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

Wednesday, October 5, 2016 at 7:00pm
Agenda
PLEASE SILENCE CELL PHONES

CALL TO ORDER

ESTABLISH QUORUM

- ☐ Chairperson Patti Osborn
- ☐ Dave Holland
- ☐ Ed Oppedyk
- ☐ Mitch Smith
- ☐ Vice-Chairman K.C. Duerig
- ☐ Sue Fish
- ☐ Jeff Blanksma

- ☐ Attorney of Record Phil Miller

PLEDGE OF ALLEGIANCE

PUBLIC MEETING

- **Ordinance and Comprehensive Plan Work Session**

ITEMS FROM THE PUBLIC

FCO and MINUTES

- FCO for Case Number: CUP-2016-05 for Mike Eisenman
- Minutes from September 21, 2016

INFORMATION ITEMS

- Upcoming P & Z Schedule

MEETING ADJOURN

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2016-05: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the **"Commission"**), the 21st day of September, 2016, 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 gravel pit in the Agricultural Zone (the **"Application"**). Property is located in the NW¼ of the SE¼, Section 10, Township 3 South, Range 6 East, B.M. (the **"Site"**). The Commission heard from the applicant in support of the Application. The Commission received additional written testimony and information for the Application. The Commission heard testimony in neutral and in opposition of 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 Mike Eisenman (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:

Mike Eisenman
3350 W Americana Terrace, Ste. 340
Boise, ID 83706

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 March 18, 2016.

B. The Applicant conducted a neighborhood meeting on July 15, 2016 at 1639 South Simco Road, Boise, Idaho 83706.

C. The Applicant submitted the Application to the Department on July 18, 2016.

D. The Department deemed the Application complete on July 20, 2016.

E. The Department mailed notice of the public hearing to neighboring property owners within one-thousand (1,000) feet of the Site on August 15, 2016 pursuant to

Elmore County Zoning and Development Ordinance (the "Zoning Ordinance") Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on August 15, 2016 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on August 31, 2016 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on September 9, 2016 pursuant to Zoning Ordinance Section 6-4-5 B.

I. The Commission opened the public hearing on September 21, 2016 and received verbal and written information regarding the Application.

J. The Commission was notified by Staff in a memorandum the neighborhood meeting was not held according to the Ordinance. Legal council's opinion is due process rights were protected as neighbors were noticed. Legal council recommended to proceed to public hearing.

K. The Commission moved to **approve** the Application with eight (8) 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 gravel pit in the Agriculture Zone.

B. The Commission finds that the submitted master site plan shows the proposed gravel pit.

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

A. Site Description: NW¼ of the SE¼ of Section 10, Township 3 South, Range 6 East, B.M. A common way of locating the property is from Sunset Strip turn on Canyon Creek Rd., turn left on NW Mashburn Rd. Property is located approximately 0.75 miles on the left.

B. Parcel Number: RP 03S06E106610 A

C. The "Owner" of the Site is:
Mike Eisenman
3350 W Americana Terrace Ste. 340
Boise, ID 83706

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

E. Site Characteristics:

Property Size: The Parcel contains approximately 40 acres.

Existing Structures: None.

Existing Vegetation: The vegetation consists mainly of sagebrush.

Slope: 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 Agriculture, 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 grazing. Land uses to the north are Mountain Home Highway District. Land uses to the east are irrigated farm ground. Land uses to the west are gravel pit.

VIII. The Commission finds the existing services as follows:

Access Roads: Publically maintained road NW Mashburn Road, which is a non-paved road along the north property boundary.

Fire Protection District: Mountain Home Rural Fire District (the "**Fire District**").

Sewage Disposal: None.

Water Service: None.

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. 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 the Application is in conformance with the Comprehensive Plan as stated in the findings.

XI. Zoning Ordinance:

A. **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 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.

B. 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 Pit, Mine, or Quarry requires a Conditional Use Permit in Table 6-8-11 (C) of the Zoning Ordinance.

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 Elmore County Comprehensive Plan and this Ordinance.

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 applicable base zone in that the proposed use is "compatible with farming, ranching, grazing, forest products and limited mining."

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 with the conditions in these findings 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 essential character of the area will not be negatively changed as several gravel pits exist in the near vicinity, including property directly to the west.

The Commission finds Agriculture use of the land will continue to operate on the remainder of the property owned by the applicant.

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. Agriculture zones allow for residential development at one (1) home to forty (40) acres. East of the proposed area is the Mountain Home Aquifer Recharge area and the residential development is one (1) home to five (5) acres.

The Commission finds that this will not be disturbing to existing and neighboring uses or impede normal development as there are several gravel pits that exist and operate in the near vicinity.

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.

Streets: NW Mashburn Road is a non-paved road along the north property boundary, maintained by the Highway District.

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

Fire Protection: The Fire District.

Drainage Structures: not applicable.

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 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 noise, smoke, fumes, glare or odors are anticipated with the proposed use. Traffic will have a slight increase. There are two (2) gravel pits to the west that are in existence already.

The Commission finds that after two and a half years (2 ½) the Commission will revisit to consider amendments or conditions to the approval.

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 will not increase traffic patterns as the Highway District has signed the Application with minimal comment.

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 herby **approves** the Application with the following conditions:

1. Hours of gravel pit operation, will include crushing and truck traffic, shall be within 7:00 a.m. to 7:00 p.m. standard time 7:00 a.m. to 9:00p.m. daylight saving time.
2. If blasting occurs, the applicant shall obtain an Elmore County blasting permit from the Elmore County Land Use and Building Department.
3. There shall be no mining or excavating within 60' of property boundaries.
4. Failure to comply with the conditions may result in the revocation of the Conditional Use Permit.
5. Dust control shall be maintained on all access roads.
6. The proposed use will comply with any prior or existing state or federal agency requirements.
7. The use will comply with applicable items of section 6-8-164 of the Elmore County Zoning and Development Ordinance.
8. The gravel pit shall be operated for a period of 20 years.

Dated this _____ day of _____, 2016.

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED AYE
VICE CHAIRMAN K.C. DUERIG	VOTED AYE
SUSAN FISH	VOTED AYE
ED OPPEDYK	VOTED AYE
JEFF BLANKSMA	VOTED AYE
DAVE HOLLAND	VOTED AYE
MITCH SMITH	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, September 21, 2016 at 7:00 pm

Chairperson Patti Osborn called the meeting to order. Members of the Elmore County Planning and Zoning Commission present were Vice Chairman K.C. Duerig, Dave Holland, Sue Fish, Mitch Smith, Jeff Blanksma and Ed Oppedyk. Also present were Attorney of record Phil Miller, Director Alan Christy and staff members Beth Bresnahan and Kacey Ramsauer.

PLEDGE OF ALLEGIANCE

PUBLIC HEARING

Mike Eisenman for a Conditional Use Permit for a gravel pit in the Agriculture Zone. Case Number: CUP-2016-05. The site is located in the NW ¼ of the SE ¼ of Section 10, Township 3 South, Range 6 East, B.M. A common way of locating the property is from Sunset Strip turn on Canyon Creek Rd., turn left on Mashburn Rd. Property is located approximately 0.75 miles on the left.

Osborn introduced newest Planning and Zoning Commission member Mitch Smith.

Christy stated that he wanted to disclose that the neighborhood meeting for this application was held at 1639 Simco Road, Boise ID 83706. He stated that the Elmore County Zoning and Development Ordinance Section 6-4-3 C 2 for neighborhood meetings stated that "*conditional use permits require a neighborhood meeting and they are to be held on subject property or on the nearest available public meeting place including, but not limited to fire station, library or community center or at an office space with suitable meeting facilities if such facilities are within a one mile radius of the nearest public meeting place.*"

Christy stated that the address listed on the neighborhood meeting form does not meet this criteria. He stated that this was an oversite while reviewing the application for completeness. He stated that he would like to seek the advice of legal counsel as this may be a procedural error. He stated that all notices were mailed to required land owners and some of them did attend the neighborhood meeting. He stated that all required notice was mailed to the required landowners and all required public hearing notice was posted on the property and published in the Mountain Home News.

Oppedyk joined the public hearing.

Miller stated that it is clear that everyone's due process rights were protected as they were given notice as required. He stated that the neighborhood meeting is an informational item. He stated that at this point he does not believe that this is the type of mistake in which a court would require everything to be done over again as everyone was noticed. He stated that it is his recommendation that the public hearing proceed.

Bresnahan gave staff report and background.

Mike Eisenman is the applicant. He stated that he agrees with the staff report.

There was no one signed up in support of this application.

Christina Green signed in as neutral. She stated that she has no objections.

Phyllis Whipple signed in as opposed. She stated that this is in close proximity to her home and she does not want the noise or the dust. She stated that roads there are not sufficient to hold the weight of all of those trucks. She stated that it disturbs the rural way of life.

Chuck Whipple signed in as opposed. He stated that the roads are going to get beat up from the trucks. He stated that it will increase traffic and noise in the area and it will create danger and perhaps serious accidents.

Rae Ann Stoecker signed in as opposed. She stated that this project is located directly behind her home. She stated that this will create noise and traffic in a very rural quiet area.

There was no one else signed in to testify.

Mike Eisenman responded to the public testimony. He stated that Mashburn Road will be used to exit the gravel pit.

Holland asked the applicant how many trucks per day would be coming in and out of the gravel pit.

Eisenman stated that here is no way to tell as it is an on demand basis.

There was no further testimony.

Osborn closed this public hearing.

Commission action:

Duerig moved to approve with all conditions in the staff report and that it meets the 12 standards for a conditional use permit.
Oppedyk seconded.
Motion carries unanimously.

MINUTES

Minutes from August 17, 2016

Oppedyk moved to approve.
Duerig seconded.
Motion carries with Fish and Holland abstaining as they were absent for this meeting.

INFORMATION ITEMS

Upcoming P & Z Schedule

Christy stated that he recommends the regularly scheduled meeting for November 16th will need to be cancelled as staff will be tied up with some appeals that have come before the county commissioners and those hearings will be held November 16th and 17th.

Commission consensus was to go ahead and cancel the November 16th meeting.

Blanksma moved to cancel the meeting on November 16th, 2016 and hold the annual meeting on November 2, 2016.
Duerig seconded.
Motion carried unanimously.

Christy stated that there are meetings scheduled for October 5th and October 19th. He stated that there are no agenda items on those days there will be some training.

Christy stated that he has a memo regarding the Comprehensive Plan and addressing all required items of Idaho Code 67-65-08. He stated that the comp plan is missing a section for public airport facilities. He stated that he would request that the commission initiate an amendment to the comp plan to mention Idaho Code section 67-65-08 and also recommend that staff propose a text amendment and possibly provide maps showing these public airport facilities and possibly even including private airport facilities so that map could be used with decision making.

Duerig moved that staff be directed to present a draft proposal to the comprehensive plan to be in compliance with Idaho Code 67-65-08.
Holland seconded.
Motion carried unanimously.

MEETING ADJOURNED at 7:44 p.m.

Patti Osborn, Chairperson Date:

Attest:
Alan Christy, Director Date: