

**ELMORE COUNTY PLANNING AND ZONING COMMISSION**  
**War Memorial (American Legion Hall), 515 East 2<sup>nd</sup> South Street, Mountain Home, ID**  
**83647**

---

**Wednesday, August 5, 2015 at 7:00pm**

**Agenda**

**PLEASE SILENCE CELL PHONES**

**CALL TO ORDER**

**ESTABLISH QUORUM**

- |   |   |
|---|---|
| <input type="checkbox"/> Chairperson Patti Osborn       | <input type="checkbox"/> Vice-Chairperson K.C. Duerig |
| <input type="checkbox"/> Betty Van Gheluwe              | <input type="checkbox"/> Sue Fish                     |
| <input type="checkbox"/> Ed Oppedyk                     | <input type="checkbox"/> Shane Zenner                 |
| <input type="checkbox"/> Jeff Blanksma                  |   |
| <br>  |   |
| <input type="checkbox"/> Attorney of Record Phil Miller |   |

**PLEDGE OF ALLEGIANCE**

**PUBLIC MEETING/INFORMATION ITEMS**

- Ordinance Work Session
- Tiny Homes
- Upcoming P&Z Schedule

**ITEMS FROM THE PUBLIC**

**FCO and MINUTES**

- Minutes from 7-15-2015
- FCO for Case Number CUP-2015-08 Hammett Community Church

**MEETING ADJOURNED**



# Elmore County Land Use and Building Department

520 East 2nd South Street  
Mountain Home, Id. 83647  
Phone: (208) 587-2142 ext. 254  
Fax: (208) 587-2120  
www.elmorecounty.org

Alan Christy  
Director

Tell Riley  
Building Official

Beth Bresnahan  
Planner I

Kacey Ramsauer  
Administrative  
Assistant

## Memorandum

**Date:** July 29, 2015

**To:** Planning and Zoning Commission

**From:** Alan Christy, Director

**Re:** Ordinance Chapters 10 & 11

### Background

The purpose of this memorandum is to give the planning and zoning commission a summary of changes to Chapters 10 & 11 of the zoning and development ordinance for an August 5, 2015 work session. It is anticipated staff will have additional ordinance chapters reviewed by the August 5<sup>th</sup> meeting.

### Summary of changes Chapter 10

- Consistency in terms.
- Removed date for parcel of record as Idaho Code allows PLSS breakdown to 40 acres.
- Increased Farm Development Acreage to 5 acres to maintain certain agricultural exemptions.

### Summary of changes Chapter 11

- Consistency in terms
- Removed section 6-4-11 as it can be covered in Chapters 2 & 3.
- Modified access to private road standards. Added an exemption for flag lots.
- Idaho Code Title 55-13 has been repealed.
- Added language for construction waste.
- Added correct date and standard for multiple dwellings.

### Attachments:

1. Chapter 10 Clean Version
2. Chapter 10 Redline
3. Chapter 11 Clean Version
4. Chapter 11 Redline

**TITLE 6  
ELMORE COUNTY  
ZONING AND DEVELOPMENT ORDINANCE**

**CHAPTER 10 –FARM DEVELOPMENT RIGHT**

**Sections:**

- 6-10-1: Purpose**
- 6-10-2: Farm Development Right**
- 6-10-3: Process**
- 6-10-4: Standards**

**Section 6-10-1: Purpose**

- A. The purpose of this Chapter is to describe the basic development rights associated with agricultural zoning on land within Elmore County.

**Section 6-10-2: Farm Development Right:**

- A. Purpose: This regulation allows owners of a qualifying property as determined by the Director in the agricultural zoning district to create one (1) residential parcel for conveyance without platting. If the qualifying property is decreased below the minimum property size as a result of granting the farm development right, the remainder of the qualifying property shall still be considered a conforming property.
- B. Applicability: This regulation shall apply to any property that meets all of the following criteria:
  - 1. The property is within the agricultural zoning district;
  - 2. The property shall be a minimum of forty (40) acres of contiguous property under one ownership or control unless reduced by the result of a government action; and
  - 3. The property shall be approved to a maximum of one (1) farm development right.
  - 4. Parcels approved prior to the effective date of this Ordinance subject to the one (1) acre lot regulations or one (1) acre parcel regulations shall be considered farm development rights.

**Section 6-10-3: Process**

- A. Application: An application and fees shall be submitted to the Director on forms provided by the Department.

- B. Required Findings: The Director shall make the following findings in order to approve, or approve with conditions, the farm development right:
1. The proposed farm development right meets the applicability requirements of Section 6-10-2 subsection B; and
  2. The proposed farm development right complies with the standards listed in Section 6-10-4.
- C. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to the regulations of this Ordinance, the applicant or owner shall have one year to complete all of the following tasks:
1. Record with the Clerk and Recorder a record of survey; and
  2. Execute and record the necessary deeds to convey the farm development right parcel; and
  3. Obtain new tax parcel numbers from the Assessor; and
  4. Provide copies of the recorded record of survey, recorded deeds, and the new tax parcel numbers to the Director.
- D. Final Approval Requirements: Upon determination by the Director that the farm development right is in conformance with the requirements outlined in the tentative approval letter and that all requirements were satisfied prior to the one (1) year expiration date, then the Director shall issue a letter stating that the farm development right has received final approval.

#### **Section 6-10-4: Standards**

- A. A farm development right parcel shall meet the following minimum standards:
1. The farm development right parcel is between one (1) acre and five (5) acres in size and meets the other required dimensional standards established by this Ordinance; and
  2. The farm development right parcel can provide adequate access and frontage as required by this Ordinance; and
  3. If the qualifying property has more than one (1) permanent dwelling, the farm development right parcel shall contain one (1) of the extra dwellings. This standard shall not apply to temporary living quarters; and

4. The proposed farm development right division shall maximize to the greatest extent possible the preservation of prime agricultural soils; and
  5. The farm development right parcel shall be located on the portion of the property that causes the least disruption of agriculture on the remainder of the qualifying property while still meeting the standards of this section.
- B. As part of the application, an applicant may request an increase in property size to a maximum of five (5) acres to accommodate one of the following:
1. Additional property is needed to support an individual wastewater treatment system; or
  2. The farm development right parcel separates an existing dwelling (either principal permitted or other) from the qualifying property and such dwelling cannot obtain proper street frontage or setback requirements unless granted a larger property size; or
  3. When the property under consideration for the farm development right parcel is separated by a barrier that prevents the use of the qualifying property as one (1) unit.
  4. The property will maintain the preservation of prime agricultural soils.
  5. Maintain certain agricultural exemptions on the farm development right.

**TITLE 6  
ELMORE COUNTY  
ZONING ~~and~~ **AND** DEVELOPMENT ORDINANCE**

**CHAPTER 10 –FARM DEVELOPMENT RIGHT**

**Sections:**

- 6-10-1: Purpose
- 6-10-2: Farm Development Right
- 6-10-3: Process
- 6-10-4: Standards

**Section 6-10-1: Purpose**

A. The purpose of this Chapter is to describe the basic development rights associated with agricultural zoning on land within Elmore County.

**Section 6-10-2: Farm Development Right:**

~~A.~~ **A.** Purpose: This regulation allows owners of a qualifying property as determined by the ~~Elmore County Assessor~~ **Director** in the agricultural zoning district to create one (1) residential parcel for conveyance without platting. If the qualifying property is decreased below the minimum property size as a result of granting the farm development right, the remainder of the qualifying property shall still be considered a conforming property.

B. ~~Applicability:~~ This regulation shall apply to any property that meets all of the following criteria:

1. The property is within the agricultural zoning district;
2. The property ~~of record~~ shall be a minimum of forty (40) acres of contiguous property under one ownership or control; ~~and~~
3. ~~The property was of record in the Elmore County recorder's office as of December 31, 2006, (hereinafter referred to as the "property of record") and the boundaries of which shall not have changed except as unless reduced by~~ the result of a ~~governmental~~ **government** action; ~~and~~
- ~~a.~~ **a.** ~~Only a~~ 3. The property ~~of record~~ shall be approved to a maximum of one (1) farm ~~development right.~~

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Font: Bold

**Formatted:** Font: Bold

**Formatted:** Normal, Centered, Don't add space between paragraphs of the same style

**Formatted:** (none)

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** (none)

**Formatted:** Normal

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Font: Not Bold, (none)

**Formatted:** Font: Times New Roman, 12 pt, Not Italic

**Formatted:** Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Font: Bold

**Formatted:** Normal

**Formatted:** Font: Bold, (none)

**Formatted:** Font: Times New Roman, 12 pt

**Formatted:** Heading 2, Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0", Hanging: 0.25", Don't add space between paragraphs of the same style, No bullets or numbering, Tab stops: 0.25", Left

**Formatted:** Don't add space between paragraphs of the same style, Tab stops: 0.25", Left

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Hanging: 0.19", Don't add space between paragraphs of the same style, Tab stops: 0.44", List tab + Not at 0.5"

**Formatted:** Indent: Left: 0.25", Hanging: 0.19", Don't add space between paragraphs of the same style, Tab stops: 0.44", List tab

**Formatted:** English (United States)

b. For the purposes of this ordinance, parcels ~~4. Parcels~~ approved prior to the effective date of this ~~ordinance~~ Ordinance subject to the one (1) acre lot regulations or one (1) acre parcel regulations shall be considered farm development rights.

### Section 6-10-3: Process

A. Application: An application and fees, ~~as set forth in this ordinance,~~ shall be submitted to the Director on forms provided by the ~~Growth and Development~~ Department.

B. Required Findings: The Director shall make the following findings in order to approve, or approve with conditions, the farm development right:

—1.- The proposed farm development right meets the applicability requirements ~~of Section 6-10-2 subsection B of this Chapter,~~ and

—2.- The proposed farm development right complies with the standards listed in ~~Section 6-10-4 of this Chapter.~~

C. Tentative Approval Requirements: Upon tentative approval of the application by the Director subject to the regulations of this ~~ordinance~~ Ordinance, the applicant or owner shall have one year to complete all of the following tasks:

-1. ~~Cause~~ Record with the ~~property to be surveyed~~ Clerk and Recorder a record of survey ~~recorded;~~ and

—2. Execute and record the necessary deeds to convey the farm development right ~~parcel;~~ and

3. Obtain new tax parcel numbers from the ~~Elmore County assessor~~ Assessor; and

—4. Provide copies of the recorded record of survey, recorded deeds, and the new tax ~~parcel~~ numbers to the Director.

D. Final Approval Requirements: Upon determination by the Director that the farm development right is in conformance with the requirements outlined in the tentative approval letter and that all requirements were satisfied prior to the one (1) year expiration date, ~~than then~~ the Director shall issue a letter stating that the farm development right has received final approval.

### Section 6-10-4: Standards

A. A farm development right parcel shall meet the following minimum standards:

Formatted: Don't add space between paragraphs of the same style

Formatted: Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Indent: Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style, Tab stops: 0.5", Left

Formatted: Don't add space between paragraphs of the same style

Formatted: Indent: Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Indent: Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

1. The farm development right parcel ~~shall~~ is between one (1) acre and five (5) acres in size and meets the other required dimensional standards ~~for an agricultural residence as~~ established by this ~~ordinance~~ Ordinance; and
  2. The farm development right parcel can provide adequate access and frontage as required by this ~~ordinance~~ Ordinance; and
  3. If the qualifying property has more than one (1) permanent dwelling, the farm development right parcel shall contain one (1) of the extra dwellings. This standard shall not apply to temporary living quarters; and
  4. The proposed farm development right division shall maximize to the greatest extent possible the preservation of prime agricultural soils; and
  5. The farm development right parcel shall be located on the portion of the property that causes the least disruption of agriculture on the remainder of the qualifying property while still meeting the standards of this section.
- B. As part of the application, an applicant may request an increase in property size to a maximum of ~~two and one-half (2½)~~ five (5) acres to accommodate one of the following:
- 1. Additional property is needed to support an individual wastewater treatment ~~—~~ system; or
  2. The farm development right parcel separates an existing dwelling (either principal permitted or other) from the qualifying property and such dwelling cannot obtain proper street frontage or setback requirements unless granted a larger property size; or
  3. When the property under consideration for the farm development right parcel is separated by a barrier that prevents the use of the qualifying property as one (1) unit.
  4. The property will maintain the preservation of prime agricultural soils.
  5. Maintain certain agricultural exemptions on the farm development right.

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**TITLE 6  
ELMORE COUNTY  
ZONING AND DEVELOPMENT ORDINANCE  
CHAPTER 11 - STANDARD REGULATIONS APPLYING TO ALL DISTRICTS**

**Sections:**

- 6-11-1: Purpose**
- 6-11-2: Applicability**
- 6-11-3: Access To and Frontage on a Roadway**
- 6-11-4: Agriculture**
- 6-11-5: Condominium Projects**
- 6-11-6: Contiguous Parcels**
- 6-11-7: Construction Sites**
- 6-11-8: Dwellings, Two or More Existing**
- 6-11-9: Property Created By Court Decree**
- 6-11-10: Pipeline Corridors**
- 6-11-11: Property Reduced By Governmental Action**
- 6-11-12: Utilities**
- 6-11-13: Wastewater Treatment Systems**
- 6-11-14: Water**
- 6-11-15: Grading**
- 6-11-16: Renovation, Repair, Expansion or Replacement of Dwelling**
- 6-11-17: Outdoor Storage**

**Section 6-11-1: Purpose:**

- A. This Chapter establishes specific regulations for uses set forth in this Ordinance to be administered in the applicable base zones and overlay districts. This Chapter provides specific regulations for the location, design, and development of new land uses and the alteration of existing land uses. This Chapter supplements the regulations for development in each base zone and overlay district as set forth in this Ordinance.

**Section 6-11-2: Applicability:**

- A. This Chapter shall apply to all development and uses in all districts except, as otherwise exempted by this Ordinance.

**Section 6-11-3: Access To and Frontage on a Roadway:**

- A. "Development", as herein defined, shall only be approved on a property that meets the minimum dimensional standards of the base and overlay districts, and fronts on a public or private road, or alley as defined or allowed by this Ordinance.
- B. A property may take access from a private road, provided the private road is initiated from a public road, and the private road is located on a sixty (60') foot recorded easement or lot, and the terminus of which shall be located within the property or a seventy (70') foot cul-de-sac located within the recorded right-of-way:
  - 1. If located on a seventy (70') foot cul-de-sac, the required frontage shall be thirty (30') feet or as otherwise specified in this Ordinance.
  - 2. If located at the terminus of which shall be located within the property, the required frontage shall be sixty (60') feet, the width of the private road easement or lot.
  - 3. Access from a private road to another private road shall approved by the Director, as long as maintenance agreements and easements are established to ensure access is maintained to all properties.
  - 4. Flag lots shall be exempt as long as the flag lot meets the requirements of Chapter 35 of this Ordinance.
- C. Private Alleys: Private alleys may provide frontage when:
  - 1. The private alleys are located on a lot; and
  - 2. The lots are owned and maintained by the lot owners whose property accesses and fronts on the private alley; and
  - 3. The alley is accompanied with a recorded cross access easement and maintenance agreement; and
  - 4. The CC&Rs shall also indicate ownership, maintenance, and administrative responsibilities of the private alley, which shall be reviewed and approved by the Director.
- D. When applicable, all private alleys shall comply with the minimum design/construction requirements of the applicable fire district or this Ordinance whichever is more restrictive where applicable.

**Section 6-11-4: Agriculture:**

- A. Nothing contained in this Chapter shall prohibit the use of any land for agriculture except where such use creates a health hazard.

**Section 6-11-5: Condominium Projects:**

- A. All condominium projects shall be reviewed to ensure the use complies with the requirements of any applicable base and overlay districts. If approved, the condominium project plat and declaration shall be certified by the County Surveyor and signed by the Board as provided in Idaho Code, Title 50, Chapter 13.

**Section 6-11-6: Contiguous Parcels:**

- A. Abutting parcels or property held in one or common ownership or controls that abut each other at a common boundary shall be considered one property for development purposes unless the owner can demonstrate one of the following:
  - 1. The parcels comply with the regulations of this Ordinance that were in effect at the time such parcels were recorded, and the parcels were originally conveyed and recorded under a single deed identifying each as a separate parcel; or
  - 2. The parcels comply with the regulations of this Ordinance that were in effect at the time such parcels were recorded, and the parcels were originally conveyed and recorded under separate deeds; or
  - 3. Each of the abutting parcels is a conforming or nonconforming property as defined in this Ordinance; or
  - 4. Physical characteristics of the property prevent its use as one unit, the properties are separated by a fee simple ownership and/or the properties are separated by a public right of way or public street.

**Section 6-11-7: Construction Sites:**

- A. New development shall contain all construction debris on site and prevent windblown trash and debris from leaving the site. It shall be the permit holder's responsibility to obtain a waste container and/or trailer for construction debris.
- B. Construction waste shall be disposed of at approved locations.
  - 1. No construction waste dumping is allowed at the Pine waste transfer facility.

**Section 6-11-8: Dwellings, Two or More Existing:**

- A. Any property that has two (2) or more existing dwellings that were built prior to May 12, 2009 or were approved principal permitted dwellings in accordance with the zoning regulations in effect at the time such dwellings were built, shall be deemed conforming uses.

**Section 6-11-9: Property Created By Court Decree:**

- A. Any property created by court decree shall be recognized as a property for transfer of ownership; but shall not be eligible for development including any building permits for renovation or repair of an existing structure. To become eligible for development, the property shall comply with all applicable regulations of this Ordinance.

**Section 6-11-10: Pipeline Corridors:**

- A. For any property for which there is a pipeline corridor easement the owner and/or applicant shall provide appropriate setbacks from the pipeline facility as determined by the easement holder.

**Section 6-11-11: Property Reduced By Governmental Action:**

- A. If a governmental action (such as acquisition through prescription, purchase, Eminent Domain or other means by the applicable highway district, Idaho Transportation Department, or other local, state, or federal agency) reduces an existing property below the required property size, such property shall be deemed as a conforming property for the purposes of development.

**Section 6-11-12: Utilities:**

- A. All utilities for a new dwelling or approved use shall be installed underground, unless the applicable utility company authorizes above ground installations. For the purposes of this Section, the term "utilities" shall include, but not be limited to, electric, natural gas, water, wastewater collection, storm drainage, telephone, and cable services. Agricultural structures as herein defined shall be exempt from this regulation. See Ordinance Chapter 8 for additional requirements for Public or Quasi-Public Use (Utilities).

**Section 6-11-13: Wastewater Treatment Systems:**

- A. For any dwelling or approved use, the owner or applicant shall provide and maintain sewage disposal facilities that meet the approval of the Central District Health Department and this Ordinance. Options for sewage disposal facilities shall include, but not be limited to, the following methods:
1. Community sewage disposal system for sewage with a maintenance and operation plan approved by the State of Idaho Department of Environmental Quality and which meet the definition of a Community Sewage System and Facility as defined by this Ordinance; or
  2. An individual sewage disposal system where each residential lot has a permanent drain field area on the lot and/or on a delineated easement on a portion of an open space lot, as allowed by this Ordinance; or
  3. A municipal wastewater collection and treatment system as defined by this Ordinance.

[Pit privy as allowed by CDHD]

**Section 6-11-14: Water:**

- A. For any dwelling or approved use, the owner or applicant shall provide and maintain an adequate water supply for the intended use as required by this Ordinance.
1. The applicant shall provide evidence that a valid water right either exists or is in the process of being obtained or that the development is exempt from obtaining a water right to supply adequate water.
  2. All wells constructed or modified to supply water for a development shall be constructed in accordance with the "Well Construction Standards" adopted by the Idaho Water Resource Board (IDAPA 37.03.09), the "Idaho Rules For Public Water Systems" adopted by the Idaho Board of Health (IDAPA 16.01.08) if applicable, and any additional conditions included in a drilling permit issued by the Idaho Department of Water Resources.
- B. No landowner or occupant may utilize, apply or divert water intended for domestic use in excess of an amount or rate authorized or legally allowed by the statutes of the State of Idaho or a license or permit issued by the Idaho Department of Water Resources. Such use shall constitute a violation of this Ordinance and Elmore County may proceed with any enforcement action authorized by this Ordinance. Said action shall be separate from and not dependent upon any finding or action by the Idaho Department of Water Resources.

**Section 6-11-15: Grading:**

- A. No grading, filling, clearing, or excavation of any kind, excluding grading associated with an agricultural use, shall be initiated without County Engineer and/or Director approval of a drainage study or drainage plan and a grading permit obtained from the Department. A zoning permit or conditional use approval may be required prior to the issuance of a grading permit.

**Section 6-11-16: Renovation, Repair, Expansion or Replacement of Dwelling:**

- A. A zoning permit for the renovation, repair, expansion or replacement of a dwelling (including any existing or proposed accessory structures) may be issued to a property that meets the following criteria:
  - 1. An easement, recorded prior to May 12, 2009, that is at least thirty (30') feet wide, provides access to the property which is either an approved private road or approved driveway; or
  - 2. The property was of record in the Clerk and Recorder's office prior to January 1, 1974; or
  - 3. The property contains a dwelling that conforms to all applicable codes and/or ordinances; or
  - 4. The property complies with the minimum property size of the base and overlay districts; or
  - 5. The property is located in an Area of City Impact; or
  - 6. The property has established grandfather rights for a legal non-conforming lot or has received approval to expand a legal non-conforming lot. For legal non-conforming lots, repairs and renovation permits shall only be issued to maintain the legal non-conforming use in good repair. Expansion or replacement permits shall be contingent upon the applicant meeting the requirements of this Ordinance for expansion or replacement of legal non-conforming structures.

**Section 6-11-17: Outdoor Storage:**

- A. All outdoor storage shall comply with the requirements of this Ordinance.
- B. Manufactured homes shall not be stored within the required yards. Storage of a manufactured home shall be considered outdoor storage, and shall only be stored in outdoor storage areas that comply with this Ordinance.

- C. Outdoor storage areas shall not be used for the storage of junk, a "junkyard" or "automobile wrecking yard" as herein defined in this Ordinance.
- D. All outdoor storage shall comply with the FEMA designated flood zones as set forth in this Ordinance.

TITLE 6  
ELMORE COUNTY  
ZONING ~~and~~ AND DEVELOPMENT ORDINANCE

CHAPTER 11 - STANDARD REGULATIONS APPLYING TO ALL DISTRICTS

Sections:

- 6-11-1: Purpose
- 6-11-2: Applicability
- 6-11-3: Access To and Frontage on a Roadway
- 6-11-4: ~~Accumulation of Junk~~
- ~~6-11-5:~~ Agriculture
- 6-11-~~65~~: Condominium Projects
- 6-11-~~76~~: Contiguous Parcels
- 6-11-~~87~~: Construction Sites
- 6-11-~~98~~: Dwellings, Two or More Existing
- 6-11-~~109~~: Property Created By Court Decree
- 6-11-~~110~~: Pipeline Corridors
- 6-11-~~1211~~: Property Reduced By Governmental Action
- 6-11-12: Utilities
- 6-11-13: ~~Utilities~~
- ~~6-11-14:~~ Wastewater Treatment Systems
- 6-11-14: Water
- 6-11-15: ~~Water~~ Grading
- 6-11-16: Grading
- ~~6-11-17:~~ Renovation, Repair, Expansion or Replacement of Dwelling
- 6-11-~~1817~~: Outdoor Storage

Section 6-11-1: Purpose:

- A. This Chapter establishes specific regulations for uses ~~as~~ set forth in this ~~Title~~ Ordinance to be administered in the applicable base zones and overlay districts. This Chapter provides specific regulations for the location, design, and development of new land uses and the alteration of existing land uses. This Chapter supplements the regulations for development in each base zone and overlay district as set forth in this ~~Title~~ Ordinance.

Formatted: Font: Italic

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Font color: Black

Formatted: Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Font: Times New Roman

Formatted: Normal (Web), Normal (Web) Char Char, Indent: Left: 0", First line: 0", Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-2: Applicability:**

A. This Chapter shall apply to all development and uses in all districts except, as otherwise exempted by this ~~Title~~ Ordinance.

~~A.~~

**Section 6-11-3: Access To and Frontage on a Roadway:**

A. "Development", as herein defined, shall only be approved on a property that meets the minimum dimensional standards of the base and overlay districts, and fronts on a public or private road, or alley as defined ~~in this Title, or as otherwise allowed by this Title~~ Ordinance.

B. A property may take access from a private road, provided the private road is initiated from a public road, and the private road is located on a sixty (60') foot recorded easement ~~or lot~~, and the terminus of which shall be located within the property or a seventy (70') foot cul-de-sac located within the recorded right-of-way:

1. If located on a seventy (70') foot cul-de-sac, the required frontage shall be thirty (30') feet or as otherwise specified in this ~~Title~~ Ordinance.
2. If located at the terminus of which shall be located within the property, the required frontage shall be sixty (60') feet, the width of the private road easement or lot.
3. Access from a private road to another private road shall ~~be prohibited, however an approved private road, with terminus on a public road containing a sixty (60') foot easement may be extended provided by the conditions~~ Director, as long as maintenance agreements and easements are established to ensure access is maintained to all properties.

~~3.4~~ Flag lots shall be exempt as long as the flag lot meets the requirements of Chapter 35 of this Chapter are complied with Ordinance.

C. Private Alleys: Private alleys may provide frontage when:

1. The private alleys are located on a lot; and
2. The lots are owned and maintained by the lot owners whose property accesses and fronts on the private alley; and
3. The alley is accompanied with a recorded cross access easement and maintenance agreement; and

**Formatted:** Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Indent: Left: 0", Hanging: 0.25", Space After: 0 pt, Don't add space between paragraphs of the same style, No bullets or numbering

**Formatted:** Indent: Left: 0", Hanging: 0.25", Don't add space between paragraphs of the same style

**Formatted:** Indent: Hanging: 0.25", Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** English (United States)

**Formatted:** English (United States)

**Formatted:** English (United States)

**Formatted:** English (United States)

**Formatted:** Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Indent: Hanging: 0.25", Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** English (United States)

**Formatted:** English (United States)

**Formatted:** Don't add space between paragraphs of the same style

**Formatted:** English (United States)

**Formatted:** English (United States)

**Formatted:** Space After: 0 pt, Don't add space between paragraphs of the same style

**Formatted:** Don't add space between paragraphs of the same style

4. The CC&Rs shall also indicate ownership, maintenance, and administrative responsibilities of the private alley, which shall be reviewed and approved by the Director.

D. When applicable, all private alleys shall comply with the minimum design/construction requirements of the applicable fire district or this ~~Title~~ Ordinance whichever is more restrictive where applicable.

Formatted: Font color: Auto

#### Section 6-11-4: ~~Accumulation of Junk:~~

Formatted: English (United States)

~~A. Unless approved as a commercial junkyard, accumulation of junk on a property shall only be allowed where the principal permitted use is established. Property owners shall not store junk outdoors on more than ten (10%) percent of the gross property or one (1) acre whichever is more restrictive, in any event the total area occupied for the principal and/or other permitted uses and the accumulation of junk shall not exceed the maximum lot coverage allowed for the property. The most restrictive method and standard listed shall be calculated and used to determine the maximum area allowed for junk accumulation. All storage of junk outdoors shall be subject to screening standards of this Title, except farms located in Agricultural Districts, as herein defined. Agricultural Districts shall be excluded from screening abandoned farm equipment. Junk shall not exceed the height of the sight-obscuring screen.~~

#### Section 6-11-5: Agriculture:

A. Nothing contained in this Chapter shall prohibit the use of any land for agriculture except where such use creates a health hazard.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

#### Section 6-11-6: Condominium Projects:

A. All condominium projects shall be reviewed to ensure the use complies with the requirements of any applicable base and overlay districts. If approved, the condominium project plat and declaration shall be certified by the County Surveyor and signed by the Board as provided in Idaho Code, ~~Ordinance Title 50, Chapter 13 and Ordinance 55, Chapter 15.~~

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

#### Section 6-11-7: Contiguous Parcels:

A. Abutting parcels or property held in one or common ownership or controls that abut each other at a common boundary shall be considered one property for development purposes unless the owner can demonstrate one of the following:

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

- 1. The parcels comply with the regulations of this ~~Title~~Ordinance that were in effect at the time —such parcels were recorded, and the parcels were originally conveyed and -recorded under a single deed identifying each as a separate parcel; or
- 2. The parcels comply with the regulations of this ~~Title~~Ordinance that were in effect at the time such parcels were recorded, and the parcels were originally conveyed and recorded under separate deeds; or
- 3. Each of the abutting parcels is a conforming or nonconforming property as defined in this ~~Title~~Ordinance; or
- 4. Physical characteristics of the property prevent its use as one unit, the properties are separated by a fee simple ownership and/or the properties are separated by a public right of way or public street.

Formatted: Indent: Left: 0.25", Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-87: Construction Sites:**

- A. New development shall contain all construction debris on site and prevent windblown trash and debris from leaving the site. It shall be the permit holder's responsibility to obtain a waste container and/or trailer for construction debris.
- B. Construction waste shall be disposed of at approved locations.
  - 1. No construction waste dumping is allowed at the Pine waste transfer facility.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: English (United States)

**Section 6-11-98: Dwellings, Two or More Existing:**

- A. Any property that has two (2) or more existing dwellings that were built prior to ~~January 1, 1974,~~May 12, 2009 or were approved principal permitted dwellings in accordance with the zoning regulations in effect at the time such dwellings were built, shall be deemed ~~a nonconforming use, provided the owner can establish grandfather rights in compliance with this Title. Each dwelling shall be subject to the standards of this Title.~~conforming uses. .

Formatted: Don't add space between paragraphs of the same style

Formatted: Not Strikethrough

**Section 6-11-109: Property Created By Court Decree:**

- A. Any property created by court decree shall be recognized as a property for transfer of ownership; but shall not be eligible for development including any building permits for renovation or repair of an existing structure. To become eligible for development, the property shall comply with all applicable regulations of this ~~ordinance~~Ordinance.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-~~11~~10: Pipeline Corridors:**

- A. For any property for which there is a pipeline corridor easement ~~(including, but not limited to, the northwest pipeline and Chevron pipeline)~~, the owner and/or applicant shall provide appropriate setbacks from the pipeline facility as determined by the easement holder.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-~~11~~11: Property Reduced By Governmental Action:**

- A. If a governmental action (such as acquisition through prescription, purchase, Eminent Domain or other means by the applicable highway district, Idaho Transportation Department, or other local, state, or federal agency) reduces an existing property below the required property size, such property shall be deemed as a conforming property for the purposes of development.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-~~13~~12: Utilities:**

- A. All utilities for a new dwelling or approved use shall be installed underground, unless the applicable utility company authorizes above ground installations. For the purposes of this Section, the term "utilities" shall include, but not be limited to, electric, natural gas, water, wastewater collection, storm drainage, telephone, and cable services. Agricultural structures as herein defined shall be exempt from this regulation. See Title 6, Ordinance Chapter 25, Subsection 6-25-89:8 for additional requirements for Public or Quasi-Public Use: (Utilities).

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

**Section 6-11-~~14~~13: Wastewater Treatment Systems:**

- A. For any dwelling or approved use, the owner or applicant shall provide and maintain sewage disposal facilities that meet the approval of the Central District Health Department and this Title Ordinance. Options for sewage disposal facilities shall include, but not be limited to, the following methods:
1. Community sewage disposal system for sewage with a maintenance and operation plan approved by the State of Idaho Department of Environmental Quality and which meet the definition of a Community Sewage System and Facility as defined by this Title Ordinance; or
  2. Au individual sewage disposal system where each residential lot has a permanent drain field area on the lot and/or on a delineated easement on a portion of an open space lot, as allowed by this Title Ordinance; or

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

3. A municipal wastewater collection and treatment system as defined by this ~~Title~~Ordinance.

[Pit privy as allowed by CDHD]

**Section 6-11-~~15~~14: Water:**

- A. For any dwelling or approved use, the owner or applicant shall provide and maintain an adequate water supply for the intended use as required by this ~~Title~~Ordinance.
1. The applicant shall provide evidence that a valid water right either exists or is in the process of being obtained or that the development is exempt from obtaining a water right to supply adequate water.
  2. All wells constructed or modified to supply water for a development shall be constructed in accordance with the "Well Construction Standards" adopted by the Idaho Water Resource Board (IDAPA 37.03.09), the "Idaho Rules For Public Water Systems" adopted by the Idaho Board of Health (IDAPA 16.01.08) if applicable, and any additional conditions included in a drilling permit issued by the Idaho Department of Water Resources.
- B. No landowner or occupant may utilize, apply or divert water intended for domestic use in excess of an amount or rate authorized or legally allowed by the statutes of the State of Idaho or a license or permit issued by the Idaho Department of Water Resources. Such use shall constitute a violation of this ~~title~~Ordinance and Elmore County may proceed with any enforcement action authorized by this ~~title~~Ordinance. Said action shall be separate from and not dependent upon any finding or action by the Idaho Department of Water Resources.

Formatted: Indent: Left: 0.25", Don't add space between paragraphs of the same style

Formatted: Indent: Left: 0.25", Hanging: 0.25", Don't add space between paragraphs of the same style

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Font: Times New Roman, 12 pt

**Section 6-11-~~16~~15: Grading:**

- A. No grading, filling, clearing, or excavation of any kind, excluding grading associated with an agricultural use, shall be initiated without County Engineer, ~~and/or Director~~ approval of a drainage study or drainage plan and a grading permit obtained from the ~~Elmore County Building Official~~Department. A zoning permit or conditional use approval ~~shall~~may be required prior to the issuance of a grading permit.

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: English (United States)

**Section 6-11-~~17~~16: Renovation, Repair, Expansion or Replacement of Dwelling:**

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

A. A zoning permit for the renovation, repair, expansion or replacement of a dwelling (including any existing or proposed accessory structures) may be issued to a property that meets the following criteria:

1. An easement, recorded prior to ~~July 1, 1999~~ May 12, 2009, that is at least thirty (30') feet wide, provides access to the property which is either an approved private road or approved driveway ~~that terminates from a public right-of-way~~; or
2. The property was of record in the ~~Elmore County recorder's~~ Clerk and Recorder's office prior to January 1, 1974; or
3. The property contains a dwelling that conforms to all applicable codes and/or ordinances; or
4. The property complies with the minimum property size of the base and overlay districts; or
5. The property is located in an Area of City Impact; or
6. The property has established grandfather rights for a legal non-conforming lot or ~~\_\_\_\_\_~~ has received approval to expand a legal non-conforming lot. For legal non-~~\_\_\_\_\_~~ conforming lots, repairs and renovation permits shall only be issued to maintain ~~\_\_\_\_\_~~ the legal non-conforming use in good repair. Expansion or replacement permits ~~—~~ shall be contingent upon the applicant meeting the requirements of ~~the Title~~ this Ordinance for ~~—~~ expansion or replacement of legal non-conforming structures.

#### Section 6-11-~~1817~~: Outdoor Storage:

- A. All outdoor storage shall comply with the requirements of this ~~Chapter and Title~~ Ordinance.
- B. Manufactured homes shall not be stored within the required yards. Storage of a manufactured home shall be considered outdoor storage, and shall only be stored in outdoor storage areas that comply with this ~~Chapter and Title~~ Ordinance.
- C. Outdoor storage areas shall not be used for the storage of junk, a "junkyard" or "automobile wrecking yard" as herein defined in this ~~Title~~ Ordinance.
- D. All outdoor storage shall comply with the FEMA designated flood ~~hazard~~ overlay zones as set forth in this ~~Title~~ Ordinance.

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Indent: Left: 0.25", Hanging: 0.25", Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: English (United States)

Formatted: English (United States)

Formatted: Space After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Don't add space between paragraphs of the same style

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style

Formatted: Space Before: 0 pt, After: 0 pt, Don't add space between paragraphs of the same style



# Elmore County Land Use and Building Department

520 East 2nd South Street  
Mountain Home, Id. 83647  
Phone: (208) 587-2142 ext. 254  
Fax: (208) 587-2120  
www.elmorecounty.org

**Alan Christy**  
*Director*

**Tell Riley**  
*Building Official*

**Beth Bresnahan**  
*Planner I*

**Kacey Ramsauer**  
*Administrative  
Assistant*

## Memorandum

**Date:** July 24, 2015

**To:** Planning and Zoning Commission

**From:** Tell Riley, Building Official

**Re:** Tiny Homes

### Background

This memorandum is to notify the Planning and Zoning Commission ("the Commission") of the growing concerns with tiny homes/park trailers. The Land Use and Building Department ("Department") has noticed an increase in tiny homes/park trailers within the county. Currently the Zoning and Development Ordinance ("the Ordinance") does not address tiny homes or park trailers specifically. Currently the Department has referenced the pamphlet provided by the Idaho Division of Building Safety ("DBS") when permitting these buildings. The only category that does not fit into one of the categories listed in the pamphlet is tiny homes or park trailers built by the "homeowner" without inspections. The reasoning for this is the tiny homes do not meet residential building code standards. This is why they are typically referred to as RVs or modular buildings. Modular buildings are built under provisions of DBS and inspected by DBS certified inspectors. RVs are built to the American National Standards Institute ("ANSI"), standard A119.5 for park trailers. RVs manufactured under this standard are inspected as they are constructed to meet the A119.5 standards.

A search of the internet reveals tiny home movement groups that are avoiding taxes and regulations while utilizing tax funded services. The groups talk about ways they have "beat" current zoning regulations because their tiny homes do not fit in a particular category such as a home or RV.

### Concerns

- Tiny homes built without inspection or certification.
- Tiny homes in the mountain areas with snow loads.
- Zoning issues with tiny homes.
- Tiny homes or park trailers in campgrounds.
- Tiny homes as accessory dwellings.
- Squatting-water and septic issues.

### Conclusion

The County should consider developing ordinance language that specifically relates to tiny homes and park trailers; their location, construction, time limits and licensing are all important factors.

Attachment: DBS pamphlet

## How does all of this apply to Tiny Houses?

If you are planning to build or purchase a dwelling of any kind, including a "tiny house", it must comply with the requirements of one of the classifications listed above. For a "tiny house" classified as an RV, you may have challenges in obtaining planning and zoning approval. If the building is wider than 8½ feet it cannot be an RV but it can be a modular building. Contact the Recreational Vehicle Industry Association about compliance with the appropriate ANSI standards, 703.620.6003.

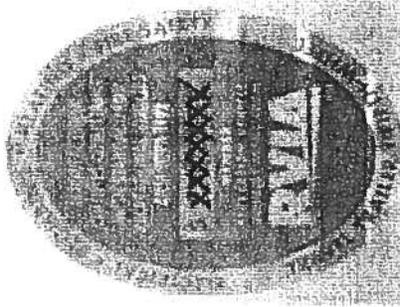
Use of the modular classification will require approvals and inspections similar to those required for site built dwellings. Use of the modular building option is intended for manufacturers but may be used by anyone.

Both site built and modular buildings must comply with minimum area requirements of the building code. The smallest a house can be and still meet these requirements is about 150 square feet of floor area.

The HUD manufactured home standard is intended for manufacturing facilities and is very difficult to apply to one time construction.



Example of Park Trailer Tag



Example of RV Trailer Tag

Costs associated with this publication are available from the Division of Building Safety in accordance with Section 60-202, Idaho Code. DBS-02-26-15

## State of Idaho Division of Building Safety



Tiny Houses,  
Manufactured Homes,  
Modular Buildings &  
Recreational Vehicles

Idaho Division of Building Safety  
dbs.idaho.gov  
1 800 955-3044

C.L. "Butch" Otter, Governor

C. Kelly Pearce, Administrator



## Idaho Division of Building Safety

### Tiny Houses, Manufactured Homes, Modular Buildings & Recreational Vehicles.

All structures built for use as a dwelling place, including "tiny houses", must fall into one of the following classifications and are required to comply with the requirements for that classification.

**Site Built** – A building constructed at the location where it is to be used. Not intended or designed to be moved.

**Modular Building** – Any building or building component other than a manufactured home that is of closed construction and either entirely or substantially prefabricated or assembled at a place other than the building site. (IC§39-4301)

**Manufactured Home** – A structure built in compliance with HUD manufactured home construction and safety standards established under 42 U.S.C. section 5401 et seq. (IC§39-4105)

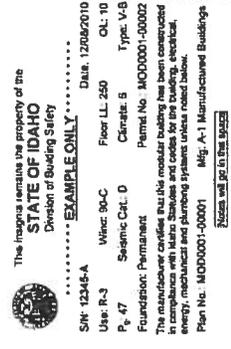
**Recreational Vehicle** - A motor home, travel trailer, truck camper or camping trailer designed for recreational or emergency human habitation. (IC§49-119) Park trailers are recreational vehicles. Maximum width is 8½ feet.

### Construction Requirements & Codes

**Site Built** – Site built dwellings fall under jurisdiction of the city or county in which the building is located. You should contact the city or county regarding their permit and inspection requirements.

Electrical, plumbing and HVAC systems require permits and inspections by the Idaho Division of Building Safety (DBS) unless the local government administers those codes.

**Modular Building** – Modular buildings - residential or commercial - are regulated by DBS; when approved they will bear an insignia from the state of Idaho. Work done at the place of manufacture is not subject to further regulation by local governments. However, work done at the site, including the installation, is regulated by the local government. Modular buildings are regulated by local planning and zoning ordinances the same as site built structures. Details of the DBS approval process are on the internet at <http://dbs.idaho.gov/programs/modular/index.html>



Example of Modular Insignia

**Manufactured Homes** – Are regulated by the Federal Department of Housing and Urban Development (HUD) and are legal for use only as a single family dwelling. The approval process is intended for manufacturing facilities and is not suitable for one time construction.



Example of HUD Label

**Recreational Vehicles** - The Idaho Transportation Department regulates RVs as vehicles for title and licensing purposes through your county vehicle licensing agency. Their width is limited to 8½ feet and temporary recreational lodging is the only legal use. The placement and occupancy of RVs is regulated by local planning and zoning ordinances.

RVs must comply with American National Standards Institute (ANSI) Standard A119.2 for Recreational Vehicles or ANSI A119.5 Standards for Park Trailers (IC§39-4202). The Recreational Vehicle Industry Association (RVIA) issues an insignia for compliant RVs and Park Trailers.

## BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

**In Re:** CUP-2015-08: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 6th day of May and the 15th day of July, 2015, for a public hearing, held pursuant to public notice as required by law, on a request for a Conditional Use Permit (the “**CUP**”) for a community park (the “**Application**”). Property is located in Lots 1-12, less Highway and tax 22, and Lots 13-18, Block 4, Medbury Townsite Subdivision, and is zoned Agriculture (the “**Site**”). The Commission heard from the applicant in support of the Application. The Commission heard public testimony from impacted individuals against the Application. The Commission received additional written testimony and information for the Application. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them.

### FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

#### FINDINGS OF FACT

If any of these Findings of Fact are deemed to be conclusions of law, they are incorporated into the Conclusions of Law section. The following findings shall be based upon the record for the Application and those facts which are in common knowledge or of which there is general public awareness.

**I. The Commission finds that Application is comprised of:**

**A.** Application form prepared and submitted by Hammett Community Park, C/O Pam Howard (the “**Applicant**”) for the CUP; and

**B.** Those supplemental letters, email messages, documentation and memos submitted by the Applicant or its representatives, whether submitted in response to questions from employees (the “**Staff**”) from the Elmore County Land Use and Building Department (the “**Department**”) or the Commission in connection with Application to the Commission.

**II. The Commission finds that the Applicant is:**

Hammett Community Park  
C/O Pam Howard  
P.O. Box 123624  
Hammett, ID 83627

**III. The Commission finds the following as to the procedural matters pertaining to the Application:**

**A.** The Applicant participated in a pre-application meeting with the Department on February 27, 2014.

**B.** The Applicant conducted a neighborhood meeting on March 7, 2015 as required by Elmore County Zoning and Development Ordinance (the “**Zoning Ordinance**”) Section 6-4-3.

**C.** The Applicant submitted the Application to the Department on March 18, 2015. The Department required fee of \$800.00 was waived by the Elmore County Board of Commissioners.

- D. The Department deemed the Application complete on March 19, 2015.
- E. The Department mailed notice of the public hearing to neighboring property owners within one-thousand (1,000) feet of the Site on April 6, 2015 pursuant to Zoning Ordinance Section 6-4-5.
- F. The Department mailed notice of the public hearing to agencies on April 6, 2015 pursuant to Zoning Ordinance Section 6-4-4.
- G. Notice of the public hearing was published in the Mountain Home News on April 15, 2015 pursuant to Zoning Ordinance Section 6-4-5 A.
- H. Notice of the public hearing was posted on the Site on April 27, 2015 pursuant to Zoning Ordinance Section 6-4-5 B.
- I. The Commission opened the public hearing on May 6, 2015 and received verbal and written information regarding the Application. The Commission determined the Application required more information from DEQ regarding underground storage tanks. The Commission tabled the public hearing to a date certain of July 15, 2015 to allow the Staff time to receive information from DEQ regarding underground storage tanks.
- J. The Staff received information from the Applicant regarding information about the underground storage tanks on May 16, 2015.
- K. The Staff received a letter from DEQ containing information regarding underground storage tanks on May 28, 2015.
- L. The Commission continued the public hearing on July 15, 2015 and received verbal and written testimony regarding the Application. At the conclusion of testimony the Chairman closed the public hearing. The Commission proceeded to conduct deliberations on the Application.
- M. The Commission moved to **approve** the Application with twelve (12) conditions of approval. The motion to **approve** the Application passed on a 6-0 vote.

**IV. The proposed use of the Application as follows:**

- A. **The Commission finds** the proposed use for a community park in Hammett.
- B. **The Commission finds** the Application's request for a community park in Hammett is consistent with additional information submitted by the Applicant.
- C. **The Commission finds** that the submitted master site plan proposes a community park with multiple activities planned.

**V. The Commission finds the following pertaining to the Site:**

- A. **Site Description:** Lots 1-12 less Highway and tax 22, and Lots 13 -18, Block 4, Medbury Townsite Subdivision. A common way of locating the property is from Interstate 84 take exit 112 for Hammett, turn right on Highway 78, turn left on Old Highway 30. Property is located on corner of S. Main Ave and Old Highway 30 on the left.

**B. Parcel Number:** RP 00086004001C A

**C. The “Owner” of the Site is:**

Hammett Community Church  
9223 W Church  
Hammett, ID 83627

**D. Applicant’s Property Right in the Site is:** Owner, and Pam Howard authorized as representative.

**E. Site Characteristics:**

*Property Size:* The site contains approximately .700 acres.

*Existing Structures:* None

*Existing Vegetation:* The vegetation consists mainly of a few trees.

*Slope:* Relatively flat and less than 10% slope.

*Flood Zone Status:* FEMA defined Zone X located outside of all know flood zones.

*Irrigation:* None of the property is being irrigated utilizing surface or subsurface irrigation water rights.

**VI. The Commission finds the current zoning of the Site as follows:**

The current zoning for the Site is Agriculture pursuant to the adopted zoning map, Ordinance 2013-02.

**VII. The Commission finds the surrounding land use and zoning as follows:**

Land uses to the south are irrigated farm ground. Land uses to the north are rural residential. Land uses to the east are rural residential. Land uses to the west are rural residential.

**VIII. The Commission finds the existing services as follows:**

*Access Roads:* Public roads Highway 78 on the west, Old Highway 30 on the south and S. Main Ave on the east.

*Fire Protection District:* Glens Ferry King Hill Rural Fire Protection District.

*Sewage Disposal:* None

*Water Service:* None

*Highway District:* Glens Ferry Highway District (the “**Highway District**”) and the Idaho Transportation Department (the “ITD”).

**IX. The Commission finds the following as the applicable law for consideration of the Application:**

A. Comprehensive Plan. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the “**Comprehensive Plan**”); and

B. Zoning Ordinance, adopted March 21, 2012 as Ordinance 2012-01; which was subsequently amended on September 19, 2012, as Ordinance 2012-03 and on July 14, 2014, as Ordinance 2014-01; and

C. The Local Land Use Planning Act, Idaho Code § 67-6501 *et seq.*; and

**X. Comprehensive Plan.**

A. **The Commission finds** that the Comprehensive Plan Future Land Use Map has the site classified as Agriculture.

B. **The Commission finds** the Application is in conformance with the Comprehensive Plan as stated in the findings.

**XI. Zoning Ordinance.**

A. **The Commission finds** that the Elmore County Planning and Zoning Ordinance is the document governing the Site pursuant to Zoning Ordinance Chapter 27.

B. **The Commission finds** that in order to approve the CUP application, the following findings as set forth in Section 6-27-7 of the Zoning Ordinance shall be made.

1. The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;

2. The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan and this Ordinance (Title 6);

3. The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;

4. The proposed use shall comply with all applicable County Ordinances;

5. The proposed use shall comply with all applicable State and Federal regulations;

6. The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;

7. The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;

8. The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;

9. The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;

10. The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;

11. The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;

12. The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance.

**C.** The required findings of Section 6-27-7 of the Zoning Ordinance, stated as questions, follow in bold text, followed by the Commission's findings:

**1. Does the proposed use in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance?**

**The Commission finds** that a community park requires a conditional use permit in Table 6-8-11 (C).

**The Commission finds** in addition to a conditional use permit, additional requirements for the proposed use under the Application are found in the Zoning Ordinance, Section 6-8-160.

**2. Is the proposed use in harmony with and in accordance with the Elmore County Comprehensive Plan ("Plan") and this Ordinance (Title 6)?**

**The Commission finds** that the application is in harmony and accordance with the following objectives and goals of the 2014 Elmore County Comprehensive Plan:

Land Use Objective #12 – Encourage and support land use proposals that are consistent with the community design objectives of all communities and districts within the County.

Hammett Community Design Concept #13- Community Design: Continue to encourage development that supports the small community/town atmosphere of Hammett.

Recreation Objective #1- Encourage developments that will maintain the aesthetic and scenic value of the area with the least possible disturbance to soil, vegetation, and water.

**The Commission finds** the Application does comply with the Zoning Ordinance as the Application does meet all the required findings of Ordinance Section 6-27-7.

**3. Does the proposed use comply with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter?**

**The Commission finds** that the Application complies with the purpose statement of the Agriculture zone in Zoning Ordinance Section 6-5-5 A in that "residential land use is

allowed in the Ag zone subject to site development standards and compatibility with agriculture operation.”

**The Commission finds** neighboring agriculture uses are limited on site and the immediate vicinity and therefore negative impacts on existing agriculture operations is limited.

**The Commission finds** the Site has existing neighboring residential land uses that are located in the agriculture zone.

**4. Does the proposed use comply with all applicable County Ordinances?**

**The Commission finds** the Application does comply with the Zoning Ordinance as the Application does meet all the required findings of Zoning Ordinance Section 6-27-7.

**5. Does the proposed use comply with all applicable State and Federal regulations?**

**The Commission finds** that conditions of approval were proposed to ensure the Application met all State and Federal regulations, namely meeting all requirements requested by the ITD.

**6. Is the proposed use designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and will such use not change the essential character of said area?**

**The Commission finds** that the majority of the vicinity is residential. Therefore, the **Commission further finds** that the Application as proposed is harmonious and appropriate with the general vicinity as parks are appropriate in residential areas.

**7. Will the proposed use be hazardous or disturbing to existing neighboring uses or impede their normal development?**

**The Commission finds** that the addition of a community park will not be hazardous to existing neighboring uses and will provide a service for neighboring properties.

**8. Is the proposed use served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services?**

**The Commission finds** the following public services shall be provided as follows:

*Highways:* Site has frontage to Highway 78 and Old Highway 30.

*Streets:* Site has access S. Main Ave, a publically maintained road. The Highway District has not required a traffic impact study, but will require an approach permit.

*Police and Fire Protection:* Police protection is provided by the Elmore County Sherriff's Department. The Site is within the Rural Glenns Ferry King Hill Fire Protection District.

*Drainage Structures:* The Application proposed no drainage structures.

*Refuse Disposal:* The Application proposed no refuse disposal.

*Potable, Non-Potable Water, Fire Suppression Water Supplies:* The Application proposed an individual well. Applicant testifies 1 acre of irrigation water has been donated for the park.

*Sewer:* The Application proposed a vault privy system.

**9. Will the proposed use create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County?**

**The Commission finds** that the Application proposed all improvements, required to be built be funded by the Applicant and therefore not be detrimental to the economic welfare of the County. Condition of approval has been added to ensure the park is privately maintained by the church.

**10. Will the proposed use involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors?**

**The Commission finds** that the Application will not create any excessive production of noise, smoke, fumes, glare or odors.

**The Commission finds** that the Highway District did not require a traffic impact study and therefore no excessive production of traffic is anticipated by the Highway District.

**11. Will the proposed use have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways?**

**The Commission finds** that the Application proposed no new vehicular approaches onto Highway 78 or Old Highway 30. An approach permit may be necessary for the parking lot on S Main Ave.

**The Commission finds** that the Highway District did not required a traffic impact study and therefore no interference with traffic on public roads is anticipated by the Highway District for the Application.

**12. Does the proposed use result in the destruction, loss or damage of a natural or scenic feature of major importance?**

**The Commission finds** that the Site is not identified as a natural or scenic feature of major importance.

**CONCLUSIONS OF LAW**

If any of the conclusions of law are deemed to be findings of fact, they are incorporated in the Findings of Fact section.

1. The Commission concludes that the public hearing notice requirements of Zoning Ordinance Chapter 4 have been met.
2. The Commission concludes that the notice requirements of Idaho Code Section § 67-6512 have been met.
3. The Commission concludes that the Application complies with the required findings set forth in Section 6-27-7 of the Zoning Ordinance.

### **ORDER**

Based upon the foregoing findings of fact and conclusion of law, the information contained in the Staff reports and the record for the Application, the Commission voted and hereby **approves** the Application with the following conditions:

1. Ten (10) parking spots shall be constructed as specified on the master plan with an adequate turn around.
2. All signage shall comply with zoning and building regulations.
3. All outstanding fees, if any, shall be paid prior to the issuance of an Elmore County building Permit.
4. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
5. The proposed use shall be constructed in substantial conformance with the master site plan.
6. The park shall be maintained by the Hammett Community Church, any change in ownership or maintenance requires an amendment to the Conditional Use Permit.
7. Park shall be completed in 3 years.
8. A permit shall be obtained for vault privy or other approved sewage disposal from Central District Health Department.
9. Approach permit shall be obtained from the Glens Ferry Highway Department and/or the Idaho Department of Transportation.
10. Obtain a Right-of-Way permit from Idaho Department of Transportation prior to doing any work or activity within the highway Right-of-Way.
11. The development shall follow landscaping guidelines in letter from ITD dated April 14, 2015.
12. In the event underground storage tanks or any evidence of contamination is found on-site, DEQ and the Land Use and Building Department shall be contacted immediately to determine the proper course of action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

### **COMMISSION VOTE:**

CHAIRPERSON PATTI OSBORN  
VICE CHAIRMAN K.C. DUERIG  
SUSAN FISH  
BETTY VAN GHELUWE  
ED OPPEDEYK  
JEFF BLANKSMA  
SHANE ZENNER

VOTED AYE  
ABSENT

---

Patti Osborn, Chairperson

**ATTEST:**

---

Alan Christy, Director

**NOTICE PURSUANT TO ZONING ORDINANCE SECTION 6-3-2 B**

A decision made by the Elmore County Planning and Zoning Commission (the "Commission") may be reconsidered by the Commission provided the reconsideration application is complete and reconsideration fee is submitted to the Land Use and Building Department within ten (10) calendar days of Commission action. The reconsideration shall include new or additional relevant information that was not previously presented or available at the public hearing. Questions concerning reconsideration or deadlines should be asked of the Elmore County Land Use and Building Department.

**NOTICE PURSUANT ZONING ORDINANCE SECTION 6-3-2 E-F**

A decision made by the Elmore County Planning and Zoning Commission may be appealed to the Board of Elmore County Commissioners provided the appeal application is complete and appeal fee is submitted to the Land Use and Building Department within ten (10) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.

**ELMORE COUNTY  
PLANNING AND ZONING COMMISSION**

---

**MINUTES**

**Wednesday, July 15, 2015 at 7:00 pm**

Chairperson Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Jeff Blanksma, Sue Fish, Betty Van Gheluwe and Ed Oppedyk. Also present were Attorney of Record Phillip Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

**PLEDGE OF ALLEGIANCE**

**OLD BUSINESS**

**PUBLIC HEARING**

**Continuation for Hammett Community Church for a Conditional Use Permit for a community park in the Agriculture Zone. Case Number: CUP-2015-08.** The site is located in Lots 13-18, Block 4, Medbury Townsite. A common way of locating the property is from Interstate 84 take exit 112 for Hammett, turn right on Highway 78, turn left on Old Highway 30. Property is located on corner of S. Main Ave. and Old Highway 30 on the left.

Bresnahan gave staff report and background.

Pam Howard is representing the Hammett Community Church. She stated that they have had a donor step up and donate an acres worth of water for the park. She submitted a letter for the record from Robert Janousek.

Christy entered this into the record as applicant exhibit # 1.

Howard read the letter. It stated that Janousek had a cousin with a backhoe service that removed the fuel tanks in the 1980's and the state of Idaho gave a clean sign off on the inspection for oil and gas in the ground.

There was no one signed up to testify in support, neutral, or in opposition to this application.

There was no further testimony.

Osborn closed this public hearing.

**Commission action:**

Duerig moved to approve as presented with the conditions proposed by staff and the additional condition that staff be notified if any evidence of storage tanks or contamination is found on-site.

Oppedyk seconded.

Motion carries unanimously.

**NEW BUSINESS**

**FCOs and Minutes**

FCO for Case Number: Case Number: CUP-2015-09 Intermountain Development.

Duerig moved to approve as presented.

Blanksma seconded.

Motion carried unanimously with Oppedyk abstaining as he was recused from this public hearing.

FCO for Case Number: CAFO-2015-01 Sun View Dairy.

Blanksma moved to approve.

Duerig seconded.

Motion carried unanimously with Oppedyk abstaining as he was recused from this public hearing and Osborn abstaining as she was not present for this public hearing.

Minutes from 06-17-15.

Duerig moved to approve with one correction.

Van Gheluwe seconded.

Motion carried unanimously with Osborn abstaining as she was not present for this public hearing.

**INFORMATION ITEMS**

Upcoming P&Z Schedule.

Christy stated that the next meeting is scheduled for August 5, 2015. He stated that there are no public hearings scheduled so it will be an ordinance work session. He stated that there will be public hearings scheduled on August 19, 2015.

**MEETING ADJOURNED at 7:16 p.m.**

---

Patti Osborn, Chairperson

Date:

Attest: \_\_\_\_\_  
Alan Christy, Director

Date: