

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~ Meeting Agenda ~

Leah Carlson
Staff Liaison

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208.883.7095

<http://www.ci.moscow.id.us/agendacenter>

Monday
March 4, 2019

5:30 PM

Mayor's Conf Room
206 E Third St

Call to order

1. **Approval of Minutes from February 26, 2019**

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

2. **Approval of Relevant Criteria and Standards for Property Located at located at 816 Hathaway Street – LUP2018-0039**

Conditional Use Permit application for a Type 2 Accessory Home Occupation to conduct a massage therapy business within the Moderate Density, Single Family Residential Zoning District (R-2) per MCC 3-5 (B)(2)(b).

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

3. **Approval of Relevant Criteria and Standards for Property Located at located at 155 Southview – LUP2019-0007**

Conditional Use Permit application to construct a new Police Services Facility within the Motor Business Zoning District (MB) per MCC 3-4.

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

4. **Board Communications**

5. **Other Business**

Adjournment

NOTICE: Moscow City Council Commission meetings can be 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.

BOARD of ADJUSTMENT



Joe Bazzoli
Commission Chair

~Meeting Minutes~
February 26, 2019

Leah Carlson
Staff Liaison

boa@ci.moscow.id.us

208.883.7095

<http://www.ci.moscow.id.us/354/Board-of-Adjustment>

The meeting was called to order at 7:02 PM

MEMBERS PRESENT: Joe Bazzoli, Chair; Annette Bieghler, Steve Bush, Laurene Sorensen, Tim Thomson (arrived at 7:18)

MEMBERS ABSENT: Marshall Comstock, Mark Monson

STAFF IN ATTENDANCE: Leah Carlson, Mike Ray, Anne Peterson

1. Approval of Minutes from January 24, 2019.

Sorensen moved approval of the minutes as presented.

RESULT:	ACCEPTED
MOVER:	Sorensen
SECONDER:	Bieghler
ABSENCES:	Bazzoli

Motion carried by acclamation.

2. Public Hearing: Proposal for a Conditional Use Permit for a Type 2 Accessory Home Occupation at 816 Hathaway Street – LUP2018-0039

Carlson presented the application for a massage therapy accessory home occupation with clients anticipated 2-5 times per week for 60-90 minutes each. Clients will be encouraged to park in the driveway although there is also on-street parking on both sides of the street. Staff recommended approval of the application with no conditions.

Bazzoli asked about ADA compliance requirements and Cash said it would not apply because the therapy space is less than 10% of the entire structure. Bazzoli opened the public hearing at 7:09 pm.

Jennilyn Hall, 816 Hathaway, introduced herself as a trained and licensed massage therapist and full-time mom who would like to open a part-time therapy business in her home. She has been providing massage in clients' homes for several years. She has recently gained clients who are Washington residents, and since she isn't licensed to practice in Washington she'd like to have the option of seeing clients in her home. Her niece, who has been living with her family for several years, is moving out in May and her bedroom will be converted to a dedicated massage room.

Sorensen asked how many clients she planned to serve per week. Hall reiterated that she doesn't expect to exceed five per week. Sorensen asked if there are regulations governing the laundering process for her linens and whether her home laundry could handle it. Hall said she had already addressed all health requirements. Bush asked if Hall anticipated moving *all* client work to her home and Hall replied she would continue providing massage off-site for those clients who prefer that, with a \$10 travel fee.

No one else spoke in favor of the application.

Larry Makus, 705 Vista Street, opposed the application because the Vista neighborhood is a residential neighborhood and he thought allowing business use would change the character of the neighborhood. His interpretation of the Zoning Code was that the allowed uses in the R-2 zone are those for the public good, such as schools and daycares, but this was a private service. He added that the Vista Addition has Covenants and Restrictions that prohibit commercial use. (Copy of Covenants entered for the record.)

Chad Farrell, 817 Hathaway, opposed the application because parking is already very limited on Hathaway Street. He often can't park in front of his own house because the Halls park all around their house and his. Sorensen said the applicant planned to have clients park in her driveway so she questioned the impact to on-street parking. Farrell said the Halls have five cars.

Mario Reyes, 822 Hathaway, reiterated there are already five vehicles at the applicant's home and a single car driveway. He said they park all over, including in his driveway once last week. He said the photo of one car in the Applicant's driveway is not an accurate depiction of reality. With the current snow berms the parking is even worse. As a business professor, Reyes said he supports new business, but only when it's done correctly. Sorensen thought the concerns about current parking conflicts weren't relevant to the Conditional Use Permit application because the use hadn't even begun yet. Reyes said his greatest concern was how this use would increase the problem.

Carlson offered two letters of testimony mailed to the office. The one from Claudine Zender, 803 Hathaway, was received within the stated timeframe so was read into the record (attached). The letter from Norman Pendegraft was not considered by the Board.

Bazzoli asked whether the City was aware of the neighborhood Covenants and Restrictions. Ray replied that the City is not party to those private agreements and said the Board must only consider City Zoning Code in its decision making. The homeowner's association would need to address any violations to the CCRs on their own.

Applicant Rebuttal:

Hall acknowledged her neighbors have been concerned about parking. Two of the vehicles belong to her niece who will be leaving in May, and Hall currently has three cars but one is for sale. One is parked to the side of their garage and the driveway can accommodate two vehicles. She stated there have been previous issues with her neighbor when her niece or guests parked in front of his home, and she always addressed them promptly. She, too, wants her neighborhood to remain a nice residential area and said this part-time business bringing in only a few visitors per week will not change the nature of the neighborhood. Thomson asked the hours she would be providing service and Hall said she limits herself to one 60-90 minute appointment between 9am and noon on Wednesdays, Thursdays, or Fridays. On Tuesdays and Wednesdays she can take one appointment between 7-9pm. Her husband's car is gone all day Monday-Friday, so as soon as the niece moves and they sell their extra car, there will only be two cars at the home during the day. Bazzoli presumed most clients seeking therapeutic treatment would want to park in the driveway to shorten their walk. Sorensen asked what the regulations are regarding on-street parking and Bazzoli replied that no one owns on-street parking, It is public parking, first-come first-served.

Bazzoli closed the public hearing at 7:41pm.

Sorensen thought the Covenant restricting all business use may be an unconstitutional restraint on commerce. Bush said commercial use within the neighborhood would be a violation of the Covenants so

the applicant should obtain consensus from the developer/neighborhood to appeal or amend Covenants. Ray pointed out that everyone within 600 feet of the subject property had been notified of this hearing, and reminded the Board that private covenants cannot be taken into consideration in this deliberation. The homeowner's association would need to bring civil action to address any violations. Sorensen agreed the Board could not debate the validity of private CCRs, and added that hundreds of people work from home without affecting the character of the neighborhood.

Sorensen moved approval of the application.

RESULT:	APPROVED
MOVER:	Sorensen
SECONDER:	Thomson
AYES:	Bieghler, Bazzoli, Sorensen, Thomson
NAYS:	Bush

Motion carried.

Sorensen moved to direct staff to draft the Relevant Criteria and Standards.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bieghler
SECONDER:	Thomson

Motion carried.

Chair called for a five-minute break.

3. Public Hearing: Proposal for a Conditional Use Permit for a Police Services Facility at 155 Southview – LUP2019-0007

Carlson presented the application for a new police station containing Administration/Operations space, storage and evidence processing outbuilding, plus public and secure parking spaces onsite. Access to the property will be from Southview Avenue and Myrtle Street. Subject property is within the Motor Business zoning district; property to the east is zoned R-4 and all other surrounding properties are zoned Commercial. This proposal meets an objective within the Comprehensive Plan which specifically calls for efficient and effective delivery of emergency services. Development of this parcel will trigger a requirement within the Development Agreement for Indian Hills 9th Addition to complete the currently undeveloped Myrtle Street including underground utilities and sidewalks. Carlson outlined the project's planned uses and building layouts. A Type-B landscape buffer will be required on the eastern edge of the parcel where it is adjacent to R-4 zoning. Staff recommended approval of the application with no conditions.

Sorensen and Thomson asked what "develop" meant with regard to Myrtle Street, and who would pay for it. Carlson reiterated it would include underground facilities, paving and sidewalks. Ray added that responsibility would fall to the underlying subdivision developer, and his understanding was the property owner has agreed to pay for it. Sorensen said a resident had asked her why the police station was being considered at a location so far from the City Center, and would that increase response time to many areas of town. Carlson said there were very limited options that met the space requirements.

Bazzoli opened the public hearing at 8:08 pm.

Tyson Barrett, 2635 Wildrose, Captain for the Moscow Police Department, was present to answer any questions. Regarding the response time question, Barrett said it should improve (particularly to the south) because they will be able to exit Southview directly to a 4-lane highway and head either direction. Currently, leaving from the station they are sometimes blocked in on Washington and the only other option is a one-

way alley. He added that officers are generally out patrolling rather than responding from the station. With regard to parking, he noted that the Police are currently taking up 22 dedicated parking spaces in the core of downtown, so relocating the Police Station will increase availability of premium parking downtown. Barrett noted the Recycling Center location was also considered but citizen preference was to leave it alone. The Dumas Seed site was too small, and the Federal Building option did not work out. He noted the pricing of all downtown properties was astronomical. Bazzoli asked him to provide perspective of the Police Department's special needs. Barrett replied that as the City grows, the Department will need to grow. Currently detectives are sharing desks, computers overheat in tiny offices, and they have very little storage options so 8800 pieces of property are spread across four locations in town. The proposed facility is designed to last for 50-60 years or more, and is large enough to provide the space required as the City and Department continue to grow. Bieghler asked if any of the City Shop uses would move to the new location and Barrett replied "yes." Bieghler noted differences in parking numbers in the packet. Ray explained the differences came from needs assessments on two different locations. Bush asked what was planned for the current Police Department building. Barrett said the building would be repurposed for other City staff use. Bush suggested the parking spaces Barrett mentioned that would open up would actually be used by other City staff, and Barrett said many would probably continue to park at City Hall. Bush commented on the residential use near the proposed station and Barrett said silent deployment is used when officers leave the station, using lights only just to clear traffic. He also stated a three-month average for emergency calls showed 65% are between the hours of 8am and 6 pm.

Justin Rasmussen, 1435 Borah and owner/broker at Palouse Commercial Real Estate, affirmed the earlier statement that there were no better commercial sites in terms of pricing, location and usability.

Written testimony from Victoria Seever was read into the record (attached).

Bazzoli closed the public hearing at 8:25 pm.

Thomson thought the reason for not being downtown had been adequately explained. He thought it was important to remember proposal is projected to be in use for 50+ years, so given additional growth of the City, this location will eventually not look so "far away." Thomson asked if municipal buildings were required to be LEED certified in Idaho. Ray said no, but the City does have a Green Building program, and added the building was specifically oriented to facilitate solar installations in the future. Bazzoli said many buildings are constructed to LEED standards but not officially certified simply to save that cost, and added that solar panels have a very long payoff period. He also agreed that with more growth, the proposed location would soon feel more centralized.

Thomson moved approval of the application as presented.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Thomson
SECONDER:	Sorensen

Motion carried by acclamation.

Bush moved to direct staff to draft the Relevant Criteria and Standards.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Bush
SECONDER:	Sorensen

Motion carried by acclamation.

4. Announcements

The RCS approval meeting was scheduled for Monday, March 4, at 5:30pm in the Mayor's Conference Room.

Adjournment

The meeting adjourned at 8:35 pm.

Joe Bazzoli, Chair

Date

**BEFORE THE BOARD OF ADJUSTMENT
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 CONDITIONAL USE PERMIT APPLICATION FOR A TYPE II HOME
OCCUPATION LOCATED AT 816 HATHAWAY STREET IN THE CITY OF MOSCOW,
IDAHO WITHIN THE MODERATE DENSITY, SINGLE FAMILY RESIDENTIAL (R-2)
ZONING DISTRICT PER MCC 3-4.**

WHEREAS, the applicant filed an application for a conditional use permit on December 28, 2018;
and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed
public hearing on February 26, 2019; and

WHEREAS, during the public hearing and having considered the matter including all testimony
presented, the Moscow Zoning Board of Adjustment approved the proposed Conditional Use
Permit and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board's
review and approval; and

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

**THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE
DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:**

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant City of Moscow Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The applicant proposes to operate a massage therapy business, designated as a Type II Home Occupation, from her home location at 816 Hathaway Street.
3. The subject property is located within the Moderate Density, Single Family Residential (R-2) Zoning District, where a CUP is required for Type II Home Occupations per MCC 3-4.
4. The applicant intends to see clients at her home between two (2) to five (5) times per week.
5. Sessions with clients would last between sixty (60) to ninety (90) minutes, on average.

6. Parking for clients is available both in the client's driveway as well as along Hathaway Street where street parking is available on a first-come, first-serve basis.
7. The subject property is 7,350 square feet in size and is approximately 70 feet wide by 105 feet long.
8. The subject property is accessed from Hathaway Street, which branches from Joseph Street approximately 500 feet south of the subject property.
9. Chapter 2 of the City's Comprehensive Plan, Land Use and Community Character, designates the subject property's land use as Auto-Urban Residential. Auto-Urban designated areas includes the conventional and more recently developed subdivisions with lots ranging from 6,000-9,000 sf where there are no alleys. These designated areas are generally anticipated to be developed for low to moderate density residential uses at densities between 3 to 7 units per acre, which could include a mix of detached single-family, townhome, and limited scale multiple-family residential dwellings subject to appropriate buffer yard requirements and building scale and design standards to ensure compatibility.
10. Chapter 3 of the City's Comprehensive Plan, Community Mobility, identifies Hathaway Street as a local neighborhood street.

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed use is a conditionally permitted use within the Zoning District:** Type II Home Occupations are conditionally permitted per MCC 3-4 within the Moderate Density, Residential (R-2) Zoning District.
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The Board finds that the proposed use will be in harmony with the neighborhood and surrounding land uses. The proposed use will take place completely within the applicant's home and will not have any impact on the surrounding neighborhood.
3. **The proposed use, as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including, but not limited to, noise, dust, glare, vibrations, odors, and the like):** The Board finds that the proposed use is not anticipated to generate nuisances detrimental to the neighborhood. The frequency of client visits and length of appointments would create no greater traffic or nuisances than already exist in the neighborhood currently.
4. **The location, design, and size of the proposed use is adequately served by existing streets, public facilities, and services:** The Board finds that the proposed use is adequately

served by existing streets, public facilities, and services. Parking is available for clients both in the client's driveway as well as on both sides of Hathaway Street.

5. **The proposed use will not endanger the public health or safety if located where proposed:** The Board finds that the proposed use will not endanger the public health or safety.
6. **Proposed use meets all applicable development standards of the Zoning Code:** The Board finds that the proposed use meets all applicable development standards of the City Code. The applicant is the only employee of her business and will see clients at her house, meeting all requirements of a Type II Home Occupation.
7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the Plan.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Type II Home Occupation located at 816 Hathaway Street with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE ____ DAY
OF _____, 2019.

Joe Bazzoli, Chair
Board of Adjustment

**BEFORE THE BOARD OF ADJUSTMENT
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 CONDITIONAL USE PERMIT APPLICATION FOR NEW POLICE
SERVICES FACILITIES LOCATED AT 155 SOUTHVIEW AVE IN THE CITY OF
MOSCOW, IDAHO WITHIN THE MOTOR BUSINESS (MB) ZONING DISTRICT PER
MCC 3-4.**

WHEREAS, the applicant filed an application for a conditional use permit on February 05, 2019;
and

WHEREAS, this matter came before the Moscow Board of Adjustment during a duly noticed
public hearing on February 26, 2019; and

WHEREAS, during the public hearing and having considered the matter including all testimony
presented, the Moscow Zoning Board of Adjustment approved the proposed Conditional Use
Permit and instructed Staff to prepare the Reasoned Statement of Relevant Criteria for the Board's
review and approval; and

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

**THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW, IDAHO, AFTER DUE
DELIBERATION AND CONSIDERATION, HEREBY CONCLUDES:**

I. RELEVANT FACTS AND CONCLUSIONS

1. The Board of Adjustment considered the request pursuant City of Moscow Comprehensive Plan, City of Moscow Zoning Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The applicant proposes to construct a new police services facility at the property addressed 155 Southview Avenue including a 16,000 square foot administrative and operations building, 4,000 square foot storage and evidence processing outbuilding, and public and secure parking areas.
3. The subject property is located within the Motor Business (MB) Zoning District, where a CUP is required for Public Service and Utility Facilities per MCC 3-4. Properties to the north and south of the subject property are also within the MB Zoning District. Properties to the

east and west of the subject property are within the Multiple Family Residential Zoning District (R-4).

4. The subject property is currently undeveloped. Properties to the north and west are also currently undeveloped. A large multi-family development, The Grove, is located to the east and several commercial business are located to the south along Highway 95.
5. The subject property is approximately 2.31 acres in size and has approximately 230 foot frontage on Highway 95, 386 foot frontage on Southview Avenue, and 260 foot frontage on Myrtle Street.
6. The Development Agreement for Indian Hills 9th Additions stipulated that Myrtle Street be developed prior to the development of commercial lots within the subdivision adjacent to Highway 95.
7. The development of Myrtle Street includes installment of underground utilities and sidewalks, as well as paving and curbing of the proposed street.
8. There are existing sidewalks along western and northern edge of the subject property.
9. Although the zoning code does not require any parking for the proposed use, submitted plans show 22 parking spaces dedicated for public parking along with 74 spaces reserved for employee parking, 23 of which are covered specifically for patrol vehicles.
10. Public parking is accessed from Southview Avenue and employee parking is accessed from both Southview Avenue and Myrtle Street.
11. Chapter 2 of the City's Comprehensive Plan, Land Use and Community Character, designates the subject property's future use as Auto-Urban Commercial. Auto-Urban Commercial designated areas provide 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.
12. Chapter 5 of the City's Comprehensive Plan, Public Utilities, Services, and Growth Capacity, Section 5.9.5. states that an objective for Emergency Service is to, "plan for and provide the efficient and effective delivery of emergency police and fire protection and emergency medical services to the Community today and in the future". An implementation action of this objective is to, "locate, plan, and maintain emergency service facilities and resources necessary to meet the needs of current and future residents of the community."

BASED ON THE ABOVE RELEVANT FACTS AND CONCLUSIONS, THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW HEREBY FINDS THE FOLLOWING RELEVANT CRITERIA AND STANDARDS:

II. RELEVANT CRITERIA AND STANDARDS

1. **The proposed use is a conditionally permitted use within the Zoning District:** Public Service and Utility Facilities are conditionally permitted per MCC 3-4 within the Motor Business (MB) Zoning District.
2. **The character of the proposed use will be in harmony with the neighborhood and surrounding land uses:** The Board finds that the proposed use will be in harmony with the neighborhood and surrounding land uses. Although the surrounding area is primarily undeveloped currently, properties to the east and west of the subject property are within the R-4 Zoning District are anticipated to be developed in the near future. The new facility will provide improved services to the community such as decreased response times and improved neighborhood security.
3. **The proposed use, as approved with conditions, will not generate nuisances that would be injurious or detrimental to the adjoining properties or the neighborhood (including, but not limited to, noise, dust, glare, vibrations, odors, and the like):** The Board finds that the proposed use is not anticipated to generate nuisances detrimental to the neighborhood. A required Type B buffer yard will be installed along the eastern side of the subject property where the adjacent property is zoned R-4. The police facility intends to utilize a silent deployment method in order to avoid disturbance of nearby residences. No other nuisances such as dust, glare, vibrations, or odors are anticipated.
4. **The location, design, and size of the proposed use is adequately served by existing streets, public facilities, and services:** The Board finds that the proposed use is adequately served by existing streets, public facilities, and services. The development of Myrtle Street is required prior to the development of any commercial lots within the Indian Hills 9th subdivision. Development of Myrtle Street along the eastern edge of the subject property includes paving, curbing, installing a sidewalk, as well as underground facilities.
5. **The proposed use will not endanger the public health or safety if located where proposed:** The Board finds that the proposed use will not endanger the public health or safety. The secure facility will be fully equipped with safety features ensuring the security of the surrounding neighborhood.
6. **Proposed use meets all applicable development standards of the Zoning Code:** The Board finds that the proposed use meets all applicable development standards for the City Code. Although no parking is required, the facility provides 22 public parking spaces and 74 employee parking spaces, 23 of which are covered for patrol vehicle parking.

7. **The proposed use will not be in conflict with the Comprehensive Plan:** The use is consistent with the Comprehensive Plan as it supports the goals and strategies of multiple chapters and does not conflict with other sections of the Plan.

III. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the City of Moscow Board of Adjustment approves the application for a Conditional Use Permit for a new Police Services Facility located at 155 Southview Avenue with no conditions.

PASSED BY THE BOARD OF ADJUSTMENT OF THE CITY OF MOSCOW THE ____ DAY
OF _____, 2019.

Joe Bazzoli, Chair
Board of Adjustment