

PLANNING & ZONING COMMISSION



Robb Parish
Commission Chair
P&Z@ci.moscow.id.us

Regular Meeting
~Agenda~

Mike Ray
Staff Liaison
208.883.7008

<https://www.ci.moscow.id.us/581/Agendas-and-Minutes>

Wednesday
June 14, 2023

7:00 PM

Council Chambers
206 E Third Street

WELCOME AND ATTENDANCE

REGULAR AGENDA

1. Approval of May 24, 2023 Minutes (ACTION ITEM)

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

2. Public Comment

Time limit 15 minutes. Members of the Public may speak to the Commission regarding matters NOT on the Agenda nor currently pending before the Planning and Zoning Commission. Please state your name and resident city for the record and limit your remarks to three (3) minutes.

3. Public Hearing: Legislative Hearing Providing for the Repeal of Title 4, Chapter 10, Section 10-8; Providing for the Amendment of Title 4, Chapter 5, Chapter 8, and Chapter 10 of Moscow City Code Regarding the Procedures for Appeals

Staff is proposing an amendment to Moscow City Code to clarify the procedural requirements associated with appeals. This includes appeals of Zoning Administrator decisions to the Board of Adjustment and those of lower body decisions to City Council. The amendment is necessary to provide a clearer process for consideration of appeals. Standards for the review and consideration of appeals have historically been located in multiple sections of City Code as well as a resolution. It is unnecessary, and confusing for users, to maintain both ordinance provisions and a resolution to guide the appeal process. Council took the first step in cleaning up this issue with the repeal of Resolution 2000-17 on May 1, 2023. The proposed ordinance amendment will correct the remaining deficiencies by consolidating the procedural requirements and review standards in one Chapter of City Code (Title 4, Chapter 8). Section 8-2 addresses appeals of Zoning Administrator decisions and Section 8-5 covers appeals to City Council. Both sections clarify what individuals have standing to appeal, detail the submittal and review process, and specify how the public meeting will be conducted. The result is a clearly defined process that provides predictability and consistency for the public, staff, and final decision makers. On May 15, 2023, the City Council directed Staff to proceed with a hearing before the Planning and Zoning Commission.

PROPOSED ACTIONS: After conducting the public hearing and consideration of testimony received, recommend approval of the proposed Ordinance to City Council with no conditions; or recommend approval of the Ordinance with modifications; or recommend denial of the Ordinance; or take such other action deemed appropriate.

4. Approval of Reasoned Statement of Relevant Criteria and Standards (ACTION ITEM)

Proposal for a Comprehensive Plan Land Use Designation, Zoning Designation, and a Preliminary Subdivision Plat for a 51.53-Acre Property Proposed to be Annexed into the City of Moscow and

NOTICE: It is the policy of the City of Moscow that all City-sponsored public meetings and events are accessible to all people. If you need assistance in participating in this meeting or event due to a disability under the ADA, please contact the City's ADA Coordinator by phone at (208) 883-7600, TDD (208) 883-7019, or by email at adacoordinator@ci.moscow.id.us at least 48 hours prior to the scheduled meeting or event to request an accommodation. The City of Moscow is committed to ensuring that all reasonable accommodation requests are fulfilled.

Generally Located South of the South Fork of the Palouse River and East of Highway 95. Permit Applications LUP2022-0025 and LUP2022-0026 (ACTION ITEM)

1. Comprehensive Plan Land Use Designation amendment from a combination of Auto-Urban Commercial, Industrial, and Rural and Agricultural to the Auto-Urban Commercial designation.
2. Rezoning of the subject property from the combination of Motor Business (MB) and Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone.
3. Proposed Preliminary Plat of a 29.46-acre area to create 15 lots ranging from 0.82 to 4.18 acres in size, referred to as SOMO Subdivision.

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

5. 2023 Citizen Survey Questions (ACTION ITEM)

The Commission will discuss potential survey questions which should be included within the survey sent out this year.

PROPOSED ACTIONS: Discuss and provide staff with feedback and further direction if necessary.

REPORTS

1. Transportation Commission meeting report.

ANNOUNCEMENTS

UPCOMING EVENTS/MEETINGS

The next Planning & Zoning Commission regular meeting is scheduled for June 28, 2023.

ADJOURN

NOTICE: It is the policy of the City of Moscow that all City-sponsored public meetings and events are accessible to all people. If you need assistance in participating in this meeting or event due to a disability under the ADA, please contact the City's ADA Coordinator by phone at (208) 883-7600, TDD (208) 883-7019, or by email at adacoordinator@ci.moscow.id.us at least 48 hours prior to the scheduled meeting or event to request an accommodation. The City of Moscow is committed to ensuring that all reasonable accommodation requests are fulfilled.

PLANNING & ZONING COMMISSION



Robb Parish
Commission Chair
P&Z@ci.moscow.id.us

Regular Meeting
~Minutes~

Mike Ray
Staff Liaison
208.883.7008

<https://www.ci.moscow.id.us/457/Planning-Zoning-Commission>

Wednesday
May 24, 2023

7:00 PM

Council Chambers
206 E Third Street

Parish called the meeting to order at 6:59 PM

MEMBERS PRESENT: Robb Parish, Chair; Rich Beebe, Scott Gropp, Cole Mize, Sue Scott, Victoria Seever, Dennis Wilson
MEMBERS ABSENT: Joel Hamilton, Nels Reese
OTHERS: Gina Taruscio
STAFF: Jennifer Fleischman, Mike Ray

REGULAR AGENDA

1. Approval of April 12, 2023 Minutes (ACTION ITEM)

Seever moved for approval of the minutes as written, seconded by Wilson. Scott asked a clarifying question regarding the minutes of Agenda Item 3. Roll Call Vote; Ayes: Beebe, Gropp, Mize, Parish, Seever, Wilson (6). Nays: None. Abstentions: Scott (1). Motion carried.

2. Public Comment

Time limit 15 minutes. Members of the Public may speak to the Commission regarding matters NOT on the Agenda nor currently pending before the Planning and Zoning Commission. Please state your name and resident city for the record and limit your remarks to three (3) minutes.

None.

3. Public Hearing: Proposal for a Comprehensive Plan Land Use Designation, Zoning Designation, and a Preliminary Subdivision Plat for a 51.53-Acre Property Proposed to be Annexed into the City of Moscow and Generally Located South of the South Fork of the Palouse River and East of Highway 95. Permit Applications LUP2022-0025 and LUP2022-0026 (ACTION ITEM)

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

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

3. Proposed Preliminary Plat of a 29.46-acre area to create 15 lots ranging from 0.82 to 4.18 acres in size, referred to as SOMO Subdivision.

Ray reviewed the applications as described above, and recommended approval with two conditions for the preliminary plat. The City of Moscow does not require wetland delineation for subdivision developments, but this project does not encroach on any identified wetlands on the National Wetlands Inventory. There are no additional environmental permits required regarding the project because it is not a federal project. The intersection of the new Hwy 95 and the old Hwy 95 is not currently planned to be signaled. A portion of the old Hwy 95 section, outside of the intersection with the new Hwy 95, will be conveyed to the City which is considering a possible beautification project. The property to the northwest of the old/new Hwy 95 intersection has an approach to the north of the intersection, which would not be affected by the intersection.

The City completed a floodplain study years ago in preparation of creating a potential Southeast Moscow Industrial Park, but there has not been any work done since then.

Public Hearing opened at 7:19 PM

Jeff Motley (applicant), Moscow, introduced himself and the other owner of Two-GM, LLC and talked about the process of creating a commercial subdivision. The applicants hope that commercial businesses would find the location ideal.

Shelley Bennett, Moscow, talked about the need in Moscow for more commercial lots.

Mike Church, Moscow, thought that having commercial properties on the south end of town would be a good idea.

Jeff Mau, Moscow, supports the property being developed for commercial use.

Mike Bell, Moscow, talked about how business owners are constrained with a lack of commercial properties available.

Shelly Bennett (applicant representative), Moscow, went into more detail about the subdivision's intersection with new Hwy 95.

Public Hearing closed at 7:26 PM

The Commissioners briefly talked about how much Moscow is in need of more commercial properties.

Gropp moved for approval of the Comprehensive Plan Land Use Designation, seconded by Beebe. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

Wilson moved for approval of the Rezone request, seconded by Mize. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

Seever moved for approval of the Preliminary Plat, with two conditions as recommended by Staff. The motion was seconded by Beebe. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

Scott moved to direct Staff to draft the Relevant Criteria and Standards, seconded by Wilson. Roll Call Vote; Ayes: Unanimous (7). Nays: None. Abstentions: None. Motion carried.

4. P&Z/City Council Joint Meeting Topics

It is anticipated that there will be a joint meeting between the City Council and the Planning and Zoning Commission in late summer/early fall and staff would like to discuss potential topics for discussion.

The Commissioners discussed possible topics for the joint meeting with City Council including parking, affordable housing, the climate action plan, densification, subdivision types, and water. After deliberation, the Commission decided to exclude the climate action plan from their proposed topics. The meeting will most likely be scheduled sometime in late summer or early fall.

5. 2023 Citizen Survey Questions (ACTION ITEM)

Commission will discuss potential survey questions which should be included within the survey sent out this year.

The Commission talked about some ideas for survey questions. Questions regarding parking and affordable housing may be included in the survey.

REPORTS

1. *Transportation Commission meeting report.*
None.

ANNOUNCEMENTS

A continuing education magazine was distributed for reading.

UPCOMING EVENTS/MEETINGS

The next Planning & Zoning Commission meeting is scheduled for June 14, 2023.
The next meeting will have a legislative hearing.

Parish declared the meeting adjourned at 7:49 PM

Robb Parish, Chair

ORDINANCE NO. 2023 - ____

AN ORDINANCE OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO; PROVIDING FOR THE REPEAL OF MOSCOW CITY CODE TITLE 4, CHAPTER 10, SECTION 10-8, PROCEDURES FOR APPEALS OF INTERPRETATION OR ADMINISTRATION; PROVIDING FOR THE AMENDMENT OF TITLE 4, CHAPTER 5, SECTION 5-6. D. AMENDING THE REFERENCE TO THE SECTION BEING REPEALED BY THIS ORDINANCE; PROVIDING FOR THE AMENDMENT OF TITLE 4, CHAPTER 8, SECTION 8-2 AMENDING THE REFERENCE TO THE SECTION BEING REPEALED BY THIS ORDINANCE; PROVIDING FOR THE AMENDMENT OF MOSCOW CITY CODE TITLE 4, CHAPTER 8, SECTION 8-5, APPEALS TO CITY COUNCIL; PROVIDING FOR THE AMENDMENT OF TITLE 4, CHAPTER 8, TABLE OF CONTENTS; 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; Moscow City Code Title 4, Chapter 10, Section 10-8 is located in a Chapter that addresses “Public Hearing Procedures”; and

WHEREAS; appeal considerations are not public hearings, rather, they are matters to be addressed in a public meeting; and

WHEREAS; Moscow City Code Title 4, Chapter 8, Section 8-5 currently addresses appeals to City Council related to Board of Adjustment decisions and Planning and Zoning Commission decisions regarding the interpretation or administration of the Zoning Code; and

WHEREAS; Moscow City Code Title 4, Chapter 10, Section 10-8 is redundant and duplicative to the standards contained within Moscow City Code Title 4, Chapter 8, Section 8-5; and

WHEREAS; the amendments contained herein provide a clearer process for Council consideration of appeals, specifies the grounds upon which an appeal can be made which are consistent with the requirements of I.C. §§ 67-6521(d) and 67-5279(3), as well as eliminate the establishment of appeal procedures and guidelines by resolution; and

WHEREAS; City Council believes the proposed amendments are in the public’s best interest.

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

SECTION 1: All matters stated above are found to be true and correct and are incorporated herein by reference as if copied in their entirety and shall be adopted with the following sections of this Ordinance.

SECTION 2: That Moscow City Code Title 4, Chapter 10, Section 10-8 be repealed:

~~Sec. 10-8. Procedures for Appeals of Interpretation or Administration.~~

~~C. The Council shall review the appeal on the written record generated and/or preserved by the Board. Decisions made regarding appeals herein should be founded upon sound reason and practical application of recognized principles of law. When considering the merits of an appeal, no additional public testimony or information shall be taken or considered by the Council. After considering the record and the reasons for the appeal, the Council shall take one or more of the following actions:~~

- ~~1. Sustain the Decision. Sustain the decision of the Board in whole or in part.~~
- ~~2. Reverse the Decision. Reverse the decision of the Board in whole or in part.~~
- ~~3. Remand the Decision. a. Remand the matter in whole or in part to the Board with comments and/or instructions for further consideration by the Board or for remand by the Board to the Zoning Administrator in order to gather more information on the matter. The Council shall remand the appeal in whole or in part for gathering of additional material information and a subsequent decision only where it is shown by a preponderance of the evidence that there is:
 - ~~(1) New material information not available or readily discoverable at the time of the Zoning Administrator's decision; and~~
 - ~~(2) It is in the public interest to develop such additional material information on the matter.~~~~

~~B. Procedures and guidelines for an appeal in addition to that contained herein may be established from time to time by resolution of the Council.~~

~~(Ord. 2007-10, 09/17/2007)~~

SECTION 3: That Moscow City Code Title 4, Chapter 5, Section 5-6. D. be amended as follows:

Sec. 5-6 Variance and Appeal Procedures.

...

D. Appeals. The Board of Adjustment shall hear and decide appeals from the interpretations of the Zoning Administrator. Procedures regarding appeals are governed by MCC Section 4-8-2 and ~~4-8-54-10-8~~. The Board of Adjustment shall consider the following in ruling on an appeal: All technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, including:

1. The danger that materials may be swept onto other lands with potential for the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual landowner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity of the facility to a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;

8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area;
9. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
11. The cost of providing government services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

SECTION 4: That Moscow City Code Title 4, Chapter 8, Section 8-2. ~~B.~~ be amended as follows:

Sec. 8-2 Appeals of Zoning Administrator Decisions.

- A. Appeals to the Board of Adjustment concerning the interpretation or administration of this Zoning Code by the Zoning Administrator may be made by any applicant, City representative, or affected person thereby. Such appeal shall be made within thirty (30) days from the date the appellant first knew of or, with reasonable diligence, could have known of such interpretation or administration of the Zoning Code by the Zoning Administrator. An appeal shall be made by filing with the Zoning Administrator a written notice of appeal specifying the grounds thereof ~~and paying an appeal fee established from time to time by Resolution of the Council.~~ Upon the filing of an appeal, the Zoning Administrator shall forthwith submit to the Board of Adjustment all materials constituting the record upon which the appeal is made. Should the appellant acquire additional information pertinent to the Zoning Administrator's interpretation or administration of the Zoning Code, the appellant shall be presented the additional information to the Zoning Administrator for consideration and issuance of a new decision prior to consideration of an appeal by the Board of Adjustment.
- B. The Board of Adjustment shall fix a reasonable time for the consideration of the appeal within thirty (30) days of the receipt of notice of appeal by the Zoning Administrator. Consideration of the appeal shall be pursuant to ~~Section 4 8 54 10 8 of this Code~~ the procedures contained herein. At the consideration on the appeal, the appellant and any affected person may appear in person or by agent or attorney.
 1. Grounds upon which an appeal to the Board of Adjustment may be made following a final decision of the Zoning Administrator:
 - a. Decision violates statutory or constitutional provisions;
 - b. Decision exceeds statutory authority;
 - c. Decision was made upon unlawful procedure;
 - d. Decision was unsupported by substantial evidence in the records or as a whole; or
 - e. Decision was arbitrary, capricious, or an abuse of discretion.
 2. Scope of Appeal. The appeal shall be limited to the issues raised in the written notice of appeal, which shall specifically state the allowed grounds upon which the appeal is being made to the Board of Adjustment as provided herein. The appellant must indicate in the appeal whether they are requesting oral argument before the Board of Adjustment.
 3. Record. The Zoning Administrator shall provide the Zoning Board of Adjustment all documentation, information, City ordinances, and records considered by the Zoning Administrator in making their final decision. New information that was not considered by

the Zoning Administrator shall not be provided to or considered by the Zoning Board of Adjustment.

4. Public Meeting. Upon receipt of the complete Record, City Clerk will notice the matter for consideration before the Zoning Board of Adjustment as a noticed public meeting.
5. If no oral argument is requested, City Staff will introduce the appeal, and then the Board of Adjustment may ask questions of the Appellant and City Staff and then the Board of Adjustment will conduct its deliberations.
6. If oral argument is requested, the process for the Zoning Board of Adjustment to hear the appeal will proceed as follows:
 - a. Staff Introduction of Appeal. City staff shall provide an introduction of the facts pertaining to the appeal, the procedure followed by the Zoning Administrator, and answer questions about the content of the established Record.
 - b. Appellant Argument. Appellant will be allowed to argue the issues presented in the appeal. The time allowed for argument is set by the Chair of the Zoning Board of Adjustment.
 - c. Applicant, if not the Appellant, is permitted to offer a rebuttal. The time allowed is set by the Chair of the Zoning Board of Adjustment.
 - d. Appellant will be permitted a rebuttal to the Applicant's rebuttal. The time allowed is set by the Chair of the Zoning Board of Adjustment.
 - e. At the conclusion of arguments, the Zoning Board of Adjustment will conduct its deliberation.
7. After considering the record, the reasons for the appeal, and oral argument if requested, the Zoning Board of Adjustment shall take one or more of the following actions:
 - a. Sustain the Decision. Sustain the decision of the Zoning Administrator in whole or in part.
 - b. Reverse the Decision. Reverse the decision of the Zoning Administrator in whole or in part.
 - c. Remand the Decision. Remand the matter in whole or in part to the Zoning Administrator with comments and/or instructions for further consideration. The Zoning Board of Adjustment shall remand an appeal in whole or in part for gathering additional material information, and a decision based upon the original and the additional presented evidence where the appellant shows the Zoning Board of Adjustment, by a preponderance of the evidence, that there is:
 - i. New material information which was not available or readily discoverable at the time of the final decision, and
 - ii. It is in the public interest to develop such additional material information on the matter.

- C. Stay of Proceedings: The filing of an appeal shall stay all interpretations, proceedings and/or activities and furtherance of the action appealed from, including the issuance of building and/or other permits related to the subject property. A stay may be lifted, in whole or in part, only where the Zoning Administrator files a written affidavit with the City Clerk certifying that a stay would, in the opinion of the Zoning Administrator, not serve the purposes for which relevant Code provisions were intended or would cause endangerment to life and/or property. The Zoning Administrator should lift the stay, in whole or in part,

only to the extent necessary to further the intent of relevant Code provisions. Where the Zoning Administrator files such an affidavit, interpretations, proceedings and/or activities shall not be stayed other than by the Board, Commission or Council before whom the matter is pending or by a Court of Record. A request for review of the Zoning Administrator's affidavit regarding the stay shall be heard with the consideration of the related appeal, if requested by an affected person not less than ten (10) days prior to such consideration.

D. The appellant shall submit an appeal fee established from time to time by the Council by resolution.

(Ord. 2007-10, 09/17/2007)

SECTION 5: That Moscow City Code Title 4, Chapter 8, Section 8-5 be amended as follows:

Sec. 8-5. Appeals to City Council.

A. Appellant. Any applicant, City representative, or affected person, may appeal a final decision of the Board of Adjustment or of the Planning and Zoning Commission to the Council within ten (10) calendar days following a final decision of such Board or Commission regarding an interpretation of or administration of the Zoning Code by the Zoning Administrator; a variance application; conditional use permit; ~~special use permit~~; or PUD, by filing written notice of appeal specifying the grounds therefor with the City Clerk, or their designee. - Grounds upon which an appeal to the City Council may be made following a final decision of the Board of Adjustment or of the Planning and Zoning Commission includes the following:

1. Decision violates statutory or constitutional provisions;
2. Decision exceeds statutory authority;
3. Decision was made upon unlawful procedure;
4. Decision was unsupported by substantial evidence in the records or as a whole; or
5. Decision was arbitrary, capricious, or an abuse of discretion.

B. Appeal Process.

1. Intent. It is the intent of the Council that decisions made regarding appeals herein should be founded upon sound reason and practical application of recognized principles of law. The Council shall not act on an appeal, which, in the judgment of the Council, differs materially from that which was considered by the Board or Commission.

2. Scope of Appeal. The appeal shall be limited to the issues raised in the written notice of appeal, which shall specifically state the allowed grounds upon which the appeal is being made as provided herein. The appellant must indicate in the appeal whether they are requesting oral argument before the Council.

3. Record. The Council shall receive a transcript of the public hearing held by the Board of Adjustment or the Planning and Zoning Commission, along with all other documentation, information, and records considered by the Board or Commission in

making its final decision. New information or public testimony that was not considered by the Board or Commission shall not be provided to or considered by the Council.

4. Public Meeting. Upon receipt of the complete Record, City Clerk will notice the matter on a regularly scheduled City Council meeting. Mailed notice of the public meeting shall be provided to the same persons as were provided notice of the original public hearing on the matter no less than seven (7) days prior to the meeting during which the appeal will be considered.

5. If no oral argument is requested, City Staff will introduce the appeal, and then the Council may ask questions of the Appellant and City Staff and then the Council will conduct its deliberations.

6. If oral argument is requested, the process for the Council to hear the appeal will proceed as follows:

a. Staff Introduction of Appeal. City staff shall provide an introduction of the facts pertaining to the appeal, the procedure followed by the Board or Commission, and answer questions about the content of the established Record.

b. Appellant Argument. Appellant will be allowed to argue the issues presented in the appeal. The time allowed for argument is set by the Mayor.

c. Applicant, if not the Appellant, is permitted to offer a rebuttal. The time allowed is set by the Mayor.

d. Appellant will be permitted a rebuttal to the Applicant's rebuttal. The time allowed is set by the Mayor.

e. At the conclusion of arguments, the Council will conduct its deliberation.

~~BC. The Council shall review the appeal on the written record generated and/or preserved by the Board or Commission. It is the intent of the Council that decisions made regarding appeals herein should be founded upon sound reason and practical application of recognized principles of law. The Council shall not act on an appeal, which, in the judgment of the Council, differs materially from that which was considered by the Board or Commission. When considering the merits of an appeal, no additional public testimony or information shall be taken or considered by the Council.~~ Council Action. After considering the record, and oral argument if requested, the Council shall take one or more of the following actions:

1. Sustain the Decision. Sustain the decision of the Board or Commission in whole or in part.
2. Reverse the Decision. Reverse the decision of the Board or Commission in whole or in part.
3. Remand the Decision.
 - a. Remand the matter in whole or in part to the Board or Commission with comments and/or instructions for further consideration by the Board or Commission. The Council shall remand an appeal in whole or in part for gathering of additional material information, and a decision and an accompanying reasoned statement based upon the original and the additional presented evidence where the appellant shows the Council, by a preponderance of the evidence, that there is:
 - i. New material information which was not available or readily discoverable at the time of the final decision, and

- ii. It is in the public interest to develop such additional material information on the matter.
- b. Any public hearing on remand, at which additional testimony or evidence is to be admitted, shall observe notice and hearing requirements applicable to the original public hearing.

ED. The appellant shall submit an appeal fee established from time to time by the Council by resolution.

~~D. Procedures and guidelines for an appeal in addition to that contained herein shall be established from time to time by resolution of the Council.~~

(Ord. 2007-10, 09/17/2007)

SECTION 6: That Moscow City Code Title 4, Chapter 8 Table of Contents be amended as follows:

APPEALS, VARIANCES, AND CONDITIONAL ~~AND SPECIAL~~ USES

- Sec. 8-1:** Duties of the Board of Adjustment
- Sec. 8-2:** Appeals of Zoning Administrator Decisions
- Sec. 8-3:** Variances
- Sec. 8-4:** Conditional Uses
- Sec. 8-5:** Special Uses Appeals to City Council
- Sec. 8-6:** Ability of Use Permits to Assume Variance Functions

SECTION 7: SEVERABILITY. Provisions of this Ordinance shall be deemed severable and the invalidity of any provision of this Ordinance shall not affect the validity of the remaining provisions which can be given effect without the invalid provision. The remaining sections of Title 4 shall be in full force and effect.

SECTION 8: ENFORCEMENT. The adoption of this Ordinance shall not, in any manner, affect any prosecution for violation of any other ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any other ordinance, or in any manner affect the validity of any action heretofore taken by the City of Moscow City Council, or the validity of any such action to be taken upon matters pending before the City Council on the effective date of this Ordinance.

SECTION 9: EFFECTIVE DATE. This Ordinance shall be effective upon its passage, approval, and publication according to law.

PASSED on Motion by the Following Vote:

	Aye	Nay	Abstain	Absent
Hailey Lewis	_____	_____	_____	_____

Gina Taruscio _____
Sandra Kelly _____
Maureen Laflin _____
Julia Parker _____
Drew Davis _____

ADOPTED by the City Council of the City of Moscow and **APPROVED** by the Mayor of the City of Moscow, this ____ day of _____, 2023.

Arthur D. Bettge, Mayor

CERTIFICATION and ATTESTATION. I hereby certify that the above is a true copy of an Ordinance passed at a regular meeting of the City Council, City of Moscow, held on _____, 2023, and attest to the Mayor's signature.

Laurie M. Hopkins, City Clerk

**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 FIFTY-ONE POINT FIVE THREE (51.53) ACRE AREA OF LAND PROPOSED TO BE ANNEXED INTO THE CITY OF MOSCOW AND LOCATED SOUTH OF THE SOUTH FORK OF THE PALOUSE RIVER AND EAST OF HIGHWAY 95 FROM THE COMBINATION OF THE AGRICULTURE FORESTRY (AF) AND MOTOR BUSINESS (MB) ZONES TO THE MOTOR BUSINESS (MB) ZONE.

WHEREAS, the applicant filed an application for Annexation, Comprehensive Plan Land Use Designation, and Rezone on August 2, 2022; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on May 24, 2022; 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 51.53-acre property proposed to be annexed into the City of Moscow and generally located south of the South Fork of the Palouse River and East of Highway 95.
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 contains a property currently used for agricultural production, a portion of Idaho Transportation Department's Highway 95 right-of-way, the southern half of the CHS Primeland property, a car detailing business, and a vacant property.
5. The applicant's original parcel is 29.46 acres in size and currently not adjacent to the City limits boundary. Consequently, the owner has worked with the City to expand the annexation area to include four (4) additional properties who would like to be annexed at this time, bringing the total annexation area to 51.53 acres.

6. Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as a combination of Auto-Urban Commercial, Industrial, and Rural and Agricultural and the proposal is the Auto-Urban Commercial designation.
7. Auto-Urban Commercial (AU-C) designated areas,

“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 is currently zoned a combination of the Motor Business (MB) and Agriculture Forestry (AF) Zones.
9. Surrounding properties are within the Agriculture/Forestry (AF), Industrial (I), and Motor Business (MB) Zones.
10. The applicant is concurrently proposing to rezone the subject property from the combination of the Agriculture Forestry (AF) and Motor Business (MB) Zones to the Motor Business (MB) Zone.
11. According to the City of Moscow Zoning Code, the MB Zone is intended to,

“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. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on August 1, 2022 to discuss the proposed rezone.
15. 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 zoned Motor Business (MB) 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 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 and west. 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. The subject property has sufficient and available public utility services to meet the needs of existing and future development.

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 51.53-acre property proposed to be annexed into the City of Moscow and generally located south of the South Fork of the Palouse River and East of Highway 95 from the Motor Business (MB) and Agriculture Forestry (AF) Zones to the Motor Business (MB) Zone with no conditions.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this _____ day of _____, 2023.

Robb Parish, 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 FIFTY-ONE POINT FIVE THREE (51.53) ACRE AREA OF LAND PROPOSED TO BE ANNEXED INTO THE CITY OF MOSCOW AND LOCATED SOUTH OF THE SOUTH FORK OF THE PALOUSE RIVER AND EAST OF HIGHWAY 95.

WHEREAS, the applicant filed an application for Annexation, Comprehensive Plan Land Use Designation, and Rezone on August 2, 2022; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on May 24, 2022; 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 51.53-acre property proposed to be annexed into the City of Moscow and generally located south of the South Fork of the Palouse River and East of Highway 95.
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 contains a property currently used for agricultural production, a portion of Idaho Transportation Department's Highway 95 right-of-way, the southern half of the CHS Primeland property, a car detailing business, and a vacant property.
5. The applicant's original parcel is 29.46 acres in size and currently not adjacent to the City limits boundary. Consequently, the owner has worked with the City to expand the annexation area to

include four (4) additional properties who would like to be annexed at this time, bringing the total annexation area to 51.53 acres.

6. Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as a combination of Auto-Urban Commercial, Industrial, and Rural and Agricultural and the proposal is the Auto-Urban Commercial designation.
7. Auto-Urban Commercial (AU-C) designated areas,
“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 is currently zoned a combination of the Motor Business (MB) and Agriculture Forestry (AF) Zones.
9. Surrounding properties are within the Agriculture/Forestry (AF), Industrial (I), and Motor Business (MB) Zones.
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. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on August 1, 2022 to discuss the proposal.
12. 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 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 north, west, and southwest 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, west, and southwest. The adjacent properties to the north, west, and south 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.
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, west, and south. 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 51.53-acre property from the combination of Auto-Urban Commercial, Industrial, and Rural and Agricultural to the Auto-Urban Commercial designation with no conditions.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this ____ day of _____, 2023.

Robb Parish, 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 PRELIMINARY PLAT OF A TWENTY-NINE POINT FOUR SIX (29.46) ACRE AREA OF LAND PROPOSED TO BE ANNEXED INTO THE CITY OF MOSCOW AND LOCATED SOUTH OF THE SOUTH FORK OF THE PALOUSE RIVER AND EAST OF HIGHWAY 95, KNOWN AS SOMO ADDITION TO THE CITY OF MOSCOW, IDAHO.

WHEREAS, the applicant filed an application for Annexation, Comprehensive Plan Land Use Designation, Rezone, and Preliminary Plat on August 2, 2022; and

WHEREAS, this matter came before the Moscow Planning and Zoning Commission during a duly noticed public hearing on May 24, 2022; 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 29.46-acre property proposed to be annexed into the City of Moscow and generally located south of the South Fork of the Palouse River and East of Highway 95.
3. The subject property contains a property currently used for agricultural production.
4. Within the 2019 Moscow Comprehensive Plan, the subject property is currently designated as a combination of Auto-Urban Commercial, Industrial, and Rural and Agricultural and the proposal is the Auto-Urban Commercial designation.
5. Auto-Urban Commercial (AU-C) designated areas,

“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).”

6. The subject property is currently zoned Agriculture Forestry (AF).
7. Surrounding properties are within the Agriculture/Forestry (AF), Industrial (I), and Motor Business (MB) Zones.
8. The applicant is concurrently proposing to rezone the subject property from the Agriculture Forestry (AF) Zone to the Motor Business (MB) Zone.
9. According to the City of Moscow Zoning Code, the MB Zone is intended to,
“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.”
10. 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.
11. The applicant is proposing to subdivide the 29.46-acre area to create 15 lots ranging from 0.82 to 4.18 acres in size, referred to as SOMO Subdivision.
12. The subject property is proposed to be located within the Motor Business (MB) Zoning District which does not have minimum lot area or minimum lot width requirements. Consequently, all of the proposed lots within the subdivision meet MB Zone requirements.
13. There are two tracts in the northwest and northeast corners of the subject property that are proposed to contain stormwater detention facilities. A pedestrian pathway through Lot 3, Block 2, is intended to provide pedestrian connections to the vacant property to the south.
14. The subdivision is proposing to gain access to Highway 95 at the future intersection of new/old Highway 95. The eastern segment of the four-way intersection is proposed to be extended with a collector street referred to as SOMO Drive, through to the eastern property boundary.
15. SOMO Drive will be constructed to the City’s collector street standard which is a 34-foot paved width with two travel lanes, bike lanes on both sides, and no on-street parking. Curb, gutter, tree lawns, and sidewalks are also required on both sides of the street.
16. Water mains will be extended throughout the subdivision from the existing mains near the future intersection of new/old Highway 95. The property is considered developable in the City’s Comprehensive Water System Plan dated January 2012. The applicant will need to work with the City’s Engineering Department to model the subdivision in order to determine whether the existing system has adequate potable and fire flows to serve future uses within the proposed subdivision.
17. Sanitary sewer is proposed to be extended throughout the subdivision within the alignment of SOMO Drive to its future intersection with Highway 95.
18. Storm sewer will be piped and directed to stormwater detention ponds located within the northwest and northeast corners of the proposed subdivision. The detention facilities of the proposed development will need to meet Moscow’s Stormwater Runoff Control Standards which required the stormwater to be detained to the pre-development rate.
19. The proposed subdivision falls under the requirements of the parkland dedication codes of the City. Based on the preliminary plat, the net developable area is 1,031,437 square feet (sf) or

23.68 acres. The proposed Motor Business Zoning District (MB) has a requirement of 9% of parkland dedication, which requires 92,829 sf or 2.13 acres in parkland dedication.

20. The Parks and Recreation Commission considered staff's recommendation to accept a combination of 1.83 acres of parkland dedication in the floodway of the South Fork of the Palouse River for a future pathway and \$4,050.00 in parkland dedication in lieu fees to satisfy the remainder of the parkland dedication requirements (0.3 acres) for the South Moscow Business Park. The Parks and Recreation Commission considered staff's recommendation on January 26, 2023 and recommended approval of the combination of land and in lieu fees to satisfy the parkland dedication requirement for the South Moscow Business Park as described herein.
21. The subject property contains portions of the 100-year floodplain and floodway of the South Fork of the Palouse River. The SOMO subdivision is proposed to be graded such that there will be no encroachment into the floodway and there will be approximately four lots which will contain portions of the 100-year floodplain. However, the elevation of the proposed lots will be well above the base flood elevations of the 100-year floodplain.
22. The applicant conducted a neighborhood meeting with affected property owners within 600 feet of the subject property on August 1, 2022 to discuss the proposed rezone.

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 subdivision is in conformance with all applicable City Code requirements.** The proposed preliminary plat is consistent with and in conformance with the requirements and provisions of the Motor Business (MB) Zoning District, including lot area, dimensions and other relevant provisions. The proposed preliminary plat is also in conformance with the general requirements of the Moscow Subdivision Ordinance including, but not limited to, the provision of the logical and orderly connection to the City's street network, public utilities, and the provision of public parkland.
2. **The proposed subdivision is in general conformance with the Comprehensive Plan.** The proposed preliminary plat is consistent with the City of Moscow Comprehensive Plan and provides for the logical and orderly development and extension of the City's street system. The proposed lots sizes and densities are consistent with the proposed Comprehensive Plan Land Use designation of Auto-Urban Commercial.
3. **Public Services and utilities are available or can be made available and are adequate to accommodate the proposed subdivision.** The subject property has direct access to Highway 95 which is a national highway, and includes the extension of SOMO Drive which is a designated collector street. Water and Sewer connections are readily available in the area at the old/new Highway 95 intersection. The Engineering Department has determined that the existing system has adequate potable and fire flows and sewer capacity to serve the proposed subdivision.
4. **The proposed subdivision will not be detrimental to the public health, safety, or general welfare.** The proposed preliminary plat provides for the extension of City streets and services and will not be detrimental to the public health, safety, or general welfare.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Planning and Zoning Commission of the City of Moscow recommends approval of the preliminary subdivision plat request for the twenty-nine point four six (29.46) acre area of land generally located south of the South Fork of the Palouse River and East of Highway 95 within the City of Moscow with two (2) conditions:

1. The applicant shall be required to conduct a detailed stormwater discharge analysis to include any mitigation actions necessary to ensure that the stormwater facility shall have no downstream adverse impacts subject to the approval of the City Engineer.
2. The applicant shall gain access approval from the Idaho Transportation Department and complete any necessary mitigation for the connection of SOMO Drive to the highway system.

PASSED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF MOSCOW this
____ day of _____, 2023.

Robb Parish, Chair
Planning and Zoning Commission