemptions.

Parish expressed approval of having lighting for public artwork. Suggested an exemption in the code may be the easiest way to make the change. Seever and McClure both agree as well. Hamilton advocates for the black sky initiatives and is worried about the public response to allowing more up-lighting options. Would like to see an option of having the light focused more closely on the artwork instead of spreading into the sky. Discussion about the “slippery slope” of where art lighting stops and other lighting exceptions will start. McClure asked Ray if it would be better to have a conditional use application. Staff said it is an option to have Board of Adjustment review all lighting applications, but not advisable because of the simplicity of such proposals.

Ray clarified that this exemption would only cover city owned art projects. Parish suggested this be sent to the City Attorney to make sure that it would be legal to have exclusive exemptions to city owned art. Ray said he would bring it to the City Attorney. Discussion around public art versus private art installations. Hamilton would like to see shrouding suggestions to prevent light pollution. Gropp will research some options and report back. Ray mentioned that the Arts Department would be heavily involved in any art installation project and lighting for it.

Subject will be placed on the agenda until next meeting, where Staff will provide draft language.

4. Review of Draft Sign Code Status [ACTION ITEM]

The Supreme Court Case, Reed vs. Town of Gilbert, in 2015 clarified when municipalities may impose content-based restrictions on signage. There are various places within the Sign Code which apply content-based restrictions and need to be amended to comply with the Supreme Court's ruling. Staff has started to convert portion of the sign code into table format and will review the progress with the Commission.

Ray requested this topic be tabled until next meeting.

5. Transportation Commission Meeting Report

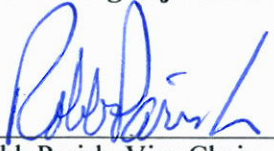
Transportation Commission meeting September 10. Working on paring down ex-officio memberships and reviewing City's Capital Improvement plan. Will be electing officers since the Chair and Vice Chair positions have recently become vacated.

6. Announcements

Welcomed two new staff: Jennifer Fleischman as Deputy City Clerk, and David Harlan as Digital Media Specialist. Thanked Mayor Bill Lambert for note and tumblers presented to Commissioners.

Seever announced that the Commission survey has been sent out.

The meeting adjourned at 7:53 PM



Robb Parish, Vice Chair

NOTICE OF PUBLIC HEARING

Legislative Hearing Providing for the Amendment of Title 4, Chapter 3 of Moscow City Code Regarding Amendments to the Telecommunications Code

A public hearing at which you may be present and speak will be conducted before the Moscow City Council at which time the following proposals will be considered:

Legislative Hearing 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.

The City of Moscow Planning and Zoning Commission conducted a public hearing on the proposed ordinance on September 9, 2020 and recommended approval to City Council.

HEARING DATE: Monday, October 19, 2020

HEARING LOCATION: Council Chambers on the Second Floor of Moscow City Hall
206 East Third Street, Moscow, Idaho

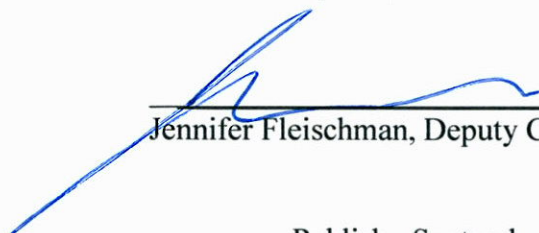
MEETING TIME: 7:00 p.m.

Note: Meeting start time is not necessarily indicative of hearing start time for the proposal advertised in this notice. Multiple hearings and/or agenda items may make it difficult to determine hearing start time, which could occur late in the meeting.

The file containing information on this matter is available for public review at the Community Development Department located in the Paul Mann Building at 221 East Second Street, Moscow, Idaho. Call 883-7035 to get a meeting agenda and further information about the matter.

Verbal testimony at the hearing is generally limited to three (3) minutes time. Minor amounts of written materials (less than two (2) pages) may be submitted to the hearing body at any time prior to the close of comments, as determined by the hearing body. More in-depth written materials require at least five (5) calendar days for review prior to the hearing. You may obtain further information about the public hearing process and procedures on the City's Website at: <http://id-moscow.civicplus.com/593/Public-Hearing-Notices>

Laurie M. Hopkins, Moscow City Clerk



Jennifer Fleischman, Deputy City Clerk

Publish: September 19, 2020

To: Mike Ray, Staff Liaison, Moscow Planning and Zoning Commission

From: George Bedirian

Subject: Comments on Small Cell Facility Draft Ordinance

Date: September 8, 2020

The preamble to the Small Cell Facility Draft Ordinance articulates the City's desire “to encourage the location and co-location of transmission equipment on existing structures, to reduce visual clutter, promote public safety, and reduce impacts to the existing built environment”; “to protect and promote the public health, safety and welfare of the community”; and “to protect and promote the character of the City.” Needless to say, these are important and laudable goals. However, in its overwhelming emphasis on issues relating to the deployment of wireless infrastructure in a manner that adheres to FCC regulations, the draft foregoes a number of opportunities to strengthen the protections it seeks to advance.

With the following comments, I would like to offer a number of recommendations with an eye to enabling the ordinance to provide a more robust array of protections to the well being of the community and its environment..

Regarding compliance with FCC RF emissions standards:

Section 7 of the draft, “Permits Required,” states (7.c.xi) that applicants for building permits must provide “documentation of such compliance. Later, Section 10.b requires service providers to provide “an annual written statement verifying continued . . . compliance with state and federal agency regulations,” which would presumably include adherence to FCC emissions standards. In both these instances, no mention is made of what the source of these assurances should be, implying that the source could well be the applicant/provider.

Rather than relying solely on service providers to monitor and certify themselves, perhaps it would serve the public interest better if the city were to add a second layer of protection, as it were, by reserving the right to retain a qualified independent radio frequency engineer to conduct, at random intervals, unannounced tests, the reasonable costs of which would be borne by the carrier, of wireless installations to certify FCC emissions standard compliance.

A third level of protection would be to require performance bonds of carriers. I discuss this more fully in the final section of these comments.

Regarding the siting of wireless infrastructure throughout the city:

The draft ordinance contemplates the placement of wireless infrastructure across all zones without hindrance or without recognizing any distinction among zones in terms of the primary types of activities conducted and their relative aesthetic and emotional impacts. But the city could move some way toward recognizing these distinctions, promoting the public welfare, and perhaps allaying some concerns about safety, by making a good faith effort to steer the placement of infrastructure by expressing in the ordinance preferences as to its location. This could be as simple as stating location preferences, from most preferred to least preferred, in industrial zones, commercial zones, mixed commercial and industrial zones, and residential zones. Or it could be more nuanced, linking relative preferences to specific zones within any or all of the aforementioned categories.

In addition to location preferences, the city could articulate preferences regarding the configuration of wireless infrastructure. In fact, in expressing a preference for co-locating facilities, it has already taken a step in this direction. Again, an order of preference from most to least preferred

could look like this: collocation with existing facilities, roof-mounted, building-mounted, mounted on an existing pole, mounted on a new or replacement pole, mounted on a new telecommunication tower.

Regarding building permit application requirements:.

Referring again to Section 7, paragraph c lists a number of items applicants for building permits might be required to provide at the discretion of the Zoning Administrator, who might also require additional unnamed supporting material. I propose that the following be included among the named items required of building permit applicants:

A traffic control plan demonstrating the protective measures that will be employed during installation/construction of facilities to prevent injury or damage to persons and property and to minimize disruptions to the free flow of pedestrian and vehicular traffic.

Documentation demonstrating good faith efforts to locate and configure facilities in accordance with any expressed location or configuration preferences.

Documentation that all property owners within 250 feet of any proposed installation(s) have been notified of the filing of an application for a permit within five days of such filing.

An executed indemnification agreement holding the city and its agents harmless against claims and actions to attack, set aside, void, or annul an approval of the city concerning the permit and the project.

All required documentation to demonstrate either full compliance with National Environmental Policy Act requirements or the basis for any claimed exemption from those requirements, plus proof that each exempt installation meets prescribed requirements.

Regarding additional requirements:

The ordinance should also include the following requirements:

Payment of an application and processing fee and a deposit for consultant review if applicable.

Provision of a performance bond as a guarantee that no installation, including any co-located equipment, exceeds or will exceed allowable FCC limits for RF exposure as determined by a qualified independent RF engineer. The bond should remain in effect until the covered facility is removed. In addition to covering removal, it should also cover maintenance and landscaping obligations.

A provision that the application for a building permit, including all related documents, shall be made available for public inspection and copying.

A provision to establish an effective setback for installation in commercial and industrial zones with a 1,000 foot setback from any of the following: Residential zones, mixed use zones, schools, daycare facilities, medical facilities, nursing homes, parks, playgrounds, sports facilities, houses of worship.

Carriers should be required to repair any damage to infrastructure, from streets and sidewalks to underground utilities and sewer lines, resulting from installation of wireless facilities.

Carriers should be required, as new technology becomes available, to replace larger, more visually intrusive facilities with smaller, less visually intrusive ones.

A provision requiring proof and documentation that the applicant and corporate operator of any proposed small cell antenna have obtained liability insurance which does not include a "pollution" exclusion.

A requirement to provide adequate fall zones for each small cell facility to minimize the possibility of damage or injury resulting from pole collapse or failure, ice or debris fall, etc.

Finally, if at all feasible, carriers should be required to locate all small cell equipment not to be installed on or inside a pole to be located underground.

I hope you find these recommendations worthy of consideration.

Michael Ray

From: Romney Boehm <florafairy@earthlink.net>
Sent: Wednesday, September 09, 2020 3:13 PM
To: Planning & Zoning Commission; Michael Ray
Subject: 5G regulations, comments

CAUTION: This message originated from outside the City of Moscow's network. Exercise caution when clicking links or opening attachments. If in doubt, please contact Information Systems at extension 7004.

To the Moscow Planning and Zoning Commission and Mike Ray,

I have heard that you have been open to hearing from people with concerns about 5G, and I appreciate that. I hope you can find ways to include our concerns in your proposals.

It feels so counterintuitive to have federal regulations that say we can't protect our own health, the health of our community, and future generations. Yet, there are such regulations that apply to 5G, at this time. The things I have heard indicating the possible and probable health risks of EMFs and 5G have sounded very alarming to me. I find myself not knowing how to write about these concerns. At this time, with so many voices in the news, so many commentaries and opinions, and people thinking... who to believe..., I wonder how can I be a voice that is listened to and taken seriously?

Then I wonder... what if we weren't allowed to think that COVID-19 was or could be dangerous? What if all sorts of medical workers and researchers around the world weren't receiving support and encouragement to study it? What if the City and citizens weren't allowed to take precautions on behalf of our health in our concerns about the virus?

I try to break down different words. "Health concerns" can translate to "suffering". It can also, in some cases, become "life or death". I can break down all the things I've heard connected to EMF and 5G, their possible affects on people... neurological and psychological, reproductive, cardiac, stroke, cancer. There are way more illustrative ways to consider these words.

Along these lines is why I care about these regulations. And why I think EMF and 5G need to be studied more by independent researchers before rolling them out more. And why I wish that people were given the chance to make informed choices... real choices, on something like this. Wishing that we'd be allowed the chance to learn and to protect ourselves.

Please consider the following for inclusion in your proposal for regulating 5G in Moscow:

1. A provision to allow installation only in commercial and industrial zones not in or within 1,000 feet of residential zones and mixed use zones.
2. A provision to establish an effective setback for installation in commercial and industrial zones with a 1,000 foot setback from any of the following: Residential zones, mixed use zones, schools, daycare facilities, medical facilities, nursing homes, parks, playgrounds, sports facilities, houses of worship.
3. A provision authorizing the City to conduct random, unscheduled and independent testing of any wireless antennas installation to ensure compliance with the Federal Communications Commission's radio

frequency radiation guidelines for the general public, to be paid for by the applicant or corporate entity operating the antenna;

4. A provision requiring certification and documentation that any proposed small cell installation(s) addresses an existing and significant gap in coverage in the service area;

5. A provision requiring photo simulations of the proposed installation(s) from the perspective of any property owner within 250 feet.

6. A provision that all property owners within 250 feet of any proposed installation(s) have been notified of the filing of an application for a permit within five days of such filing, and that the application, including all related documents, shall be made available for public inspection and copying.

7. A provision requiring proof and documentation that the applicant and corporate operator of any proposed small cell antenna have obtained liability insurance which does not include a "pollution" exclusion.

Thanks you for your consideration,

Romney Boehm
732 Logan St.
Moscow, ID

Michael Ray

From: David Hall <david_hall@hotmail.com>
Sent: Wednesday, September 09, 2020 12:14 PM
To: Planning & Zoning Commission; Michael Ray
Subject: Comments on small cell ordinance hearing before P&Z tonight

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Public hearing regarding proposed ordinance regulating small cell equipment
Moscow Planning and Zoning Commission
Wednesday, September 9, 2020
Moscow City Hall Council Chambers

I continue to be confused about which parts within the ordinance apply to installations in the public rights-of-way and which to private property. And what applies to small cell versus large cell installations.

Allow small cell installation only in commercial and industrial zones not in or within 1,000 feet of residential zones and mixed use zones. Pullman's draft ordinance does consider zones.

Provide an effective setback for installation in commercial and industrial zones with a 1,000 foot setback from any of the following: residential zones, mixed use zones, schools, daycare facilities, medical facilities, nursing homes, parks, playgrounds, sport facilities. A draft of Pullman's ordinance has restrictions on deployment for a few of these.

Require the applicant to submit a sworn declaration regarding an engineer's analysis of radio frequency emissions. Require periodic randomized testing of cumulative emissions, paid by the telecommunications company. Pullman's draft ordinance so stipulates.

Require certification and documentation that any proposed small cell installation addresses an existing significant gap in coverage in the service area.

Please look into and address the legal issue of not allowing the public to be "incommoded" by operations in the public right of way.

Let the City Council and the public know what liabilities the City is leaving itself open to. General terms within the Master License Agreement template should be open to review.

David Hall, 1334 Wallen Road, Moscow

Michael Ray

From: deegregory1@twc.com
Sent: Wednesday, September 09, 2020 9:42 AM
To: Planning & Zoning Commission
Subject: 5G

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I don't believe 5G antennas should be installed at all, but where they are, they should NOT be close to residents' homes.

Michael Ray

From: Terri <terrismid@roadrunner.com>
Sent: Tuesday, September 08, 2020 10:19 AM
To: Planning & Zoning Commission; Michael Ray
Subject: 5G regulations

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Hello Committee Members,

I am being extra cautious about going places with the upsurge in Covid 19 cases lately, so I won't be at the P & Z meeting tomorrow, but I wanted to write and share my thoughts. I am very concerned about 5G coming into Moscow. I've done a lot of reading and attended talks by two different radiation specialists. I know the telecommunications companies are saying 5G is safe, but the tobacco companies said the same thing about cigarettes. What I've learned leads me to believe it is not safe at all.

I know the lobbyists for the telecom industry have gotten a regulation passed that says cities can't stop them from expanding services into their town. I'm dismayed that those big corporations have used their power and money to take away our city's ability to make the best choices for their citizens, and I know this ties your hands to some degree. But I'm asking you to please do what you can within those regulations to help protect our citizens - restricting 5G from neighborhoods, parks, school zones, etc.

Thank you for looking out for the well-being of our community in the best way you are able.

Yours truly, Terri Schmidt

711 S. Jefferson, Moscow

Michael Ray

From: Toni Salerno <benedetta333@icloud.com>
Sent: Tuesday, September 08, 2020 7:50 AM
To: Michael Ray
Subject: 5G

CAUTION: This message originated from outside the City of Moscow's network. Exercise caution when clicking links or opening attachments. If in doubt, please contact Information Systems at extension 7004.

Moscow absolutely does NOT want 5G! There are verified potential health and environmental consequences from it and you would be extremely negligent to push it forward without doing the necessary research apart from the people pushing it!

Sent from my iPhone

Michael Ray

From: Nancy Chaney <nancy.chaney@outlook.com>
Sent: Tuesday, September 08, 2020 5:45 PM
To: Michael Ray
Cc: Wendy McClure
Subject: Public comments on P&Z agenda item 3, Sept 9, 2020

CAUTION: This message originated from outside the City of Moscow's network. Exercise caution when clicking links or opening attachments. If in doubt, please contact Information Systems at extension 7004.

Dear Planning and Zoning Commissioners:

Thank you for considering my earlier remarks, and for your careful consideration of amendments to MCC Title 4, Chapter 3, to establish standards for small wireless facilities. The FCC rule on 5G diminishes local control, intimidates policymakers, and puts you in a difficult spot. Accordingly, much of Moscow's draft is narrowly focused on aspects where you appear to have the most latitude: Aesthetics, lighting, noise, and preventing equipment from falling on people or structures. It's trickier to introduce language that would require periodic random independent measurement of RF emissions, and to set aggregate limits in circumstances of collocation, cumulatively over extended periods of time. That doesn't mean you shouldn't try.

Other cities around the country have figured out ways to set additional reasonable limits on 5G. (Mill Valley CA, Arlington VA, and Boulder CO Codes are good examples.) At the very least, please document unregulated concerns through "Whereas..." recitations in resolutions or reasoned statements, to lay a foundation for eventual intervention, once federal exposure standards (incredibly, still based on 1996 technology) are updated.

Pullman is working on a draft too. Their Section 17.36.050 about permit applications (p. 36-14) item 2(g) requires the applicant to submit a sworn declaration regarding an engineer's analysis of RF emissions. A model ordinance, pasted below and attached to Pullman's working draft, would require periodic randomized testing of cumulative emissions, paid by the telecom (5(a) Section 3.2). See Item E, below.

- (g) The applicant shall submit a sworn declaration under penalty of perjury signed by an RF Engineer with knowledge of the proposed project affirming that the small wireless facility ~~cell-deployment~~ will be compliant with all FCC and any other applicable regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless ~~cell-facility~~ and associated wireless backhaul will operate. An existing franchisee applying for a small wireless facility ~~cell-permit~~ for small wireless facility ~~cell-deployment~~ shall provide an RF certification for all facilities included in the deployment.

From the model ordinance:

E. Certification by an independent certified radio-frequency (RF) engineer that cell installation will be in compliance with the FCC standards for RF emissions relate to the general public, including aggregate emissions for all co-located equipment;

A June 2020 article by an FCC appointee and expert in RF radiation justifies updates to regulatory standards and more frequent and comprehensive testing: <https://www.isemag.com/2020/06/telecom-rf-radiation-5g-safety/> A 2015 letter from Senator Blumenthal and Congresswoman Eshoo describes hazards of workers' unwitting exposure to RF radiation, and could as importantly apply to constant multiple input-multiple output (MIMO)/beamforming RF exposure by the lay public:

<https://www.blumenthal.senate.gov/imo/media/doc/Blumenthal%20Eshoo%20RF%20Letter%20to%20FCC%2020150917.pdf> It may be too soon to understand unintended adverse consequences of 5G (to health, property values, fee structure, etc.), but we must remain alert to the possibilities.

Thank you for considering these comments.

Sincerely,

Nancy Chaney
1333 Ponderosa Dr.
Moscow ID 83843

Michael Ray

From: Lauren Wuthrich <lauren.wuthrich@gmail.com>
Sent: Thursday, September 10, 2020 4:14 PM
To: Planning & Zoning Commission
Subject: Comments regarding 5G antennae

CAUTION: This message originated from outside the City of Moscow's network. Exercise caution when clicking links or opening attachments. If in doubt, please contact Information Systems at extension 7004.

To whom it may concern,

I would like to submit my comments regarding placing 5G antennas within 50 feet of homes in Moscow, Idaho. I think the idea of installing brand new, untested technology that carries safety concerns within 50 feet of someone's home is not only unthoughtful, but unconstitutional. Where there is risk, there must be a choice. The FCC and big telecom companies have bulldozed citizens rights to choose what level of radiation they are exposed to on a daily basis. In my opinion, enough is enough. I sincerely hope the 5G antennae are kept far, far away from people's living spaces. In fact I'd like to see them banned altogether, but that's not what this email is about. Thank you so much for reading my comments!

Sincerely,
Lauren Wuthrich

Michael Ray

From: Cory Payne <corykpayne@gmail.com>
Sent: Wednesday, September 09, 2020 6:08 PM
To: Planning & Zoning Commission
Subject: No small cell 5G towers in Idaho

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I do not agree with the installation of 5G cell towers. There has been no research on the health impacts of the millimeter wave being used in 5G tech. The FCC guidelines for wireless secret are long out dated. They only consider the potential tissue temperature increase and do not look at the many other proven health impacts of RF and EMF technology.

--

Thanks!
Cory Payne

Michael Ray

From: Jolene McManus <simplyhearing2@gmail.com>
Sent: Wednesday, September 09, 2020 7:08 PM
To: Planning & Zoning Commission
Subject: 5G cell towers.
Attachments: E7BDAB46-C851-4DC7-828A-E5DC6FB20081.jpeg; E3D5D195-AEAF-4307-A70D-6E06DF2FE717.jpeg; 2DDF7B59-9FAC-433A-A41D-74CB16884256.jpeg; 60395845-DE5D-4A6D-961B-AB61409473BC.jpeg; B9D2AA2D-8305-4D29-B61B-63EAEA8D04ED.jpeg

CAUTION: This message originated from outside the City of Moscow's network. Exercise caution when clicking links or opening attachments. If in doubt, please contact Information Systems at extension 7004.

Dear City of Moscow,

Please choose the health of your people and protect them from harmful EMFs emitted, by 5G towers.

There is profound evidence proving; it's deadly affects. Please see attachments. Thank you.

Sincerely,
Jolene McManus
Latham County Resident

Oct. 12, 2020

Public Works-Finance Committee
Moscow City Council

Dear Committee Members:

Today's PW/F agenda includes development of recommendations for amendments to the City's Telecommunications Code, to establish Standards for Small Wireless Facilities. I offer the following comments on the draft ordinance in advance of the public hearing before the full council on Oct. 19.

The fourth WHEREAS (p. 1 of 11) in recitations is grammatically incorrect. Change "...by which *it* transmits..." to "...by which *they transmit*..." for subject-verb agreement. (Facilities (plural) = they (not it) > transmit (not transmits)

The fifth WHEREAS (p. 1 of 11) in recitations speaks to "the number and *frequency* of "small cell facilities." In this case, does "frequency" refer to EMF transmission or to *spacing* of equipment? Also, I'm assuming that the preferred language is "small wireless facilities," not "small cell..."

The ninth WHEREAS (p. 2 of 11) in recitations regarding P&Z's recommendation for approval assumes adoption of the draft amendments without modification. I suggest rephrasing this paragraph to reflect the reality that minor and/or non-substantive changes (or even substantive ones) may result over the course of deliberation, and subsequent to the public hearing on Oct. 19.

Section 1-H(2)(c) (p. 3 of 11): "...other structures for antenna mounting..." seems unduly vague and broad, so could have unintended consequences. I suggest more restrictive phrasing about what you mean by "other structures."

Section 1-H(3)(i)(iii) (p. 3 of 11): Reconcile "equipment" and "are" (to "is") for subject-verb agreement.

Section 1-H(3)(i)(iv) (p. 3 of 11): Does the reference to Part 17 of FCC regulations require more detail, like the date of that document, which of the FCC regulations you mean (by title), or where it may be found?

Section 1-H(3)(j) (p. 3 of 11): This definition of *telecommunications facilities* seems circular, saying the term refers to equipment for providing (undefined) "telecommunications services," or (also undefined) "wireless communications."

Section 1-H(3)(k) (p. 3 of 11): What is the timeframe for a "temporary" antenna tower? (Note: That term is eventually defined in Section 1-H(4)(d), but even then doesn't specify what a "reasonable" amount time is, or who makes that determination.

Section 1-H(4)(d) (p. 4 of 11): Because the “time reasonably needed” is so vague, I suggest at least adding the phrase, “...as determined by the City’s Zoning Administrator.”

Section 1-H(5)(b) (p. 4 of 11): Is the minimum setback of 100ft. arbitrary? Could a tower conceivably exceed 100ft? Those aspects should probably be addressed here.

Section 1-H(5)(c) (p. 4 of 11): Why is it even helpful to specify that separation from adjacent property lines in all zones other than residential zones be at least “one-half (1/2) the height of the antenna tower?” It seems comparably dangerous if a tower fell on a house, as much as on a daycare in a commercial zone. The intent of that requirement isn’t clear. Neither is it obvious that the council couldn’t require a greater separation, if practicable.

Section 1-H(5)(d) (p. 4 of 11): “Appropriate security measures” should be “*as determined by the Zoning Administrator.*” Please add that clarification, lest the applicants be allowed to decide for themselves what measures are appropriate.

Section 1-H(5)(f) (p. 4 of 11): Specify that the 45dB noise limit is measured cumulatively (all co-located equipment together) and does not otherwise violate the City’s noise ordinance (which includes elements like incessancy and annoyance to reasonable persons).

Section 1-H(5)(g) (p. 4 of 11): Specify “...each 50 *lineal* feet of wall...”

Section 1-H(5)(i)(iii) (p. 5 of 11): Last sentence of this paragraph should specify, “...or at an alternate *PROXIMAL* location...”

Section 1-H(5)(j) (p. 5 of 11): The phrase “...make antenna tower available for use by *others*...” is too broadly accommodating. It would better be more narrowly described as “other commercial telecommunications providers,” or something similar.

Section 1-H(5)(l) (p. 6 of 11): I have three suggestions* for this paragraph. *“...within the service area” is too vague, especially when 5G functions as a gigantic network, involving multiple service providers. *This paragraph also references “the public hearing *where* the application will be considered.” It might read better to say “at which,” rather than “where.” *The stipulation that, “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” seems an impossible task. I think I know what is intended by the statement, but am not sure it can be accomplished in a mobile cellular network. Accordingly, you might rephrase that, relative to proximity of property owners and public notice (paid by the telecom??) for transitory (end) users.

Section 1-H(6)(c)(ii) (p. 7 of 11): The requirement for gray “or other similar color” might better include qualifiers like “unobtrusive” and/or “neutral.”

Section 1-H(6)(c)(iii) (P. 7 of 11): The exception allowing one additional shroud per pole when the antenna is located within the second shroud may have unintended consequences by precluding subsequent co-locators from housing their antennas within shrouds on those poles.

Section 1-H(6)(c)(iv) (P. 7 of 11): I'm unclear about the newly-introduced terminology, "utility cable owner" in this paragraph. Who is that? The allowance of strand-mounted aerial cables seems to warrant an explanation about your rationale for disallowing guy wires, which I'm guessing relates to public safety, not obstructing passage (or incommoding) along public rights-of-way, and the visual blight of guy wires. Why are strand-mounted aerial cables less of a blight, and could they pose additional hazards to birds, etc.?

Section 1-H(6)(c)(iv)(a) (P. 7 of 11): It seems like the clearance above sidewalks should be higher than eight feet. How did you determine that limit, given that the clearance over roadways is 14 feet? (Could this paragraph be problematic, as it may apply to locations where awnings, suspended ornamental lighting, and overhead signage might be allowed? Who would prevail; the telecom or the small business?)

Finally, note in the City Attorney's memo of June 12 (included in your packets, as part of the public record) that the FCC Declaratory Order allows for the protection of "public safety and welfare" (See p. 4 and p. 5). That seems to leave open the opportunity for the council to do that, to the fullest extent allowed by law. Thanks for keeping it in mind as you improve the draft ordinance.

Sincerely,


Nancy Chaney

**Review of draft standards for small wireless facilities
presented to the Moscow Public Works / Finance Committee**

Lose the redundant numerology throughout (i.e., “fifty feet (50’”). At least be consistent: 3.i.i(a) has “Fifty (50) feet” but 4.b has “thirty-five feet (35’).” Do the numerals come before or after the units?

H. Telecommunications Facilities

H1. Applicability [p. 2]

“...any of which **are** used...” → “...any of which **is** used...” [“any” is singular]
“...exclusively used...” → “...used exclusively...”

H3.h. Monopole. [p. 3]

“...guys.” → “...guy wires.” [compare 5.a]

H3.k. Temporary Antenna Tower. [p. 3]

Remove hyphen in “tele**communications**”

H4.c. [p. 3]

Is it “Except for small wireless facilities which are subject to the standards contained in Section 6 herein, ...” or “Except for small wireless facilities, which are subject to the standards contained in Section 6 herein, ...”? The added comma makes a significant change in meaning of the sentence. Without the added comma, some facilities are subject to the standards, and some are not. With the comma, it indicates that all small wireless facilities are subject to the standards.

H5.f. Noise Reduction. [p. 4]

“...**not** more than ~~forty-five decibels~~ (45 dB).” → “...**no** more than **45 dB**.”
For an installation in the right-of-way, where is this measured?

~~H5.h.~~ [p. 4] *As this paragraph is removed completely, the following paragraphs must be renumbered*

H5.i. → H5.h. Aesthetic Considerations. [p. 4]

H5.i.i. Antenna towers shall be painted...[p. 5]

“...required by the Federal Aviation Administration or any other State...” →

“...required by **the Federal Aviation Administration or any other** State...”

H5.h.vi. Ancillary facilities located above ground...

“...will present no greater adverse visual and audio impacts...” *Greater than what?*

H5.j. → H5.i. Co-Location Consent [p. 5]

“Co-Location” → “Co-location” [Compare 3.f and 6.c.]

H5.j.ii. New Antenna Towers. [p. 6]

“Subsection 5.j.i” → “Subsection 5.i.i”

H5.k. → H5.j. Antenna Tower Inventories. [p. 6]

H5.l. → H5.k. Notice of Antenna Tower Permit Application. [p. 6]

Retain requirement to notify neighbors.

H6. Small Wireless Facility Standards

H6.a. Small Wireless Facility Standards [p. 7]

“The City Council may adopt additional small wireless facility **design and construction** standards by Resolution...”

H6.c.iv(a) Side mounted. [p. 7]

“sixteen inch” or “sixteen-inch”? [See H6.c.iv(b)]

“Side mounted equipment shrouds shall be located in such a manner as to **not obstruct pedestrian access** on adjacent sidewalks.”

This can be expanded to restrict installations that would incommode the public:

5. General Telecommunication Facility Development Standards

a. Endangerment, Interference. No person or entity shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. [Physicians for Safe Technology. mdsafetech.org/cell-tower-and-city-ordinances]

See page 4 for more openings to consider the effects of installations on public health and the environment.

H6.e.iv. Minimum spacing between small wireless facility antenna towers... [p. 8]

“...no closer than two hundred and fifty feet (250’) from **another** small wireless facility antenna tower.” →

“...no closer than two hundred **and** fifty feet (250’) from **any other** small wireless facility antenna tower.”

H7.c.v. Description of proposed and required lighting... [p. 9]

“Section 5c” → “Section 5e.” *Section 5.c. is Antenna tower setback.*

H7.c.viii. Antenna tower or tower location study... [p. 9]

Add a requirement that they show a gap in service at the location.

H7.c.ix. Antenna tower inventory... [p. 9]

“Section 5.k” → “Section 5.j”

H7.c.x. Notarized... [p. 9]

“Section 5.j” → “Section 5.i”

H7.c.xi. Documentation... [p. 9]

Report results to the City (in a reasonable amount of time).

H7.c.xiv. Name and address... [p. 10]

“...a written statement of approval of the application by the property owner.”
How does this work for an application for installation on City right-of-way?

H8.a.v. These findings shall be required... [p. 10]

This paragraph should be a continuation of H8.a. It is not one of the required findings.

Do you need to reference somewhere the required adherence to the Master License Agreement?

= = = = =

See next page for considerations regarding safeguarding the health and safety of Moscow’s citizens.

installations must not incommode the public

5. General Telecommunication Facility Development Standards

a. Endangerment, Interference. **No person or entity shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. ...**

A win for cities occurred April 4, 2019 in a California court, as a battle for local control of cell tower placement continues. San Francisco challenged the FCC interpretation of the 1996 Telecommunication Acts rules which state that phone companies **cannot install equipment that may “incommode the public use of the road.”** ...

Plaintiffs’ position is that ‘incommode’ means only physical obstruction of travel in the public right-of-way. The City, on the other hand, points out that **the dictionary definition of ‘incommode’ is broader and includes ‘inconvenience, discomfort, and disturbance beyond mere blockage.’** ...

Judge Corrigan notes, “Obstructing the path of travel is one way that telephone lines could disturb or give inconvenience to public road use. But **travel is not the sole use of public roads; other uses may be incommoded beyond the obstruction of travel.** (T-Mobile West, at pp. 355-356.) For example, lines or **equipment might** generate noise, **cause negative health consequences**, or create safety concerns. **All these impacts could disturb public road use**, or disturb its quiet enjoyment.”

[Physicians for Safe Technology. mdsafetech.org/cell-tower-and-city-ordinances]

Telecommunications Act Section 253(b) provides a “safe harbor” to protect the ability of states and localities to regulate zoning and construction of wireless facilities:

253(b) State regulatory authority: **Nothing in this section shall affect the ability of a State to impose ... requirements necessary to... protect the public safety and welfare, ... and safeguard the rights of consumers.** [Section 253 of the Communications Act, 47 U.S.C.]

“...localities can enforce “generally applicable building, structural, electrical, and safety codes and [] other laws codifying objective standards reasonably related to health and safety.”
[2014 Infrastructure Order, 29 FCC Rcd at 12951, para. 202.]”

Section 1.1307(a) requires an applicant to submit an environmental assessment if a facility “may significantly affect the environment,” which includes facilities that may affect historic properties, endangered species, or critical habitats. [47 CFR § 1.1307(a).]”

David Hall
1334 Wallen Road
Moscow, ID

Memo

To: Mayor and City Council

Cc: Gary Riedner, City Supervisor; Mia Bautista, City Attorney; Bill Belknap, Deputy City Supervisor of Community Planning and Design

From: Mike Ray, AICP - Planning Manager

Date: October 14, 2020

Re: Small Wireless Facilities Ordinance Public Comments

On Monday, October 12, 2020, Staff gave a report to the Public Works/Finance Committee regarding amendments to the City's Telecommunications Code to insert standards for Small Wireless Facilities. Earlier that day there were public comments submitted from Mrs. Nancy Chaney and Mr. David Hall in regards to the proposed ordinance. Staff had not had a chance to fully review the comments prior to the meeting, although most appeared to be grammatical in nature. Staff has since thoroughly reviewed the comments and amended the ordinance where appropriate. Below are the comments that were received as well as Staff's response to each comment. The proposed ordinance has been revised and will be included in the Council's packet for the public hearing on October 19, 2020.

Comment 1:

The fourth WHEREAS (p. 1 of 11) in recitations is grammatically incorrect. Change "...by which it transmits..." to "...by which they transmit..." for subject-verb agreement. (Facilities (plural) = they (not it) > transmit (not transmits)

Response: Corrected.

Comment 2:

The fifth WHEREAS (p. 1 of 11) in recitations speaks to "the number and frequency of "small cell facilities." In this case, does "frequency" refer to EMF transmission or to spacing of equipment? Also, I'm assuming that the preferred language is "small wireless facilities," not "small cell..."

Response: This refers to spacing of equipment. The terms have been changed for consistency.

Comment 3:

The ninth WHEREAS (p. 2 of 11) in recitations regarding P&Z's recommendation for approval assumes adoption of the draft amendments without modification. I suggest rephrasing this paragraph to reflect the reality that minor and/or non-substantive changes

(or even substantive ones) may result over the course of deliberation, and subsequent to the public hearing on Oct. 19.

Response: The ordinance has been amended to clarify that the P&Z recommendation was to recommended approval with modifications.

Comment 4:

Section 1-H(2)(c) (p. 3 of 11): "...other structures for antenna mounting..." seems unduly vague and broad, so could have unintended consequences. I suggest more restrictive phrasing about what you mean by "other structures."

Response: This is a purpose statement, not a regulation, and it is Staff's opinion that the way it is stated is adequate.

Comment 5:

Section 1-H(3)(i)(iii) (p. 3 of 11): Reconcile "equipment" and "are" (to "is") for subject-verb agreement.

Response: Corrected.

Comment 6:

Section 1-H(3)(i)(iv) (p. 3 of 11): Does the reference to Part 17 of FCC regulations require more detail, like the date of that document, which of the FCC regulations you mean (by title), or where it may be found?

Response: Small Wireless Facility is defined by the FCC and the definition used in the proposed ordinance is the same. Staff sees no reason to reference it further.

Comment 7:

Section 1-H(3)(j) (p. 3 of 11): This definition of telecommunications facilities seems circular, saying the term refers to equipment for providing (undefined) "telecommunications services," or (also undefined) "wireless communications."

Response: Staff sees no issue with this definition.

Comment 8:

Section 1-H(3)(k) (p. 3 of 11): What is the timeframe for a "temporary" antenna tower? (Note: That term is eventually defined in Section 1-H(4)(d), but even then doesn't specify what a "reasonable" amount time is, or who makes that determination.

Response: This will be a case-by-case basis, but generally within the building code temporary structures are limited to 180 days. Staff believes the language within Section 1-H(4)(d) is sufficient.

Comment 9:

Section 1-H(4)(d) (p. 4 of 11): Because the "time reasonably needed" is so vague, I suggest at least adding the phrase, "...as determined by the City's Zoning Administrator."

Response: Added.

Comment 10:

Section 1-H(5)(b) (p. 4 of 11): Is the minimum setback of 100ft. arbitrary? Could a tower conceivably exceed 100ft? Those aspects should probably be addressed here.

Response: The 100' is an existing regulation that applies to larger macrocell towers. This does not apply to small wireless facilities and Staff does not believe this would need to be changed.

Comment 11:

Section 1-H(5)(c) (p. 4 of 11): Why is it even helpful to specify that separation from adjacent property lines in all zones other than residential zones be at least “one-half (1/2) the height of the antenna tower?” It seems comparably dangerous if a tower fell on a house, as much as on a daycare in a commercial zone. The intent of that requirement isn’t clear. Neither is it obvious that the council couldn’t require a greater separation, if practicable.

Response: Again, this is an existing regulation for macrocell towers that does not apply to small wireless facilities. The intent of the separation is because of the height of the tower compared to the average height of structures in a residential area, not because it may fall on a house. These towers are engineered and required to have an engineer stamp the construction drawings to certify that they are structurally sound. The required wind loads of Moscow are part of that calculation.

Comment 12:

Section 1-H(5)(d) (p. 4 of 11): “Appropriate security measures” should be “as determined by the Zoning Administrator.” Please add that clarification, lest the applicants be allowed to decide for themselves what measures are appropriate.

Response: This regulation largely applies to macrocell towers, and the owner of the tower determines their own security, not Staff.

Comment 13:

Section 1-H(5)(f) (p. 4 of 11): Specify that the 45dB noise limit is measured cumulatively (all co-located equipment together) and does not otherwise violate the City’s noise ordinance (which includes elements like incessancy and annoyance to reasonable persons).

Response: Staff does not believe this section needs to be amended.

Comment 14:

Section 1-H(5)(g) (p. 4 of 11): Specify “...each 50 lineal feet of wall...”

Response: Added.

Comment 15:

Section 1-H(5)(i)(iii) (p. 5 of 11): Last sentence of this paragraph should specify, “...or at an alternate PROXIMAL location...”

Response: Staff believes it is appropriate to retain the flexibility to decide alternate locations that may not be in close proximity to the wall.

Comment 16:

Section 1-H(5)(j) (p. 5 of 11): The phrase “...make antenna tower available for use by others...” is too broadly accommodating. It would better be more narrowly described as “other commercial telecommunications providers,” of something similar.

Response: Staff does not have any concern with the existing language.

Comment 17:

Section 1-H(5)(l) (p. 6 of 11): I have three suggestions* for this paragraph. *"...within the service area" is too vague, especially when 5G functions as a gigantic network, involving multiple service providers. *This paragraph also references "the public hearing where the application will be considered." It might read better to say "at which," rather than "where." *The stipulation that, "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" seems an impossible task. I think I know what is intended by the statement, but am not sure it can be accomplished in a mobile cellular network. Accordingly, you might rephrase that, relative to proximity of property owners and public notice (paid by the telecom??) for transitory (end) users.

Response: One suggested change has been made, but Staff does not believe the other proposed changes are warranted.

Comment 18:

Section 1-H(6)(c)(ii) (p. 7 of 11): The requirement for gray "or other similar color" might better include qualifiers like "unobtrusive" and/or "neutral."

Response: Unobtrusive is subjective and Staff does not have concerns with the proposed language.

Comment 19:

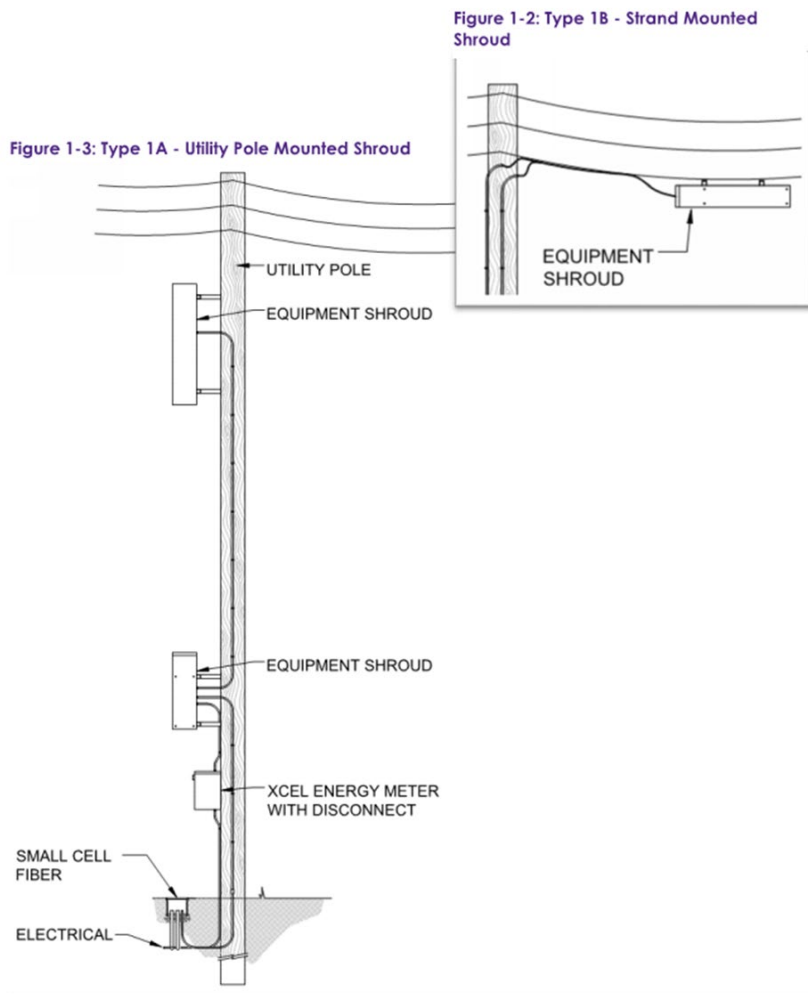
Section 1-H(6)(c)(iii) (P. 7 of 11): The exception allowing one additional shroud per pole when the antenna is located within the second shroud may have unintended consequences by precluding subsequent co-locators from housing their antennas within shrouds on those poles.

Response: The goal here is to reduce clutter and aesthetics. If co-location is a possibility, there's certainly an option to replace the pole and have all the equipment contained within the pole instead of on the exterior.

Comment 20:

Section 1-H(6)(c)(iv) (P. 7 of 11): I'm unclear about the newly-introduced terminology, "utility cable owner" in this paragraph. Who is that? The allowance of strand-mounted aerial cables seems to warrant an explanation about your rationale for disallowing guy wires, which I'm guessing relates to public safety, not obstructing passage (or incommoding) along public rights-of-way, and the visual blight of guy wires. Why are strand-mounted aerial cables less of a blight, and could they pose additional hazards to birds, etc.?

Response: The utility cable owner is the utility company that owns the cable that is connected to the antenna support structure. Guy wires are much closer to the ground and present safety and aesthetic concerns, as a result, Staff does not believe it would be appropriate to allow them to be attached to guy wires. Below is an image of the strand mounted shroud, as the proposed regulations detail.



Comment 21:

Section 1-H(6)(c)(iv)(a) (P. 7 of 11): It seems like the clearance above sidewalks should be higher than eight feet. How did you determine that limit, given that the clearance over roadways is 14 feet? (Could this paragraph be problematic, as it may apply to locations where awnings, suspended ornamental lighting, and overhead signage might be allowed? Who would prevail; the telecom or the small business?)

Response: The standard clearance height throughout the City is 8' for sidewalks and 14' for streets. The antenna support structures are likely to be far enough away from any building or awning, but this would be reviewed on a case-by-case basis by the Engineering Department.

Comment 22:

Finally, note in the City Attorney's memo of June 12 (included in your packets, as part of the public record) that the FCC Declaratory Order allows for the protection of "public safety and welfare" (See p. 4 and p. 5). That seems to leave open the opportunity for the council to do that, to the fullest extent allowed by law. Thanks for keeping it in mind as you improve the draft ordinance.

Response: None required.

Comment 23:

Lose the redundant numerology throughout (i.e., “fifty feet (50’)”). At least be consistent: 3.i.i(a) has “Fifty (50) feet” but 4.b has “thirty-five feet (35’).” Do the numerals come before or after the units?

Response: Corrected.

Comment 24:

H. Telecommunications Facilities

H1. Applicability [p. 2]

“...any of which are used...” → “...any of which is used...” [*“any” is singular*]

“...exclusively used...” → “...used exclusively...”

Response: Corrected.

Comment 25:

H3.h. Monopole. [p. 3]

“...guys.” → “...guy wires.” [*compare 5.a*]

Response: Added.

Comment 26:

H3.k. Temporary Antenna Tower. [p. 3]

Remove hyphen in “tele-communications”

Response: The hyphen is actually a deletion, there was apparently a space previously.

Comment 27:

H4.c. [p. 3]

Is it “Except for small wireless facilities which are subject to the standards contained in Section 6 herein, ...” or “Except for small wireless facilities, which are subject to the standards contained in Section 6 herein, ...”? The added comma makes a significant change in meaning of the sentence. Without the added comma, some facilities are subject to the standards, and some are not. With the comma, it indicates that all small wireless facilities are subject to the standards.

Response: Comma added.

Comment 28:

H5.f. Noise Reduction. [p. 4]

“...not more than ~~forty-five decibels~~ (45 dB).” → “...no more than 45 dB.” Corrected.

For an installation in the right-of-way, where is this measured?

Response: This would likely be measured at the source, but there is likely no noise generated from small cell installations. The noise typically associated with telecommunications facilities are ground generators, which are not a part of small cell installations.

Comment 29:

H5.h. [p. 4] *As this paragraph is removed completely, the following paragraphs must be renumbered*

Response: Corrected.

Comment 30:

H5.i. → H5.h. Aesthetic Considerations. [p. 4]

Response: Corrected.

Comment 31:

H5.i.i. Antenna towers shall be painted... [p. 5]

“...required by the Federal Aviation Administration or any other State...” → “...required by the ~~Federal Aviation Administration or any other State...~~”

Response: Deleted.

Comment 32:

H5.h.vi. Ancillary facilities located above ground...

“...will present no greater adverse visual and audio impacts...” *Greater than what?*

Response: Greater than an ancillary facility set 50’ back.

Comment 33:

H5.j. → H5.i. Co-Location Consent [p. 5]

“Co-Location” → “Co-location” [*Compare 3.f and 6.c.*]

Response: Corrected.

Comment 34:

H5.j.ii. New Antenna Towers. [p. 6] “Subsection 5.j.i” → “Subsection 5.i.i”

Response: Corrected.

Comment 35:

H5.k. → H5.j. Antenna Tower Inventories. [p. 6]

Response: Corrected.

Comment 36:

H5.l. → H5.k. Notice of Antenna Tower Permit Application. [p. 6] Corrected.

Retain requirement to notify neighbors.

Response: A new antenna tower requires a CUP. A CUP requires property owners within 600’ to be notified. This is just eliminating redundant language.

Comment 37:

H6. Small Wireless Facility Standards

H6.a. Small Wireless Facility Standards [p. 7]

“The City Council may adopt additional small wireless facility ~~design and construction~~ standards by Resolution...”

Response: This is intended to say design and construction standards, similar to the City's Standard Construction Drawings for streets and facilities.

Comment 38:

H6.c.iv(a) Side mounted. [p. 7]

“sixteen inch” or “sixteen-inch”? [See H6.c.iv(b)]

Response: Corrected.

Comment 39:

“Side mounted equipment shrouds shall be located in such a manner as to not obstruct pedestrian access on adjacent sidewalks.”

Response: The standards contained within this section would prevent the public from being incommoded by the installation.

This can be expanded to restrict installations that would incommode the public:

5. General Telecommunication Facility Development Standards

a. Endangerment, Interference. No person or entity shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. [Physicians for Safe Technology. mdsafetech.org/cell-tower-and-city-ordinances]

See page 4 for more openings to consider the effects of installations on public health and the environment.

Comment 40:

H6.e.iv. Minimum spacing between small wireless facility antenna towers... [p. 8]

“...no closer than two hundred and fifty feet (250') from another small wireless facility antenna tower.” →

“...no closer than two hundred and fifty feet (250') from any other small wireless facility antenna tower.”

Response: Corrected.

Comment 41:

H7.c.v. Description of proposed and required lighting... [p. 9]

“Section 5c” → “Section 5e.” *Section 5.c. is Antenna tower setback.*

Response: Corrected.

Comment 42:

H7.c.viii. Antenna tower or tower location study... [p. 9]

Add a requirement that they show a gap in service at the location.

Response: Staff believes the language is sufficient as it currently exists.

Comment 43:

H7.c.ix. Antenna tower inventory... [p. 9] “Section 5.k” → “Section 5.j”

Response: Corrected.

Comment 44:

H7.c.x. Notarized... [p. 9]

“Section 5.j” → “Section 5.i”

Response: Corrected.

Comment 45:

H7.c.xi. Documentation... [p. 9]

Report results to the City (in a reasonable amount of time).

Response: It is Staff’s opinion this section is fine as it currently exists.

Comment 46:

H7.c.xiv. Name and address... [p. 10]

“...a written statement of approval of the application by the property owner.”

How does this work for an application for installation on City right-of-way?

Response: The property owner portion would likely not be applicable since the property would be located in the right-of-way.

Comment 47:

H8.a.v. These findings shall be required... [p. 10]

This paragraph should be a continuation of H8.a. It is not one of the required findings.

Response: Corrected.

Comment 48:

Do you need to reference somewhere the required adherence to the Master License Agreement?

Response: Reference to the MLA does not need to be included in the ordinance.

Additional General Comments:

See next page for considerations regarding safeguarding the health and safety of Moscow’s citizens.

installations must not incommode the public

5. General Telecommunication Facility Development Standards

a. Endangerment, Interference. No person or entity shall install, use or maintain any facility which in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location. ...

A win for cities occurred April 4, 2019 in a California court, as a battle for local control of cell tower placement continues. San Francisco challenged the FCC interpretation of the 1996 Telecommunication Acts rules which state that phone companies cannot install equipment that may “incommode the public use of the road.” ...

Plaintiffs’ position is that ‘incommode’ means only physical obstruction of travel in the public right-of- way. The City, on the other hand, points out that the dictionary definition of ‘incommode’ is broader and includes ‘inconvenience, discomfort, and disturbance beyond mere blockage.’ ...

Judge Corrigan notes, “Obstructing the path of travel is one way that telephone lines could disturb or give inconvenience to public road use. But **travel is not the sole use of public roads; other uses may be incommoded beyond the obstruction of travel.** (T-Mobile West, at pp. 355-356.) For example, lines or **equipment might** generate noise, **cause negative health consequences**, or create safety concerns. **All these impacts could disturb public road use**, or disturb its quiet enjoyment.”

[Physicians for Safe Technology. mdsafetech.org/cell-tower-and-city-ordinances]

Telecommunications Act Section 253(b) provides a “safe harbor” to protect the ability of states and localities to regulate zoning and construction of wireless facilities:

253(b) State regulatory authority: Nothing in this section shall affect the ability of a State to impose ... requirements necessary to... protect the public safety and welfare, ... and safeguard the rights of consumers. [Section 253 of the Communications Act, 47 U.S.C.]

“...localities can enforce “generally applicable building, structural, electrical, and safety codes and [] other laws codifying objective standards reasonably related to health and safety.” [2014 Infrastructure Order, 29 FCC Rcd at 12951, para. 202.]”

Section 1.1307(a) requires an applicant to submit an environmental assessment if a facility “may significantly affect the environment,” which includes facilities that may affect historic properties, endangered species, or critical habitats. [47 CFR § 1.1307(a).]”

COMMITTEE STAFF REPORT

DATE: Monday, November 16, 2020



RESPONSIBLE STAFF

Bill Belknap, Deputy City Supervisor, Community Planning and Design

ADDITIONAL PRESENTER(S)

OTHER RESOURCES

AGENDA ITEM TITLE

Transportation Commission Proposed Amendment to Chapter 11, Title 3 of Moscow City Code (ACTION ITEM) - Bill Belknap

DESCRIPTION

Recently, the Transportation Commission has conducted a review of the Chapter 11 of Title 3 of Moscow City Code which addresses the membership and charge of the Transportation Commission. At the time creation of the Commission, there was significant interest in including representatives from a wide range of transportation interests. To further that goal, Chapter 11 established 14 unique ex-officio positions upon the Commission. Several of those entities no longer exist, and many others have not participated or attended a Commission meeting in over a decade. The Commission is recommending that the majority of the ex-officio positions be eliminated, leaving only three ex-officio positions which would include a high school student, post-secondary student, and the local public transit provider ex-officio positions. The Commission also felt that the University of Idaho was such a significant partner in community transportation interests, that a position on the Commission should be reserved for a representative of the University to be designated by the President of the University. Finally, the Chapter also currently designates that the Community Development Director and Public Works Director shall serve as the staff liaison to the Commission. Given that those positions no longer exist, the Commission is recommending deletion of that section. This item was reviewed by the Administrative Committee on November 9, 2020 and recommended for approval.

STAFF RECOMMENDATION

Approve the Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary.

PROPOSED ACTIONS

PROPOSED ACTIONS: Approve the Ordinance under suspension of the rules requiring three complete and separate readings and that it be read by title and published by summary; or consider the Ordinance on first reading and that it be read by title; or reject the Ordinance; or take such other action deemed appropriate.

FISCAL IMPACT

None.

PERSONNEL IMPACT

None.

ATTACHMENTS

1. Title 03 Chapter 11_Ordinance to Amend 2020_final

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 3, CHAPTER 11, RELATING TO TRANSPORTATION COMMISSION; 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; Title 3, Chapter 11 of Moscow City Code establishes the purpose, duties, and organization of the Moscow Transportation Commission; and

WHEREAS, the Moscow Transportation Commission has completed a review of the chapter and had found it necessary to amend the organization, ex-officio membership, and staff liaisons of the Commission and have made such recommendation to the City Council; and

WHEREAS, the Moscow City Council has reviewed the recommendations of the Commission and concur with the proposed amendments;

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 3, Chapter 11 be amended as follows:

Sec. 11-1. Purpose and Duties.

The Mayor and City Council create the City of Moscow Transportation Commission, which shall have the following charge:

- A. To provide advice and recommendations to the Mayor and City Council regarding intermodal transportation issues as directed with the goal of establishing a system of transportation and circulation within and around the City of Moscow that will make it possible for all people utilizing various modes of transportation to reach their destination safely and easily with minimum disturbance to adjacent uses.
- B. To recommend to the Mayor and the Council policies and programs with the objective of implementing transportation goals and objectives of the Moscow Comprehensive Plan.
- C. To advise the Mayor and City Council as to the ~~long-range~~long-range transportation needs of the City, to provide advice on integrating various transportation elements including, but not limited to, motorized vehicular traffic, bicycle traffic, pedestrian traffic, rail, air travel and public transportation.

(11/2/98) (Ord. 2003-08; 04/08/03)

Sec. 11-2. Organization.

- A. The Transportation Commission shall consist of up to nine (9) members serving without pay. A non-voting member of this Commission shall not be considered in determining the number required for a quorum or whether a quorum is present. The word "Commission" when used herein shall mean the Transportation Commission. Members of the Commission shall be

appointed by the Mayor with the advice and subject to the approval of the Council. Members shall be selected without respect to political affiliation. Except for any three quarter (3/4) time post secondary educational program student member, an appointed member of the Commission must have resided in Latah County for two (2) years prior to his or her appointment and must remain a resident of Latah County during his or her service on the Commission. Persons living within the delineated Area of City Impact shall be entitled to representation on the Commission. Such representation shall, as nearly as possible, reflect the proportion of population living within the City compared to the population living within the Area of City Impact. The term of office of the Commission members chosen from the residents at large shall be five (5) years or until their successors are appointed and qualified. The members shall hold office at the pleasure of the Mayor. The Mayor may revoke such appointment at any time and for any reason deemed sufficient with the advice and subject to the approval of the Council. Vacancies in such Commission occurring otherwise than the expiration of the term shall be filled by the Mayor with the advice and subject to the approval of the Council for the unexpired term. One (1) position on the Commission shall be designated for a representative of the University of Idaho as designated by the President of the University. If the University chooses not to appoint a representative, the Mayor may appoint a member to fill that position on the Commission. Where possible, this commission shall include at least one (1) student enrolled at least three quarters (3/4) time in a ~~post secondary~~post-secondary educational program, who shall serve as a non-voting member of this Commission for a one (1) year term, which term may be renewed. At least one (1) student enrolled in high school or an equivalent educational program shall serve as a non-voting member of this Commission for a one (1) year term, which term may be renewed.

- B. Where possible, Commission members shall be appointed in a manner which will allow members to represent a variety of transportation modes including, but not limited to, motorized vehicles, non-motorized vehicles and conveyances, pedestrians and public transportation.
- C. The Commission may establish subcommittees and/or advisory committees to advise and assist it in carrying out duties of the Commission. Where possible, this Commission shall coordinate efforts with local boards, groups and agencies as well as State boards, groups and agencies.
- ~~D. The Public Works Director and the Community Development Director shall be staff liaisons to the Commission and a record of meetings, findings and actions shall be maintained.~~

...

Sec. 11-4. Ex Officio Membership.

A Moscow City Council representative shall be a non-voting ex officio member of the Commission. In addition, there shall be the following non-voting members or their respective designees who shall not vote and, except where specifically provided herein, whose terms shall coincide with their terms of service with the organizations which they represent:

- ~~A. Chair, Moscow Tree Committee~~
- ~~A. President of the Moscow Area Chamber of Commerce~~
- ~~A. Executive Director, Disability Action Center~~
- A. District Engineer, Idaho Transportation Department District No. 2
- ~~B. Latah County Planner~~
- ~~B. Chair, North Latah Highway District~~
- ~~B. Chair, Moscow Planning and Zoning Commission~~

- B. ~~Superintendent, Moscow School District~~
- B. ~~President, University of Idaho~~
- B. ~~Region 2 Public Transportation Advisory Council~~Local Public Transit Provider
- C. ~~Chair, Local Public Transportation Advisory Commission~~
- C. ~~Representative, Local Railroad Service Provider~~
- C. ~~Manager, Moscow/Pullman Regional Airport~~
- C. At least one (1) student enrolled at least three quarters (3/4) time in a post-secondary educational program for a one (1) year term, which term may be renewed.
- D. At least one (1) student enrolled in a high school or equivalent educational program for a one (1) year renewal term

...

SECTION 2: 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 3 shall be in full force and effect.

SECTION 3: 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 4: 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