

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

Wednesday, December 2, 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"/> Dave Holland | <input type="checkbox"/> Sue Fish |
| <input type="checkbox"/> Ed Oppedyk | <input type="checkbox"/> Shane Zenner |
| <input type="checkbox"/> Jeff Blanksma | |
|
<input type="checkbox"/> Attorney of Record Phil Miller | |

PLEDGE OF ALLEGIANCE

PUBLIC MEETING

- Ordinance Work Session

ITEMS FROM THE PUBLIC

FCO's and MINUTES

- FCO for Case Number: CUP-2016-01 Maricarmen Martinez
- FCO for Case Number: CUP-2015-14 Mountain Home Solar 1, LLC
- Minutes from 11-4-2015

INFORMATION ITEMS

- Upcoming P & Z Schedule

MEETING ADJOURNED

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2016-01: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 18th day of November, 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 group child care facility in the Agriculture Zone and Mountain Home Area of City Impact (the “**Application**”). Property is located in Lots 17 – 20, Block 3, Mellen Subdivision (the “**Site**”). The Commission heard from the applicant in support of 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 Maricarmen Martinez (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:

Maricarmen Martinez
656 NW Cedar Ave.
Mountain Home, ID 83647

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 September 9, 2015.

B. The Applicant conducted a neighborhood meeting on October 5, 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 October 6, 2015.

D. The Department deemed the Application complete on October 8, 2015.

E. The Department mailed notice of the public hearing to neighboring property

owners within one-thousand (1,000) feet of the Site on October 19, 2015 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on October 19, 2015 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on October 28, 2015 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on November 9, 2015 pursuant to Zoning Ordinance Section 6-4-5 B.

I. The Commission opened the public hearing on November 18, 2015 and received verbal and written information regarding the Application.

J. The Commission moved to **approve** the Application with six (6) conditions of approval. The motion to **approve** the Application passed on a 7-0 vote.

IV. The proposed use of the Application as follows:

A. The Commission finds the proposed use for a group child care facility in the Agriculture Zone and City of Mountain Home Area of Impact.

B. The Commission finds that the submitted master site plan shows the playground area and facility area.

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

A. Site Description: Lots 17 – 20, Block 3, Mellen Subdivision. A common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5th North St, turn left onto NW Cedar Ave, site is located on the left at 656 NW Cedar Ave.

B. Parcel Number: RP 00087003017B A

C. The “Owner” of the Site is:

Maricarmen Martinez
656 NW Cedar Ave
Mountain Home, ID 83647

D. Applicant’s Property Right in the Site is: Owner

E. Site Characteristics:

Property Size: The Site contains approximately .262 acres.

Existing Structures: The Site contains a house and shed

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

Slope: Relatively flat and less than 10% slope.

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

Irrigation: Portion of the Site utilizes subsurface irrigation.

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

The current zoning for the Site is Agriculture Zone and within the Mountain Home Area of City Impact pursuant to the adopted zoning map, Elmore County Ordinance 2013-02.

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

Land uses to the south are residential. Land uses to the north are residential. Land uses to the east are residential. Land uses to the west are residential.

VIII. The Commission finds the existing services as follows:

Access Roads: Publically maintained road NW Cedar Ave, which is a paved road.

Fire Protection District: Mountain Home Rural Fire Protection District.

Sewage Disposal: Community Septic, Westside Sewer District.

Water Service: Community Well, Mellen Subdivision Water District.

Highway District: Glenns Ferry Highway District (the "**Highway District**").

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

A. Comprehensive Plan. City of Mountain Home Comprehensive Plan, adopted as Elmore County Ordinance 2010 and Zoning Ordinance section 7-1-4A (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** the Application is in conformance with the Comprehensive Plan as stated in the findings in section X1.C.

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 City of Mountain Home 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 child and adult daycare facility in the Agriculture Zone requires a conditional use permit in Table 6-8-11 (C).

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 provisions of the City of Mountain Home Comprehensive Plan:

1.1 City of Mountain Home Statement of Purpose

The purpose of the Mountain Home Comprehensive Plan is to develop a set of guidelines that the City will use to promote the health, safety, and general welfare of its residents who live in the City of Mountain Home and in its Area of Impact (AOI). To achieve this purpose, the City of Mountain Home will strive:

- a. To protect the property rights and enhance property values.
- b. To ensure that adequate public facilities and services are provided to the people at a reasonable cost.
- c. To ensure that the economy of the City of Mountain Home and its AOI is protected and enhanced.
- d. To ensure that the development of land addresses the physical conditions of the land.
- e. To protect life and property in areas of critical concern or that are potentially subject to natural hazards.
- f. To ensure that new development pays its own way.

1.3 Relationship to Elmore County Planning It is the policy of the City to work with Elmore County as development occurs in the City’s Area of Impact. Furthermore it is the desire of the City that development in this area be under the jurisdictional authority of the City and that any development be connected to municipal services if feasible at the time of development, and by means of annexation into the City.

10.6.2.3 To ensure that development meets the standards for adequate fire protection.

15.1.4.2. Encourage that development within Area of City Impact occurs as a gradual, progressive expansion in keeping with the City’s service extension policies.

15.1.5. URBAN DEVELOPMENT: The areas designated for urban development are outside the City limits and within the Area of City Impact. These are areas in transition where city services, including water and sewer are expected to be provided within the next twenty years. (Note: This designation allows for the continued existing use of the land, including agriculture, until such time as a property owner desires urban development and annexation into the City. At that time the areas will be zoned based on the compatibility of the proposed zoning with surrounding land uses. Some agricultural uses such as large scale dairies, stock yards or agricultural food packing and storage are not compatible in this district because of the intended future urban uses.)

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 6-8-5 A in that “Residential land use is allowed in the Ag zone subject to site development standards and compatibility with agricultural operations.”

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 as specified in section X1.C of these findings.

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

The Commission finds that with the conditions the proposed use complies with State and Federal regulations.

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 visual impacts will be minimal or non-existent. The daycare is existing.

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

The Commission finds visual impacts will be minimal. Neighbors within 1,000 feet have been notified of this application. The Land Use and Building Department has received one (1) input from neighbors.

The Commission finds that the neighbors were notified for the Administrative decision and there were no comments from neighboring property owners.

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: Mountain Home Highway District has no comment.

Streets: NW Cedar Ave is a paved road maintained by Mountain Home Highway District. Mountain Home Highway District provided no comment on the application.

Police: Police protection is provided by the Elmore County Sherriff’s Department.

Fire Protection: Mountain Home Fire Protection District.

Drainage Structures: not applicable.

Refuse Disposal: not applicable.

Potable, Non-Potable Water, Fire Suppression Water Supplies: Mellen Subdivision Water District.

Sewer: Westside Sewer District.

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 there is no data provided that the proposed use will not create excessive additional requirements at public costs.

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 no excessive smoke, fumes, glare or odors are anticipated with the proposed use.

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 NW Cedar Ave.

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. There will adequate parking and must comply with Section 6-8-66.
- 2. All signage will comply with zoning and building regulations.
- 3. Facility will be and remain state licensed and will have all other required permits from regulatory agencies.
- 4. Area shall have a secured fencing for safety purposes.
- 5. Maximum number of children shall be set by state agency not to exceed 25.
- 6. Submit a revised site plan with the proposed driveway.

Dated this _____ day of _____, 2015.

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED AYE
VICE CHAIRMAN K.C. DUERIG	VOTED AYE
SUSAN FISH	VOTED AYE
ED OPPEDEYK	VOTED AYE
JEFF BLANKSMA	VOTED AYE
SHANE ZENNER	VOTED AYE
DAVE HOLLAND	VOTED AYE

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.

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2015-14: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 18th day of November, 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 20MW solar electrical generating facility in the Light Industrial Zone and Mountain Home Area of City Impact (the “**Application**”). Property is located in a portion of the E1/2, Section 22, Township 3S, Range 6E, B.M. (the “**Site**”). The common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5th North St, proceed right onto W 5th North St, then turn right onto N Haskett St, then turn left onto NW Turner Rd, then turn right onto Sawmill Rd, then turn left onto W 10th North St, then turn right onto N 18th West Street. The Commission heard from the applicant in support of the Application. The Commission heard public testimony from impacted individuals neutral to the Application. The Commission heard public testimony from impacted individuals opposed to 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 Mountain Home Solar 1, LLC. (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:

Mt. Home Solar 1, LLC
C/O Lance Weinkamer
9200 E. Pima Center Parkway #180
Scottsdale, AZ 85258

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 June 26, 2015.

B. The Applicant conducted a neighborhood meeting on August 18, 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 September 24, 2015.

D. The Department deemed the Application complete on September 30, 2015.

E. The Department mailed notice of the public hearing to neighboring property owners within one (1) mile of the Site on October 27, 2015 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on October 27, 2015 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on October 28, 2015 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on November 9, 2015 pursuant to Zoning Ordinance Section 6-4-5 B.

I. The Commission opened the public hearing on November 18, 2015 and received verbal and written information regarding the Application.

J. The Commission moved to **approve** the Application with thirteen (13) conditions of approval. The motion to **approve** the Application passed on a 7-0 vote.

IV. The proposed use of the Application as follows:

A. The Commission finds the proposed use for a 20 MW solar electrical generating facility in the Light Industrial Zone and Mountain Home City of Impact.

B. The Commission finds the Application’s request for a 20 MW solar electrical generating facility in the Light Industrial Zone and Mountain Home Area of City Impact is consistent with information submitted by the Applicant.

C. The Commission finds that the submitted master site plan proposes a perimeter fence, point of interconnections, access point to property, distribution lines and array layout.

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

A. Site Description: A portion of the E1/2, Section 22, Township 3S, Range 6E, B.M.. The common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5th North St, proceed right onto W 5th North St, then turn right onto N Haskett St, then turn left onto NW Turner Rd, then turn right onto Sawmill Rd, then turn left onto W 10th North St, then turn right onto N 18th West St.

B. Parcel Number(s): RP 03S06E221240 A, RP 03S06E227800 A and RP 03S06E229620 A

C. The “Owner” of the Site is:

Weitz and Company, Inc. and Idaho Farmway, Inc.
1900 West Main Street
Boise, ID 83707

D. Applicant's Property Right in the Site is: Tenant

E. Site Characteristics:

Property Size: The Site contains approximately 190 acres.

Existing Structures: The Site contains no existing structures.

Existing Vegetation: The Site vegetation consists mainly of sagebrush and grass.

Slope: The Site is relatively flat and less than 10% slope.

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

Irrigation: none.

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

The current zoning for the Site is Light Industrial Zone and Mountain Home Area of City Impact pursuant to the adopted zoning map, Elmore County 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 grazing (non-irrigated). Land uses to the east are gravel pit/firing range for the Mountain Home police department. Land uses to the west are grazing land.

VIII. The Commission finds the existing services as follows:

Fire Protection District: Mountain Home Rural Fire Protection District

Sewage Disposal: Not Applicable

Water Service: Not Applicable

Highway District: Mountain Home Highway District (the "**Highway District**").

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

A. Elmore County Ordinance 2010-01 and Elmore County Zoning Ordinance section 7-1-4 (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 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 20 MW solar electrical generating facility in the Light Industrial Zone requires a conditional use permit in Table 6-8-11 (C).

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 provisions of the City of Mountain Home Comprehensive Plan:

1.1 City of Mountain Home Statement of Purpose

The purpose of the Mountain Home Comprehensive Plan is to develop a set of guidelines that the City will use to promote the health, safety, and general welfare of its residents who live in the City of Mountain Home and in its Area of Impact (AOI). To achieve this purpose, the City of Mountain Home will strive:

- a. To protect the property rights and enhance property values.
- b. To ensure that adequate public facilities and services are provided to the people at a reasonable cost.
- c. To ensure that the economy of the City of Mountain Home and its AOI is protected and enhanced.
- d. To ensure that the development of land addresses the physical conditions of the land.
- e. To protect life and property in areas of critical concern or that are potentially subject to natural hazards.
- f. To ensure that new development pays its own way.

1.3 Relationship to Elmore County Planning It is the policy of the City to work with Elmore County as development occurs in the City's Area of Impact. Furthermore it is the desire of the City that development in this area be under the jurisdictional authority of the City and that any development be connected to municipal services if feasible at the time of development, and by means of annexation into the City.

6.2.3 To promote quality and compatible new development that maintains the character of the community.

10.5.2 To plan stormwater run-off in land use planning and the development of land.

10.6.2.3 To ensure that development meets the standards for adequate fire protection.

10.13.2.2 To plan for utility facilities in a manner consistent with and complementary to the utility companies public service obligations.

14.2.1 To encourage the use of renewable energy in the community including solar and wind power.

15.1.3.3 To promote high quality development that meets the City standards for infrastructure requirements and design.

15.1.4.2. Encourage that development within Area of City Impact occurs as a gradual, progressive expansion in keeping with the City's service extension policies.

15.1.5. URBAN DEVELOPMENT: The areas designated for urban development are outside the City limits and within the Area of City Impact. These are areas in transition where city services, including water and sewer are expected to be provided within the next twenty years. (Note: This designation allows for the continued existing use of the land, including agriculture, until such time as a property owner desires urban development and annexation into the City. At that time the areas will be zoned based on the compatibility of the proposed zoning with surrounding land uses. Some agricultural uses such as large scale dairies, stock yards or agricultural food packing and storage are not compatible in this district because of the intended future urban uses.)

15.4.2. To minimize the random spread of commercial activity and keep commercial areas highly visible zones.

15.5.2.4 To ensure that industrial uses exist in harmony with the local environment.

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 as specified in section X1.C of these findings.

The Commission finds that within the conditions of approval in the Order section of these findings the Application is in harmony and accordance with the Zoning Ordinance.

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 Light Industrial zone in Zoning Ordinance Section 6-8-5 A in that "The purpose of the M1 district is to provide for commercial and light industrial development and opportunities for employment of Elmore County citizens and area residents and reduce the need to commute to neighboring cities. The M1 district will encourage the development of manufacturing, wholesale, and distribution establishments which are clean, quiet, and free of hazardous or objectionable elements, such as noise, odor, dust, smoke, or glare and that are operated entirely or almost entirely within enclosed structures or fenced yards; to delineate areas best suited for industrial development because of location, topography, existing facilities, and relationship to other land uses."

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 as specified in section X1.C of these findings.

The Commission finds that with the conditions of approval in the Order section of these findings the Application complies with all applicable County Ordinances

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

The Commission finds that the proposed use complies with State and Federal regulations with the conditions of approval specified in the Order section of these findings.

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 visual impacts will be minimal or non-existent. The essential character of the area will not be negatively changed with this proposed use.

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

The Commission finds visual impacts will be minimal.

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: Mountain Home Highway District provided no comments. Private roads will be constructed at applicant's expense.

Streets: Site will require an easement from the City of Mountain Home, W 10th North, which is a gravel road. The Mountain Home Highway District provided no comment on the application. City of Mountain Home commented on improvements/maintenance to W 10th North.

Police: Police protection is provided by the Elmore County Sherriff's Department.

Fire Protection: The Site is within the Mountain Home Rural Fire Protection District.

Drainage Structures: Conditions of approval requiring county Engineer approval.

Refuse Disposal: not applicable.

Potable, Non-Potable Water, Fire Suppression Water Supplies: Not applicable.

Sewer: Not applicable.

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 all improvements, required to be built, will be funded by the Applicant and therefore not be detrimental to the economic welfare of the County.

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 proposes to improve/maintain W. 10th North.

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. The proposed use will comply with all the requirements of section 6-8-97 of the Elmore County Zoning and Development Ordinance.
2. All outstanding fees, if any, must be paid prior to the issuance of an Elmore County building permit.
3. Failure to comply with any of the conditions may result in revocation of the Conditional Use Permit.
4. The proposed use will be constructed in substantial conformance with the master site plan.
5. Prior to issuance of building permit, an overall site plan, stamped and signed by Applicant's engineer, must be approved by the County Engineer to ensure drainage and storm water management is adequate.
6. Prior to issuance of building permit, applicant shall provide easements and road user maintenance agreement for existing gravel pit access road.
7. All roads shall meet Zoning and Development Ordinance Chapter 17 requirements.
8. A security fence shall be installed around the entire project area.
9. A noise study must be completed to ensure ambient noise level is at or below industrial standards.
10. Existing roads will be maintained/improved as the City of Mountain Home has requested in letter dated November 10, 2015.
11. Approval is required from the FAA.
12. A monitoring program, with the cooperation of the Idaho Department of Fish and Game, to assess the effects to wildlife resulting from project construction and operation.
13. Obtain the necessary permits from the Department of the Army required for the discharge of dredge and/or fill within the unnamed intermittent stream.

Dated this _____ day of _____, 2015.

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN
 VICE CHAIRMAN K.C. DUERIG
 SUSAN FISH
 ED OPPEDYK
 JEFF BLANKSMA
 SHANE ZENNER
 DAVE HOLLAND

VOTED AYE
 VOTED AYE
 VOTED AYE
 VOTED AYE
 VOTED AYE
 VOTED AYE
 VOTED AYE

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, November 18, 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, Sue Fish, Jeff Blanksma, Ed Oppedyk, Shane Zenner and Dave Holland. Also present were Attorney of Record Philip Miller, Director Alan Christy, staff members Beth Bresnahan and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARINGS

Maricarmen Martinez for a Conditional Use Permit for a group childcare facility in the Agriculture Zone and the Mountain Home Area of City Impact. Case Number: CUP-2016-01. The site is located in Lots 17 – 20, Block 3, Mellen Subdivision. A common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5th North St, turn left onto NW Cedar Ave, site is located on the left at 656 NW Cedar Ave.

Bresnahan gave staff report and background.

Maricarmen Martinez is the applicant. She stated that she did not have anything to add but she thanked the commission and staff for their time.

There was no one signed up to testify. There was no further testimony.

Osborn closed this public hearing.

Commission action:

Duerig stated that he assumes the space is adequate for the number of children at the facility.

Bresnahan stated that the fire department signed off on the application.

Blanksma wanted to see in the master site plan that the parking requirements in the ordinance are met.

Duerig moved to approve with the conditions proposed by staff and the additional condition to amend the master site plan to indicating parking.

Blanksma seconded.

Motion carried unanimously.

Mountain Home Solar 1, LLC for a Conditional Use Permit for a 20 MW solar electrical generating facility in the Light Industry Zone and the Mountain Home Area of City Impact. Case Number: CUP-2015-14. The site is located in a portion of the E1/2, Section 22, Township 3S, Range 6E, B.M. A common way of locating the property is from Interstate 84 take exit 90, stay on Sunset Strip for 3.5 miles, turn right onto E 5th North St, proceed right onto W 5th North St, then turn right onto N Haskett St, then turn left onto NW Turner Rd, then turn right onto Sawmill Rd, then turn left onto W 10th North St, then turn right onto N 18th West St, project site is located on the left.

Bresnahan gave staff report and background.

Oppedyk stated that he was in the area of notification for this project but stated that it would not affect his decision on this either way.

Holland stated that he was in the area of notification for this project but stated that it would not affect his decision on this either way.

The applicants submitted the power point presentation to the commission.

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

Richard Gruber is representing the project. He introduced his partners in the project Lance Weinkamer and Joy McClain. He introduced Dan Weitz who owns the property. He stated that the first slide shows the safety precautions used during the construction phase of the project. He stated the second page is the project summary. He stated that DEPCOM Power is the construction, engineering and design firm. He stated that True Green Capitol is doing the financing and will be the long term owner/operator of the project. He stated that they have a signed power purchase agreement with Idaho Power for 20 years. He stated that it is interconnecting to an existing power line that is onsite so there will be no new transmission facilities required. He presented pictures of what a solar array looks like and how they function. He stated that these arrays follow the sun from east to west throughout the day. He stated these are very low maintenance in all aspects. He stated that the height is roughly 7 feet. He described the site layout. He stated that the project will employ both skilled and non-skilled workers. He stated that at its peak the project will range from about 200-300 employees. He stated that laborers will be the majority of those employed during construction along with electricians, equipment operators, and project managers along with administrative staff. He stated that they estimate the project construction to be complete by the end of 2016. He stated that once operations have started it will be remotely monitored 24/7. He stated that there will be weekly site visit to clear any undergrowth. He stated that modules will be washed a few times a year.

Osborn asked what product will be used to control the vegetation.

Gruber stated that once the vegetation is cleared and grubbed there probably won't be a lot of vegetation that they will see growing they will use something that is in line with the guidance of the county.

Osborn stated that once the site is graded and cleared off it may create a dustbowl. She asked what their dust abatement plan will be.

Gruber stated that these projects unlike fossil power plants don't use water but they do require dust abatement during construction so they've discussed using an existing hydrant adjacent to the property with public works. He stated that they plan on purchasing a meter to use during construction.

Lance Weinkamer and Joy McClain were signed up in support but did not wish to testify at this time.

Mark Van Gulk signed up in support but did not wish to testify.

Barbra Bogard signed in as neutral but did not wish to testify.

Eva Schmid signed in as neutral. She stated that she went to the neighborhood meeting and she stated that she does support this. She stated that her major concern is that there needs to be a noise study. She stated that she lived near a transformer in another city and she could not manage to sleep with an open window due to the noise it made. She stated that this project requires transformers. She stated that low frequency is very unnerving for a human being and it travels a long distance. She stated that when she asked about this at the neighborhood meeting she was given a very glib answer and was told not to worry about the noise from this project when living close to the train tracks. She asked the commission if they could ask the developers for local sourcing and not to buy products from China as they stated at their neighborhood meeting.

Al Wintermote signed in as neutral but did not wish to testify.

Larry Jewett signed in as neutral. He stated that he is with the Mountain Home Rural Fire Protection District (the "MHRFPD"). He stated that they don't need a memorandum of understanding for this project but they do have some concerns he would like to address. He stated that they would like to see a perimeter fence to help with litter and grass control within the project. He stated that the MHRFPD would also like to see an all-weather road around the perimeter as well. He stated that he wants the applicants to understand that the MHRFPD will not enter that area to put out fires as that is way beyond their capability.

Don Gust signed in as neutral but did not wish to testify.

Mark Steele signed in as neutral but did not wish to testify.

Julie Steele signed in as neutral. She stated that she is concerned with the noise and thinks it would be a good idea to have a noise study. She asked how they would deal with weed control and if herbicides would be used.

Martha Ralphs signed in as neutral but did not wish to testify.

George Mansfeld signed in as opposed. He stated that he owns property adjacent to this project. He stated that they spent a lot of money on this property when they bought it and they had big plans for it. He stated that if there is a situation where this will be harmful to others it can diminish his property value. He stated that he's concerned about the route that the trucks will take to access this site as he believes there are federal rules pertaining to saving gas and being environmentally friendly.

There was no one else signed up to testify.

Lance Weinkamer and Richard Gruber gave rebuttal.

Weinkamer stated that they have no issue doing a noise study as they have done this on past projects. He stated that he does take exception to the statement that they made a glib comment when asked about the noise because they do care about how this may impact the community. He stated that the ambient noise from the railroad will certainly exceed the noise from the power plant. He stated that you shouldn't hear the humming even from the fence. He stated that it's not the frequency that is the issue it's the decibels. He stated that with the workforce that they do use a local broker who is nationwide but they first are asked to insource within the community. He stated that he is not sure who the panel manufacturer is in Oregon but they are the main driver for the engineering, procurement and construction cost of the project and even one penny per watt DC can make the economic swing pretty significantly. He stated that they will have a 6 foot perimeter fence with a foot of barbed wire at the top, 3 strands angled at 45 degrees which is common for a utility scale PV. He stated that they would take exception to an all season road. He stated that they will put gravel down but their intent is to put compacted native for the exterior access at this point.

Gruber stated they will have folks doing maintenance regarding groundcover. He stated that there isn't a lot of grass cover there but there is a lot of scrub and tumbleweeds that will be taken care of. He stated it's good to let the native grasses come up to protect the soil. He stated that this is a very light touch application that goes along with its industrial zoning. He stated that it produces very little noise and does not produce traffic. He stated that it doesn't create new incremental burdens on the community as far as schools and services. He stated that he was told by Brain Reid of the Mountain Home Fire Department that they would not enter the facility as they are not prepared and if something were to happen they would let it burn out. He stated that the facility is basically glass and steel. He's stated that he's spoken with the Fire Marshall and public works to improve the extension of the road. He stated that there will be traffic created during the construction phase for about 5 months and once they are done the traffic will be minimal.

Miller stated that if the commission has any questions now is the time to ask.

Osborn asked if they had considered revegetating with native grasses that are less volatile and help choke out the potential cheatgrasses and the tumbleweeds.

Weinkamer stated that they absolutely would.

There was no further testimony. Osborn closed this public hearing.

Commission action:

Duerig moved to approve with conditions of approval as presented by staff with the additional conditions that the applicants conduct a noise study and a monitoring program, with the cooperation of the Idaho Department of Fish and Game, to assess the effects to wildlife resulting from project construction and operation.

Oppedyk seconded.

Osborn asked for a roll call vote:

Zenner: AYE

Fish: AYE

Blanksma: AYE

Oppedyk: AYE

Duerig: AYE

Holland: AYE

Osborn: AYE

Motion carried unanimously.

Osborn called a short recess.

ANNUAL MEETING

Voting of officers for 2016

Osborn opened nominations.

Duerig nominated Osborn for Chairperson.

Fish seconded.

Osborn closed nominations.

Votes were made by secret ballot and were unanimous for Osborn.

Osborn will remain Chairperson for 2016.

Osborn opened nominations for Vice Chairman.

Osborn nominated Duerig for Vice Chairman.

Oppedyk seconded.

Osborn closed nominations.

Votes were made by secret ballot and were unanimous for Duerig.

Duerig will remain Vice Chairman for 2016.

Phil Miller presentation on ex parte communication.

Miller presented information regarding ex parte communication. He referred to an incident that occurred at a previous meeting where a person wanted to discuss an application with the commission that hadn't come before them yet. He stated this cannot be done. He explained the job of this commission has two parts, the planning part and the making decisions on certain applications part. He stated that the planning part is going through the comprehensive plan and the ordinances and also to make recommendations to the board of county commissioners. He stated that the other part is hearing conditional use permit applications and variances. He stated that those are two entirely different things. He stated that when you're discussing the comprehensive plan and ordinances you are really acting like legislators which means you can talk to people and get input. He stated that it is entirely different when you are dealing with conditional use permits and the reason is that the courts have uniformly decided that when you are applying laws and rules to specific individuals in a specific situation you are acting in a quasi-judicial capacity. He stated that since you are doing that due process requirements of the US Constitution come in to view. He stated that there are a whole list of requirements, most notably the procedure tonight. There were notices that went out to the neighboring land owners and notice published in the newspaper. Notice is part of due process and there is an opportunity for the people to be heard. He stated that due process requires the decision makers be unbiased and impartial meaning you can't have made your mind up prior to the hearing. The Idaho Supreme Court said when you make a decision based upon an ex parte contact you are conducting additional fact finding and it doesn't give everyone that is affected an opportunity to know how you based that decision. He stated that in the context of conditional use permits and variances it's important that a decision be made on what is in your packets and what you hear during the public hearing. He stated that if you have had a conversation or gained any information on a pending application outside of the public hearing the court has said that you have an obligation to go on the record with what that knowledge is, how you heard it and who you heard it from so that it can be determined if that is a violation. He stated that it's really about fairness and openness.

Christy asked about making special trips to go view the site of a pending application.

Miller stated that the Idaho Supreme Court says that it has to be conducted as a public meeting. He stated that it has to be noticed and everyone that wishes to go has to be able to go.

Christy stated that typically this county will not do it because it opens things up for a legal challenge down the road.

Fish asked why they add the legal description to the packet if the commission is not supposed to see it.

Miller stated it's for the public so they can see the site.

MINUTES

Minutes from 11-04-2015

Oppedyk moved to approve.

Duerig seconded.

Motion carried unanimously.

INFORMATION ITEMS

Upcoming P&Z Schedule

Christy stated that there will be a work session on December 2, 2015. He stated that the board has conducted their first round of deliberations for the appeal for Jim Carrie's CUP. He stated they have set forth conditions for a community water system and 2 acre parcels. He stated that the previous application was asking for individual wells and 1 acre lots and it was denied by the Commission. He stated that the board requested staff and legal counsel get together and draft findings to review and they will sign those at a later date but they have not set a date for that at this time. He stated that the commission does have the option not send conflicting parties to mediation. He stated that on December 16, 2015 there will be 5 appeal hearings for a group that is appealing some administrator decisions.

MEETING ADJOURNED at 8:32 pm.

Patti Osborn, Chairperson

Date:

Attest: _____
Alan Christy, Director

Date: