

Moscow City Council



Regular Meeting ~Minutes~

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Laurie M. Hopkins
City Clerk

208.883.7015

**Monday, September 16,
2024**

7:00 PM

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

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

PRESENT: Bryce Blankenship, Drew Davis, Hailey Lewis, Gina Taruscio

ABSENT: Julia Parker, Sandra Kelly, Mayor Art Bettge

STAFF: Bill Belknap, Mia Bautista, Aimee Hennrich, Dan Ellinwood, Laurie M. Hopkins

PLEDGE OF ALLEGIANCE

Council Member Davis led the Pledge of Allegiance.

PROCLAMATION

2024 Fire Prevention Week

Acting Mayor Taruscio read the proclamation and presented it to Deputy Chief Ellinwood. Ellinwood said one of the most significant parts of his job is public education. It is most beneficial because if education can keep someone from having an emergency, the fire staff have done their job. Every emergency can't be prevented but being prepared is the goal of fire prevention. The special emphasis in October begins with a pancake feed at Fire Station 1 and staff has a fire prevention safety fair. All this is in conjunction with University of Idaho homecoming parade.

CONSENT AGENDA

1. All Consent Items (ACTION ITEM)

A. Approval of Moscow City Council September 3, 2024 Minutes - Laurie M. Hopkins

B. Disbursement Report August 2024 - Sarah Decker

Staff presented the August 2024 Accounts Payable Report to the Public Works / Finance Committee on September 9th, 2024. The Committee received the report and approved the disbursements as presented.

ACTION: Accept the Disbursements Report for the month of August 2024.

C. Request for Waiver for On-Premises Consumption Within 300 Feet of a School or Church per Idaho Code - Laurie M. Hopkins

The owners of Neat are in the process of obtaining a transfer of location for their alcohol license through the State of Idaho. Idaho Code § 23-913, 23-1011B, and 23-1307A, prohibits any business from selling liquor, beer and/or wine for on-premise consumption within three hundred feet (300') of any church, school or any other place of worship, unless the City Council approves waiver of the requirement. The new location at 524 S. Main St is within 300 feet of a place of worship, specifically the Nuart Theater, where Christ Church holds church services. The state and county

licenses have been applied for and are pending approval. A letter of request for waiver has been submitted and is included in the meeting packet. This was reviewed by the Public Works/Finance Committee on September 9, 2024 and recommended for approval.

ACTION: Approve the waiver from the prohibition of selling alcohol for on-premises consumption within three hundred feet (300') of any church, school or any other place of worship contingent on issuance of state and county licenses.

D. Proposed Lot Line Adjustment at 702 and 718 Public Ave - Aimee Hennrich

The applicants, Mike and Brooke Lowry and Richard and Dana Hull, are requesting a lot line adjustment between three adjacent parcels. Two of the parcels share the common address of 702 Public Ave and consist of a single-family dwelling on one parcel surrounded by undeveloped land on second parcel. The third parcel is addressed as 718 Public Ave and currently contains a single-family dwelling. The proposed lot line adjustment increases the 702 Public Ave single-family dwelling parcel from 18,619 sf to 4.44 acres, decreases the 702 Public Ave undeveloped parcel from 4.27 acres to 9,600 sf, and decreases the 718 Public Ave parcel from 1.39 to 1.33 acres. The applicants are requesting the lot line adjustment in order to reduce the size of the undeveloped parcel and meet the required street frontage along Public Avenue. All three lots are within the Low Density, Single Family Residential (R-1) Zoning District where all parcels are required to have a minimum lot area of 9,600 sf and have a minimum lot width of 80 feet. All three proposed parcels meet all zoning requirements of the R-1 Zone. This was reviewed and recommended for approval by the Public Works and Finance Committee on September 9, 2024.

ACTION: Approve the lot line adjustment request with no conditions.

E. Replat of Lot 12 and Lot 13, Block 3 of the Quail Run Addition Final Plat - Mike Ray

On November 6, 2023, Moscow City Council approved the Replat of Lot 12 and Lot 13, Block 3 of the Quail Run Addition preliminary plat with no conditions. On August 14, 2024, the applicant submitted the final subdivision plat to be reviewed by the Planning and Zoning Commission and City Council. The Planning and Zoning Commission reviewed the final subdivision plat at their meeting on August 28, 2024 and recommended approval to City Council. The Public Works/Finance Committee reviewed this item at their September 9, 2024 meeting and recommended approval.

ACTION: Approve the Replat of Lot 12 and Lot 13, Block 3 of the Quail Run Addition Final Plat.

F. Wildrose Court PUD Addition Development and Monumentation Agreements - Todd Drage

Ron Struthers, on behalf of Provvidenza, LLC., has submitted to the City a final plat for the development of a property east of the current extent of Wildrose Drive. On May 6, 2024, the City Council approved the preliminary plat for this property. The final plat is titled "Wildrose Court PUD" and will be presented for City Council approval on September 16th. If Council approves the final plat, development and monumentation agreements will be required. The development agreement is necessary to address construction of public improvements, parkland dedication, and as-constructed drawings. The monumentation agreement is required as the interior property corners will not be set until after the final plat has been filed, the earthwork has been completed, and the utilities have been installed. In such instances, an agreement obligating the establishment of these interior corners is required by Idaho Code. Staff has prepared both agreements for the Council's approval. This item was reviewed by the Public Works/Finance Committee on September 9, 2024 and was recommended for approval.

ACTION: Approve the Development and Monumentation Agreements for the Wildrose Court PUD.

G. Replat of Lots 12 and 13, Quail Run Addition Development and Monumentation Agreements - Todd Drage

Stacy Smisek, on behalf of RMR Construction LLC., has submitted to the City a final plat for the development of a property at the northeast corner of the intersection of Highway 95 and Quail Run Drive. On November 6, 2023, the City Council approved the preliminary plat for this property. The final plat is titled "Replat of Lots 12 & 13 of Block 3 of Quail Run Addition to the City of Moscow" and will be presented for City Council approval on September 16th. If Council approves the final plat, development and monumentation agreements will be required. The development agreement is necessary to address construction of public improvements, warranties, and as-constructed drawings. The monumentation agreement is required as the interior property corners will not be set until after the final plat has been filed, the earthwork has been completed, and the utilities have been installed. In such instances, an agreement obligating the establishment of these interior corners is required by Idaho Code. Staff has prepared both agreements for the Council's approval. This item was reviewed by the Public Works/Finance Committee on September 9, 2024 and was recommended for approval.

ACTION: Approve the Development and Monumentation Agreements for the Replat of Lots 12 and 13, Quail Run Addition.

H. Woodbury 1st Addition Development Agreement Amendment - Todd Drage

Woodbury Land LLC, has submitted to the City a request to modify the phasing for the Woodbury 1st Addition Subdivision. The final plat, titled Woodbury 1st Addition, and the Development Agreement for the Addition was approved by City Council on Monday, October 17, 2022. Section X - Phasing, in the original agreement contained a figure that detailed 17 single family lots being included in a 1st phase, 17 single family lots included in a 2nd phase, and then the remaining 45 lots being included in a 3rd phase. The original agreement was then amended in 2023 requesting a modified phasing plan. Woodbury Land LLC is requesting a 2nd amendment to phase the remaining lots in the development in 6 more phases (7 phases total). The agreement amendment provides a new figure, detailing the 7 phases. The amendment to the agreement along with the original development agreement and the 1st amendment included as attachments to the 2nd amendment have been included with this packet. This item was reviewed by the Public Works/Finance Committee on September 9, 2024 and was recommended for approval.

ACTION: Approve the Development Agreement amendment with Woodbury Land LLC for the Woodbury 1st Addition.

Davis moved and Blankenship seconded to approve the consent agenda as presented. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REGULAR AGENDA

2. Mayors Appointments (ACTION ITEM)

None offered.

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

Thomas Carpenter (Moscow) teaches Civics at Moscow High School and the current unit is about local government. A few of his students are in attendance.

Kent Salisbury (Moscow) said there is graffiti along the creek/trail by Identity. His is the second time he is reporting it.

Paul Kimmell (rural Moscow) invited everyone to the Palouse Basin Water Summit taking place Tuesday, October 1 at the Schweitzer Event Center at 4:00 p.m. The summit was started in 2003 to talk about the importance of water. Stephen Leahy is a return speaker and groundwater conservation will be the focus. He thanked staff for all they do for water conservation and the summit.

4. Presentation of Mayor's Golf Tournament Proceeds

Postponed to next meeting.

5. Citizen Commission Report - Farmers Market Commission - Amanda Argona / Jamie Hill

Postponed to next meeting.

6. Written Decision Regarding the Appeal of a Board of Adjustment Decision Regarding 414 S. Main Street (ACTION ITEM) - Bill Belknap

On February 12, 2024, Brenda von Wandruszka (Applicant) requested a zoning determination regarding whether administrative offices of New Saint Andrews College could occupy a building currently addressed as 414 S. Main Street which previously was the location of the Moscow Contemporary Art Gallery. The City of Moscow Zoning Administrator issued Zoning Administrator Decision 2024-01 on February 21, 2024, which determined the proposed occupancy would not be permissible under the Moscow Zoning Code. The Applicant requested reconsideration of the decision on March 1, 2024. On March 21, 2024, the Zoning Administrator issued Zoning Administrator Decision 2024-02 which affirmed the prior decision. On April 15, 2024, the Applicant filed an appeal to the Zoning Administrator's decision in accordance with Moscow City Code (MCC) 4-8-2. The appeal was considered by the Zoning Board of Adjustment on June 11, 2024. The Zoning Board of Adjustment reversed the decision of the Zoning Administrator as documented in their written decision dated June 18, 2024. On June 27, 2024, the Zoning Administrator filed an appeal of the Zoning Board of Adjustment's decision to the City Council in accordance with Moscow City Code 4-8-5. On September 3, 2024, the Moscow City Council considered the Zoning Administrator's appeal during a duly noticed regular meeting of the City Council and reversed the decision of the Zoning Board of Adjustment in whole and affirmed Zoning Administrator Decision 2024-02 in its entirety. Staff has prepared the written decision for the Council's review and approval.

PROPOSED ACTIONS: Approve the proposed written decision; or approve the proposed written decision with modifications; or provide staff with further direction.

Belknap introduced the item as written above. Lewis said presentation by staff sums up all the discussions Council had. Lewis moved to approve the proposed written decision. Blankenship seconded. Roll Call Vote: Ayes: Unanimous. Nays: None. Abstentions: None. Motion carried.

REPORTS

City Council

Transportation Commission – Lewis said the Council on Aging (COAST) is applying for a grant and it's due Tuesday. The Commission will be tabling at the Farmers Market on Saturday.

SMART Transit – Lewis said the board sent an offer out for the executive director position.

Planning and Zoning Commission – Blankenship said the Commission received a presentation from Nils Peterson, Affordable Housing Trust.

Moscow Pathways Commission – Davis said the walking tour is taking place the 17th at 5:00 pm.

Fair and Affordable Housing Commission – Taruscio said Affordable Housing Trust, Sojourners Alliance, and Habitat for Humanity all presented at the meeting. Sojourners is at capacity with future plans for a 30 bed building. Habitat for Humanity hopes for 2 homes being built in the next year.

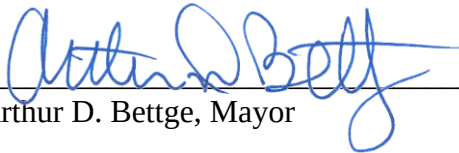
Council members spoke on other meetings and events they attended, including the quarterly regional meeting.

Mayor

No report.

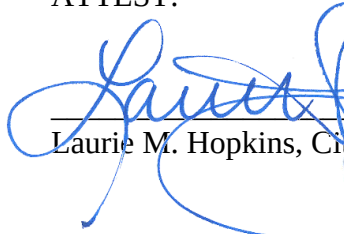
ADJOURN

It was moved, seconded and mutually agreed upon to adjourn at 7:37 p.m.

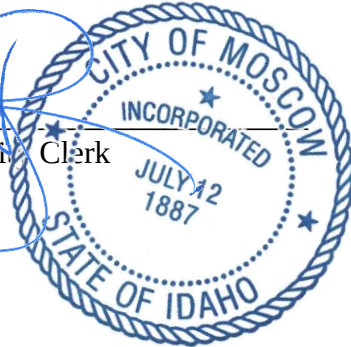


Arthur D. Bettge, Mayor

ATTEST:



Laurie M. Hopkins, City Clerk



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

**WRITTEN DECISION OF THE MOSCOW CITY COUNCIL REGARDING THE
APPEAL OF A BOARD OF ADJUSTMENT DECISION REGARDING ZONING
ADMINISTRATOR DECISION 2024-02 PERTAINING TO THE PROPOSED USE OF A
BUILDING LOCATED AT 414 SOUTH MAIN STREET IN THE CITY OF MOSCOW,
IDAHO.**

WHEREAS, on March 1, 2024, Brenda von Wandruszka, representing Rootforest LLC, requested the Zoning Administrator to reconsider Zoning Administrator Decision 2024-01, a decision related to the proposed use of a building located at 414 South Main Street in the City of Moscow, Idaho; and

WHEREAS, the proposed use of the building is for New Saint Andrews College (NSA) to use the existing building as an art gallery, a retail space, and administrative offices to support the operations and functions of NSA. The offices are to be occupied by NSA administrative staff, and no academic instruction or credit-bearing activity are proposed. The art gallery would include rotating exhibits and NSA wishes to continue to offer non-credit community art classes to both adults and children in the community.

WHEREAS, on March 21, 2024, the Zoning Administrator issued Zoning Administrator Decision 2024-02 for the proposed use of the building located at 414 South Main Street, as described by Brenda von Wandruszka; and

WHEREAS, the Zoning Administrator determined that the proposed use of the building at 414 South Main Street by NSA as an art gallery with an accessory art instruction and retail space is a permitted use so long as the operations of the gallery do not further the educational purposes of the college and do not include credit-bearing academic activities. The proposed administrative offices within the building to support the operations and functions of NSA, would constitute a prohibited use under Moscow City Code, Title 4, Chapter 3, Section 3-2.E, and Section 3-4, and are therefore not permitted; and

WHEREAS, on April 15, 2024, Benjamin Merkle, representing NSA, and Brenda von Wandruszka, representing Rootforest LLC, (hereinafter “Appellants”) filed a timely appeal of Zoning Administrator Decision 2024-02 in accordance with Moscow City Code Title 4, Chapter 8, Section 8-2; and

WHEREAS, on June 11, 2024, the Zoning Board of Adjustment (hereinafter “Board”) conducted a public meeting to consider the appeal of Zoning Administrator Decision 2024-02; and

WHEREAS, the Board reviewed Zoning Administrator Decision 2024-02, did not consider any new or additional evidence, and heard Appellant’s arguments on the appeal; and

WHEREAS, the Board determined that the proposed NSA administrative offices on the second floor of the building do not constitute an expansion of the College based upon Ordinance 2019-07 and are permitted uses under the Land Use Table of Moscow City Code; and

WHEREAS, on June 18, 2024, the Board approved its written decision which reversed the decision of the Zoning Administrator and determined that the proposed administrative offices within the building located at 414 South Main Street would constitute a permitted use under Moscow City Code, Title 4, Chapter 3, Section 3-2.E, and Section 3-4; and

WHEREAS, on June 27, 2024, the Zoning Administrator filed an appeal of the Board's decision to the City Council in accordance with Moscow City Code Title 4, Chapter 8, Section 8-5, claiming that the decision of the Board was both unsupported by substantial evidence in the written record and was arbitrary; and

WHEREAS, the Zoning Administrator did not request oral argument within said appeal in accordance with Moscow City Code Title 4, Chapter 8, Section 8-5.B.3; and

WHEREAS, on September 3, 2024, the Moscow City Council considered the Zoning Administrator's appeal during a duly noticed regular meeting of the City Council; and

WHEREAS, the Moscow City Council reviewed the complete record related to the appeal, did not consider any new or additional evidence, and did not consider any oral arguments on the appeal;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MOSCOW, IDAHO, AFTER DUE DELIBERATION AND CONSIDERATION OF THE RECORD ESTABLISHED BY THE MOSCOW ZONING BOARD OF ADJUSTMENT AND CONSIDERATION OF ZONING ADMINISTRATOR DECISION 2024-02 AND HAVING CONSIDERED THE ISSUES PRESENTED IN THE APPEAL, HEREBY CONCLUDES THAT ALL MATTERS STATED ABOVE ARE TRUE AND CORRECT AND ARE INCORPORATED HEREIN ALONG WITH THE FOLLOWING:

I. RELEVANT FACTS AND CONCLUSIONS

1. The Zoning Administrator filed a timely appeal in accordance with Moscow City Code Title 4, Chapter 8, Section 8-5 on the grounds that the decision of the Zoning Board of Adjustment was both unsupported by substantial evidence in the written record and was arbitrary, and he did not request oral argument before the City Council.
2. The City Council considered the Zoning Administrator's appeal during a duly noticed regular meeting of the City Council.
3. The City Council considered the appeal pursuant to procedures and requirements of Moscow City Code Title 4, Chapter 8, Section 8-5.

4. The City Council was provided the complete record related to this matter including all filings, applications, meeting minutes, written decisions, meeting transcripts, meeting recordings, and all other official records regarding the matter.
5. Upon review of the official record, the City Council finds that the Zoning Administrator's analysis and application of the City of Moscow Zoning Code to the subject property and proposed use, as provided in the Zoning Administrator Decision 2024-02, was thorough, accurate, and well supported by the evidence.
6. Upon review of the transcript of the June 11, 2024, Zoning Board of Adjustment meeting, the City Council finds that the Board's consideration and analysis of the appeal was not well supported by the record.
7. Upon review of the record, the City Council finds that statements made by the Zoning Board of Adjustment members, as recorded on Exhibit G, Page 43, Lines 10, 11, and 14-18 of the official transcript, indicates that the Board's decision was not grounded in fact, was arbitrary in nature, and appeared to abrogate their responsibility to render a rational and well supported decision.
8. Upon review of the Zoning Board of Adjustment's written decision dated June 18, 2024, the City Council finds that the written decision lacks any factual basis to support overturning the Zoning Administrator's decision.
9. In conclusion, upon review of Zoning Administrator Decision 2024-02 and the complete record, the City Council concurs with the Zoning Administrator's analysis, application of the City's Zoning Code, and ultimate decision of the determination requested regarding the use of the subject property, that the proposed administrative offices within the building at 414 South Main Street are part of a college and support the college in its purpose of furnishing academic courses and granting degrees at the baccalaureate or graduate levels, and would be classified under NAICS 611310 as Colleges, Universities, and Professional Schools and therefore would not be permissible within the Central Business Zoning District under Moscow City Code Title 4, Chapter 3, Section 3-2.E, and Section 3-4.

DECISION

The Moscow City Council hereby **REVERSES** the decision of the Zoning Board of Adjustment in whole and **AFFIRMS** Zoning Administrator Decision 2024-02 in its entirety.

PASSED on Motion by the Following Vote:

	Aye	Nay	Abstain	Absent
Hailey Lewis	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Drew Davis	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Sandra Kelly	<u> </u>	<u> </u>	<u> </u>	<u>X</u>

Gina Taruscio

X

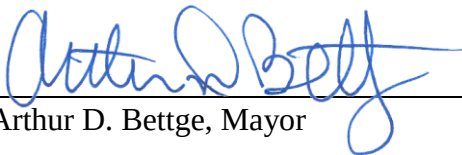
Julia Parker

X

Bryce Blankenship

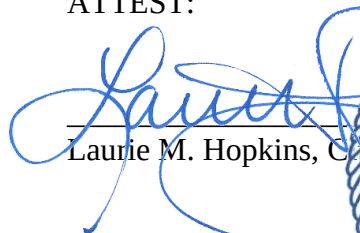
X

ADOPTED by the City Council of the City of Moscow, Idaho and **APPROVED** by the Mayor of the City of Moscow, this 16th day of September, 2024.


Arthur D. Bettge, Mayor

CERTIFICATION. I hereby certify that the above is a true copy of the City Council decision passed at a regular meeting of the City Council, City of Moscow, held on September 16, 2024.

ATTEST:


Laurie M. Hopkins, City Clerk

