

**MOSES LAKE PLANNING COMMISSION**  
**November 10, 2016**

Commissioners Present: Vicki Heimark, Nathan Nofziger, Tim Adams, David Eck, Charles Hepburn, Don Schmig, Gary Mann, Todd Lengenfelder, and Rick Penhallurick

Name	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Eck	E P	E P	P C	E P	P C	P E	P C	C P	P P	P P	P P	
Schmig	P P	P P	P C	P E	A C	P P	P C	C P	P P	P P	P P	
Lengenfelder	P P	P P	P C	P A	P C	A P	P C	C P	E P	A A	P P	
Adams	p p	P P	P C	E P	P C	P P	P C	C P	P P	P P	P P	
Heimark	P p	p P	E C	P P	P C	P E	P C	C P	P P	P P	P P	
Penhallurick	P A	E P	P C	A E	P C	A P	P C	C P	P P	E E	P P	
Hepburn	P P	P P	P C	P E	P C	P P	P C	C P	P P	P P	P P	
Nofziger	P P	P P	P C	P P	P C	P P	P C	C P	P P	P P	P P	
Mann	E E	P P	E C	p P	A C	P P	E C	C E	E E	E E	P P	

P - Present E = Excused A = Absent C = Canceled

Staff Present: Senior Planner, Anne Henning; Associate Planner, Daniel Leavitt; Recording Secretary, Lori Witters

Chair Heimark called the meeting to order at 7 p.m.

Chair Heimark called the roll. The following were:

Present: Chair Heimark, Co-Chair Nofziger, and Commissioners Adams, Eck, Hepburn, Mann, Penallurick, Lengenfelder, and Schmig.

Absent: None

**Meeting Minutes for October 27, 2016**

Action 1: Commissioner Eck moved to amend the minutes to reflect Commissioner Penhallurick as excused on October 27, 2016 due to illness.

Action 2: Commissioner Mann requested clarification of the requirements imposed on the Upper Lakeshore Mobile Home Park's Fence installation, and provide the findings to the Planning Commission at the next regular meeting.

Seconded by Commissioner Hepburn, Motion carried unanimously.

**Wheeler Corridor Business Park Preliminary Major Plat and Conditional Use Permit**

Commissioner Mann recused himself from the Public Hearing due to a conflict of interest.

Senior Planner, Anne Henning presented the staff report and visual attachments; Greg Haynes on behalf of Chrisjen Enterprises, LLC submitted an application to plat 6.99 acres located at 1304

Wheeler Road into a one-lot plat, and place cargo containers for storage.

The site is Zoned Light Industrial, which corresponds with the Comprehensive Plan Land Use Designation of Industrial.

The site contains a recently constructed greenhouse, four existing cargo containers used for storage, and the rest of the area is vacant land. One cargo container will have to be removed as only three are allowed per Moses Lake Municipal Code 18.76.040.B. No portion of the property has been determined as environmentally sensitive. No geologically sensitive areas or wetlands have been identified. The site is connected to City water and sewer. Street improvements for Wheeler Road are existing. The street and utility improvements for Lasco Lane fronting the plat are required.

Platting the property will facilitate further development of the site.

Commissioner Adams raised the question regarding the landscaping that existed, but is now gone.

**Presentation by Proponent:** Greg Haynes – Mailing address: P.O. Box 665, Warden Washington. Mr. Haynes answered Commissioner Adams questions regarding the missing landscaping; The area had been previously sterilized without his knowledge, and the new plantings died from the results.

**Public Hearing:** Dale Good, 905 Laguna Drive, stated that he owns properties at 1212 and 1228 Wheeler Road. The emitting marijuana odor from the grow operation has raised complaint from two of his tenants, and has caused him physical issues. Further Mr. Good asked the Commission for clarification as to why he had received City notification for the proposal to plat the property, but had not received notification for the construction of the greenhouses.

Chair Heimark explained the Planning Commission does not issue building permits, and that the public hearing was for the Preliminary Plat and cargo container conditional use permit only, and recommended Mr. Good contact City Staff regarding the building permit, and notification regulations.

Commissioner Penhullarick moved to close the public hearing, Commissioner Eck seconded. Motion carried unanimously.

**Action 1:** Commissioner Adams moved to recommend approval of the preliminary plat to City Council with the following conditions:

1. The comments of the Development Engineer shall be addressed before final plat submittal.
2. Street and utility improvements for Lasco Lane are required unless the City Council grants a waiver or deferral of improvements.
3. Access connections to Lasco Lane need to be approved by WSDOT within WSDOT right of way.
4. The final plat mylars must meet all requirements of ECBID and USBR before they are submitted to the City for signature.

Seconded by Commissioner Nofziger. Motion carried unanimously.

**Action 2:** Commissioner Adams moved to approve the Conditional Use Permit with the following conditions:

1. Only 3 containers are allowed, per MLMC 18.76.040.B.
2. The containers near the building shall be painted to blend with the building per MLMC 18.76.040.B or shall be screened from sight per MLMC 18.76.030.E. The containers not located near the building shall be screened from sight of the

- motoring public, per MLMC 18.76.030.E.
3. The containers shall be placed on a level concrete or asphalt surface as required by MLMC 18.76.030.B.
  4. A hard surface fire access road for the containers shall be provided as required by MLMC 18.76.030.D.
  5. A container placement permit for each container is required per MLMC 18.76.030.H.
  6. The conditional use permit shall run with the land.

Seconded by Commissioner Hepburn, Motion carried unanimously.

Commissioner Schmig expressed his concern regarding the “smell” emitting from the greenhouse, and asked if the public was aware of the odor was marijuana? Commissioner Hepburn recommended any citizen complaints or concerns should be forwarded to City Staff.

Senior Planner Henning read from Municipal Code Performance Standards, for Heavy Industrial Zones for odors. Any use producing odors shall be carried on in such a manner that offensive or obnoxious odors shall not be perceptible at or beyond the Heavy Industrial Zone boundary line.

#### **Herring Shoreline Substantial Development Permit and CUP**

Commissioner Mann returned to the room. Chair Heimark and Co Chair Nofziger recused themselves from this public hearing due to conflict of interest. Commissioner Hepburn acted as Chair for this item.

Associate Planner, Daniel Leavitt presented the staff report; Dan Herring submitted an application for a Shoreline Substantial Development Permit and a C-R Zone Conditional Use Permit to install a boat lift, dual jet-ski lift, and a 640-square foot dock. In addition, the Herrings proposed to remove the existing shoreline vegetation, install filter-cloth and large landscaping rocks to be placed along 12 feet of shoreline, under the dock and two feet beyond the dock on each side. An 8' foot wide brick paver path was proposed from the edge of the dock through the wetland buffer to the future home.

A Category III Lake Fringe Wetland exists on site. A minimum 25' wide wetland buffer is required.

The Mitigated Determination of Non-Significance issued on October 25, 2016 by Senior Planner Anne Henning, found significant adverse environmental impacts, which required modifications to the project description.

The proponent's representative, John Hermann, submitted an appeal of the MDNS, but the submittal was one day past the required due date for appeals.

**Presentation by Proponent:** Proponent Representative, John Hermann, 3740 Thayer Road NE, explained that the untimely submittal of his appeal was due to being out of the area. Further, Mr. Hermann stated by putting the dock out further into the lake, would result in damage to the dock from ice heave. The bulrush proposed to be removed is a small portion of the existing area, and the path is only 3% of the entire property. Mr. Hermann clarified that the path would be pavers not pavement.

It was determined that City Staff would accept a resubmittal with modifications and mitigation which would be re-reviewed by City Staff.

The public hearing was opened.

Proponent Dan Herring, 928 Laguna Drive, expressed frustration regarding the mitigation over minimizing the path size. Also, he commented that moving the dock out further would result in ice damage, as he has experienced this before with his current dock.

Robin Herring, 928 Laguna Drive, expressed frustration over missing the appeal deadline, and explained she was unaware anything needed to be formally submitted. Further, Mrs. Herring stated her concern over extending the proposed dock, and how it would most likely result in damage, like they experience in their current location.

Commissioner Mann moved to close the public hearing, seconded by Commissioner Eck. Motion carried unanimously.

Commissioner Legenfelder moved to table the motion until further or amended information could be provided. Commissioner Penhallurick seconded. Motion carried unanimously.

### **2016 Comprehensive Plan Amendments – Transportation & Utilities Element**

Chair Heimark and Co Chair Nofziger returned to the room.

The Washington State Growth Management Act (GMA) requires that most cities and counties adopt and maintain a Comprehensive Plan which addresses certain mandated elements. The Plan may be amended no more than once per year. The City of Moses Lake adopted a GMA-compliant Comprehensive Plan in 2001 and has amended it periodically. The current action updates the Utilities Element and the Transportation Element, including the Activity Trails map. Anne Henning, Senior Planner, explained the proposed changes to the Comprehensive Plan.

Discussion from the Commissioner raised questions regarding Grant Transit Authority (GTA) ridership and utilization of funds, it was requested to provide more information regarding these topics in next year's update.

The public hearing was opened. There was no testimony.

Commissioner Hepburn moved to close the public hearing, seconded by Commissioner Nofziger. Motion carried unanimously.

**Action Taken:** Commissioner Hepburn moved that it be recommended to the City Council that the amendments to the Comprehensive Plan Transportation and Utilities Elements be approved, seconded by Commissioner Nofziger. Motioned carried unanimously.

### **2016 Comprehensive Plan Amendments – Municipal Airport Expansion**

Due to late developments, this public hearing needed to be continued to November 29, 2016 at 7 p.m. to be held at the Civic Center, Council Chambers.

**Action:** Commissioner Mann moved to continue the public hearing to the 29<sup>th</sup> of November. Seconded by Commissioner Hepburn. Motion carried unanimously.

### **2016 Comprehensive Plan Amendments – The Greens Land Use Designation Change**

Commissioner Mann recused himself due to conflict of interest. Commissioner Penhallurick announced he had a lien against one of the properties but did not feel it affected his consideration of the action. There were no objections to Commissioner Penhallurick reviewing the action.

Senior Planner, Anne Henning provided the staff report and visual attachments; Michael Norman of Lee/Norman Development LLC has submitted an application to change 7 acres from Low Density

Residential to High Density Residential within The Greens Planned Unit Residential Development located at 123 Ninth Avenue.

The Greens currently is a Planned Unit Development and the action proposed would change the undeveloped portion to High Density Residential.

The public hearing was opened.

A letter opposed to the proposal was received from Nickolas N. and Verna L. Mount.

Rose Derenzo, 123 9<sup>th</sup> Avenue #2, stated she had concern over the proposed change, and what would be allowed for future development of the property. She stated the project has changed many times since she purchased her home.

Senior Planner Henning explained the differences in the designation, and what would be allowed for future development.

Commissioner Eck moved to close the public hearing, Seconded by Commissioner Penhallurick . Motion carried unanimously.

Commissioner Schmig stated he thought it would generate too much traffic and the access to the site is not good. Commissioner Nofziger mentioned that neighbors have complained about density in the past.

Commissioner Schmig moved to recommend to the Council to deny the request to change the land use designation for The Greens, Seconded by Commissioner Hepburn. Motion failed with Chair Heimark, and Commissioners Hepburn, Schmig and Nofziger in favor and Commissioners Adams, Eck, Lengerfelder, and Penhullarick opposed.

Commissioner Adams moved to recommend to City Council to approve the request to amend the land use designation for The Greens, seconded by Commissioner Eck. Motion failed with Commissioners Adams, Eck, Lengenfelder, and Penhallurick in favor, and Chair Heimark and Commissioners Hepburn, Schmig, and Nofziger opposed.

There being no further business, Chair Heimark adjourned the meeting at 9:20 p.m.

  
**Vicki Heimark, Planning Commission Chair**

BEFORE THE PLANNING COMMISSION/CITY COUNCIL OF THE  
CITY OF MOSES LAKE, WASHINGTON

IN THE MATTER OF THE WHEELER  
CORRIDOR BUSINESS PARK MAJOR PLAT  
AND CONDITIONAL USE PERMIT

FINDINGS OF FACT, CONCLUSIONS, AND  
DECISION

1. HEARING BEFORE THE PLANNING COMMISSION.

- 1.1 Date. A public hearing was held upon proper notice before the Planning Commission on November 10, 2016.
- 1.2 Proponent. Chrisjen Enterprises LLC is the proponent of this plat.
- 1.3 Purpose. The proponent has requested a one-lot plat of 6.99 acres and a conditional use permit to place cargo containers for storage at 1304 Wheeler Road in the Light Industrial Zone upon property described as Assessor Parcel #11-0005-002 and more fully described on the face of the plat.
- 1.4 Evidence. The Commission considered the following materials in reaching its decision:
  - A. The plat submitted June 8, with additional information submitted June 17, June 27, and September 29.
  - B. Staff report and attachments.
  - C. Testimony from Anne Henning, staff; Greg Haynes, representing the proponent; and Dale Good, property owner in the area.

2. FINDINGS OF FACT BY THE PLANNING COMMISSION.

Based upon the evidence presented to it, the Commission makes the following findings of fact:

- 2.1 The proponent is one of the owners of the property legally described above located within City limits.
- 2.2 The site contains a recently-constructed greenhouse, cargo containers for storage, and vacant land. Future development is proposed to be additional greenhouses. MLMC 18.40, Industrial Zones, allows cargo containers by conditional use permit, in compliance with MLMC 18.76, Cargo Containers.
- 2.3 MLMC 18.76, Cargo Containers, establishes minimum standards for the placement of cargo containers as storage facilities in those zones where they are allowed by conditional use permit. Conditions include that the containers must be appurtenant to the primary use in an adjoining building, the containers must be placed on a level concrete or asphalt surface, the containers shall not be stacked, a hard surface fire access road is required, the containers shall not be visible to the motoring public unless visual impacts are mitigated, containers shall be painted to blend in with the building, the area of the containers shall not exceed 5% of the area of the associated building, and no more than 3 containers are allowed.
- 2.4 The site is zoned Light Industrial, which corresponds with the Comprehensive Plan Land Use Designation of Industrial. Surrounding land uses are a mix of commercial, industrial, agricultural, and residential uses, and vacant land. The site abuts Wheeler Road to the south and SR-17 right-of-way to the west.

- 2.5 Wheeler Road is classified as a primary street. Improvements are existing, including sidewalks, curbs, gutters, pavement, and utilities. The Municipal Services Department did not require any modifications to Wheeler Road. Lasco Lane is classified as a tertiary street. Improvements do not meet City standards. Improvements to City standards are a requirement of platting, unless a waiver or deferral is granted.
- 2.6 No portion of the site has been classified as an environmentally sensitive area. No culturally or geologically sensitive areas or wetlands have been identified on the site. The western 2/3 of the site is relatively flat, sloping from 1154' at the northwest corner to 1161', then the eastern 1/3 of the site slopes up sharply from 1161' to 1170'. The Confederated Tribes of the Colville Reservation noted that the site could contain archaeological resources; however, no comments were received from the Washington State Department of Archaeology and Historic Preservation.
- 2.7 The Development Engineer provided a list of comments and corrections that must be addressed before the final plat is submitted for review.
- 2.8 The ECBID & USBR both commented that the plat is within their boundaries but does not contain Project facilities. The plat must comply with their requirements and both agencies must sign the plat.
- 2.9 The Grant County Assessor commented that the ownership includes both Chrisjen Enterprises and Wheeler Corridor LLC so both will need to sign the plat.
- 2.10 The Washington State Department of Transportation commented that any access connection to the frontage road (Lasco Lane) within WSDOT right-of-way needs approval by WSDOT.
- 2.11 The Confederated Tribes of the Colville Reservation commented that this area is characterized as highly sensitive for containing as yet undocumented cultural resources. Pre-contact period, historic, ethnographic, and traditional sites significant to the Confederated Tribes of the Colville Reservation are known to exist in the vicinity and such sites could remain undocumented with the project area. They requested that a cultural resource survey be completed for the site.
- 2.12 Since no comments were received from the Washington State Department of Archaeology and Historic Preservation, a cultural resource survey was not required. However, the MDNS includes a condition related to discovery of archaeological resources.
- 2.13 A Mitigated Determination of Non-Significance (MDNS) was issued for the project on October 25, under the State Environmental Policy Act Rules (WAC 197-11). There were 9 conditions, related to deleterious materials spills, stormwater, fill, sediment control, site stabilization, archaeological/cultural resources, WSDOT approval of access, street and utility improvements, and informing contractors of conditions. The conditions of the MDNS automatically become conditions of the project approval.
- 2.14 The closest intersections for which the Comprehensive Plan sets a transportation level of service are Pioneer/Wheeler/5<sup>th</sup>, set at D, and Wheeler and Road L, set at C. Existing conditions as of 2010 were C at both intersections. However, the project will add very few trips so will not lower the level of service.
- 2.15 Comprehensive Plan General Land Use Policy 1 encourages cost-effective development adjacent to urban areas where adequate public facilities and services exist or can be provided in a timely and efficient manner.

- 2.16 Comprehensive Plan Land Use Policy 4 encourages infill developments that are scaled and designed to fit their surroundings on properties suited to urban development.
- 2.17 Industrial Land Use Goal 10 encourages the development of diversified industrial and manufacturing activities to provide employment in the area, and strengthen the economy and tax base.
- 2.18 Industrial Policy 53 is that City shall coordinate with the Grant County Economic Development Council, Port of Moses Lake, Public Utility District, and other regional agencies' efforts to retain and attract industrial and manufacturing activities in the area.
- 2.19 Industrial Policy 54 is that industrial and manufacturing recruitment efforts shall be supported by a range of procurable large, open, attractive light- and heavy-industrially-zoned development sites located within the UGA.
- 2.20 Industrial Policy 55 is that industrial lands should not attract land uses which are more appropriate in commercial areas.
- 2.21 Industrial Policy 56 is to locate industrial lands in areas that maximize available and planned infrastructure, including major transportation corridors.
- 2.22 Dale Good, 905 Laguna Drive, testified that he owns 1212 and 1228 Wheeler Road. The odor from the marijuana greenhouse has caused complaints from his tenants and customers. He also questioned why he wasn't notified before the greenhouse was constructed. The Planning Commission responded that odor complaints are a zoning matter that should be directed to staff, and that previous actions on the site did not trigger land use permits so public notification was not required.

### 3. CONCLUSIONS BY THE PLANNING COMMISSION.

From the foregoing findings of fact, the Planning Commission makes the following conclusions:

- 3.1 The decision of the Planning Commission must be supported by the evidence presented and must be consistent with the standards and criteria for review specified in state statutes and city ordinances. The standards and criteria for review of preliminary plat applications are found in Chapter 58.17 of the Revised Code of Washington (RCW), Title 17 of the Moses Lake Municipal Code (MLMC), and Title 20 MLMC. The standards and criteria for conditional use permits are found in MLMC 18.51. The standards for cargo containers are found in MLMC 18.76.
- 3.2 Odors cause by a business are not relevant to the plat and storage conditional use permit currently being considered. Notifications were done properly.
- 3.3 MLMC 20.09.020 requirements:
  1. **Comprehensive Plan/Municipal Code:** The development is consistent with Comprehensive Plan goals and policies on infill and industrial uses by platting a site in an industrial area that has access to City services and making the site suitable for additional development. With conditions, the development meets the requirements and intent of the Municipal Code.
  2. **Adequate provisions for necessary improvements:** With the improvement of Lasco Lane, the project will provide adequate streets and other public ways, water supply, and sanitary waste disposal.

3. **Impacts:** No impacts have been identified under Chapters 14 through 19 that will not be mitigated through existing regulations and conditions.
4. **Public health, safety, welfare, and interest:** The development is beneficial to the public health, safety and welfare and is in the public interest by platting land consistent with the intent of the Light Industrial Zone and making it suitable for additional development.
5. **Transportation Level of Service:** The development does not lower the level of service of transportation facilities below the minimum standards established in the Comprehensive Plan because platting the property does not change the traffic generated by the site, and the proposed use is expected to generate very little traffic.
6. **Parks Level of Service:** Not applicable to industrial projects.
7. **Dedications:** No dedications are proposed.
5. **Conditional Use Permit:** As conditioned by MLMC 18.76, allowing cargo containers for storage does not hinder the intent of the Light Industrial Zone. It conforms to the Comprehensive Plan. Storage in cargo containers will not generate traffic so will not create undesirable traffic congestion or parking problems. MLMC 18.76 requires screening or visual mitigation, so the use will not be detrimental to surrounding properties because of appearance or use. The storage use will not create noise. The conditional use permit will not allow deviations from the standards and regulations of the Light Industrial Zone. Storage in cargo containers will not create environmental problems.

4. DECISION OF THE PLANNING COMMISSION.

- 4.1 On the basis of the foregoing findings of fact and conclusions, the Planning Commission of the City of Moses Lake recommends that the request for a preliminary major plat as submitted on the property designated above be approved with the following conditions:
  1. The comments of the Development Engineer shall be addressed before final plat submittal.
  2. Street and utility improvements for Lasco Lane are required unless the City Council grants a waiver or deferral of improvements.
  3. Access connections to Lasco Lane need to be approved by WSDOT within WSDOT right of way.
  4. The final plat mylars must meet all requirements of ECBID and USBR before they are submitted to the City for signature.
- 4.2 On the basis of the foregoing findings of fact and conclusions, it is the decision of the Planning Commission of the City of Moses Lake that the request for a conditional use permit for cargo containers be approved with the following conditions:
  1. Only 3 containers are allowed, per MLMC 18.76.040.B.
  2. The container near the building shall be painted to blend with the building per MLMC 18.76.040.B or shall be screened from sight per MLMC 18.76.030.E. The containers not located near the building shall be screened from sight of the

motoring public per MLMC 18.76.030.E.

3. The containers shall be placed on a level concrete or asphalt surface as required by MLMC 18.76.030.B.
4. A hard surface fire access road for the containers shall be provided as required by MLMC 18.76.030.D.
5. A container placement permit for each container is required per MLMC 18.76.030.H.
6. The conditional use permit shall run with the land.

Approved by the Planning Commission on December 15, 2016.



Vicki Heimark, Chair