

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

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**Wednesday, November 30, 2016 at 7:00pm**

**Agenda**

**PLEASE SILENCE CELL PHONES**

**CALL TO ORDER**

**ESTABLISH QUORUM**

- |   |  |
|---|--|
| <input type="checkbox"/> Chairperson Patti Osborn           | <input type="checkbox"/> Vice-Chairman K.C. Duerig |
| <input type="checkbox"/> Dave Holland                       | <input type="checkbox"/> Sue Fish                  |
| <input type="checkbox"/> Ed Oppedyk                         | <input type="checkbox"/> Jeff Blanksma             |
| <input type="checkbox"/> Mitch Smith                        |  |
| <br><input type="checkbox"/> Attorney of Record Phil Miller |  |

**PLEDGE OF ALLEGIANCE**

**PUBLIC HEARING**

**Elmore Development, LLC (Mirazim Shakoori) for a Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan. Case Number: REZ-2016-01.** The site is located in portions of the Section 7 and 8, Township 4 South, Range 7 East, B.M. A common way of locating the property is from I-84 head east, take exit 99, turn right on Old Oregon Trail Rd. for approximately 2 miles.

**ITEMS FROM THE PUBLIC**

**MINUTES**

- Minutes from November 2, 2016

**INFORMATION ITEMS**

- Upcoming P & Z Schedule

**MEETING ADJOURN**



# 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

## **Staff Report to the Elmore County Planning and Zoning Commission**

**Meeting/Hearing Date:** 11/30/2016      **Date Report Compiled:** 11/23/2016

**Agenda Item:** Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan. Case Number: REZ-2016-01.

**Applicant:** Elmore Development, LLC (Mirazim Shakoori)

**Case Number:** REZ-2016-01

**Staff:** Alan Christy; Director

**Location:** Portions of the Section 7 and 8, Township 4 South, Range 7 East, B.M. A common way of locating the property is from I-84 head east, take exit 99, turn right on Old Oregon Trail Rd. for approximately 2 miles.

**Zoning:** Agriculture

**Parcel Number:** RP 04S07E082440 A, RP 04S07E084210 A, RP 04S07E071840 A, RP 04S07E056500 A, and RP 04S07E083040 A

### **BACKGROUND:**

Applications for a Comprehensive Plan Amendment and Zoning Change were submitted on November 24, 2015. The Applications were deemed complete on June 22, 2016. Pursuant to Elmore County Zoning and Development Ordinance (the "Ordinance") Section 6-4-2 B. *"combine related applications for the convenience of applicants.."*

The Commission conducted a public hearing on July 20, 2016. The Commission signed the recommendation on August 17, 2016. The Board conducted a public hearing October 7, 2016. The Board conducted deliberations on October 14, 2016 and remanded the application back to the Commission for consideration of a development agreement. (see attachment #1).

The applicant submitted an application and draft development agreement on November 9, 2016.

The notice of public hearing was mailed to property owners within 1000' on November 15, 2016 and to agencies on November 15, 2016. The notice of public hearing was published in the Mountain Home Newspaper on November 9, 2016. Notice of public hearing was posted on the property on November 22, 2016.

The Development Agreement is related to a zone change from Agriculture to Light Industrial along with a Comprehensive Plan change to the Future Land Use Map to change the site from C2 Highway Commercial to M1 Light Industrial.

**LETTERS FOR THE RECORD:**

1. Fax from Tesoro – NW Pipeline received November 11, 2016 stating “No Conflict.”

**ATTACHMENTS:**

1. Remand from the Board
2. Application and draft development agreement
3. Site Photos
4. Public Hearing Notices

**REQUIRED FINDINGS SECTION 6-29-5**

Ordinance Section 6-29-5 states:

*“Section 6-29-5: Required Finding:*

- A. *In order to approve the application, the Board shall make the following finding:*
  1. *That the proposed development agreement complies with the regulations of this Chapter.”*

The General Regulations for development agreements is found in Ordinance Section 6-29-4 and are the following:

- A. *The Board is hereby authorized to adopt, by resolution, rules governing the creation, form, recording, modification, enforcement, and termination of Development Agreements.*

**Staff Response:** This is specified in the recitals of the draft development agreement attached to this staff report.

- B. *The allowed uses, densities and standards shall be those in effect at the time the development agreement is effective.*

**Staff Response:** The draft development agreement attached to this staff report address future development in Section 3 of the agreement.

1. *For PC, PUD and PUDD ordinance map amendments, the allowed uses, densities and standards shall be those approved on the date of Elmore County’s letter to the applicant indicating that the development agreement was properly executed and recorded, and those standards for modifications or amendments shall be those in effect at on the date of initial-application acceptance as defined by this Title.*

**Staff Response:** Not applicable because the applications are not for either a PC, PUD or PUDD.

- C. *A development agreement shall not prevent the Board, in subsequent actions applicable to the property, from adopting new ordinances, resolutions, and regulations that conflict with those ordinances, resolutions and regulations in effect at the time the*

*agreement is made, except that any subsequent action by the Board shall not prevent the development of the property as set forth in the approved development agreement.*

**Staff Response:** This is addressed in Section 13 of the draft development agreement attached to this report.

*D. The Board may suspend the issuance of any permits after a noticed public hearing if it finds that a clear and imminent danger to the public health, safety, or welfare requires the suspension or as otherwise directed by this Title.*

**Staff Response:** This is addressed in Section 9 of the draft development agreement attached to this report.

*E. In the event that State or Federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more regulations of the development agreement, such agreement may be amended or terminated pursuant to this Chapter, as may be necessary to comply with the new State or Federal laws or regulations.*

**Staff Response:** This is addressed in Sections 5 and 11 of the draft development agreement attached to this report.

#### **STAFF RECOMMENDATION**

Staff recommends opening and conducting the public hearing.



# 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

**received**  
11-23-16 BJB

Alan Christy  
Director

Tell Riley  
Building Official

Beth Bresnahan  
Planner I

Kacey Ramsauer  
Administrative  
Assistant

No Conflict with Tesoro - NW Pipeline  
Clear to dig. Any questions, please call  
Jesi Brock at 208-401-8221.

No conflict with  
Tesoro Logistics

JTB 11-22-16

Date: November 2, 2016  
To: Whom It May Concern  
Subject: Notice of Public Hearing  
Applicant: Elmore Development, LLC (Mirazim Shakoori) - Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan.  
Case #: REZ-2016-01

A public hearing will be held before the Elmore County Planning and Zoning Commission on the enclosed application. The hearing is scheduled for Wednesday, November 30, 2016 at 7:00 p.m. in the War Memorial (American Legion) Hall at 515 East 2<sup>nd</sup> South Street, Mountain Home, Idaho.

Please review the application and return your written comments to the Elmore County Land Use and Building Department, 520 East 2<sup>nd</sup> South Street, Mountain Home, ID, 83647, by 5 p.m. on Friday, November 25, 2016, so your comments are included in the record. If you prefer, please come to the hearing to testify before the Commission.

If you have any questions or if we can be of any assistance, please do not hesitate to contact the office. To ensure compliance with the American Disabilities Act (ADA) of 1993, the Elmore County Clerk the responsible coordinator. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from M. Bate, Elmore County Courthouse, in accordance with the ADA regulations.

Sincerely,

  
Alan Christy  
Director

Agency Public Hearing Notice Letter

**EXHIBIT**  
Letter #1

**BEFORE THE ELMORE COUNTY BOARD OF COUNTY COMMISSIONERS**

**ORDER FOR CONTINUANCE OF HEARING TO A TO BE DETERMINED FUTURE DATE  
AND REMAND OF THE APPLICATION BACK TO THE COMMISSION AND THE DIRECTOR  
FOR COMPLETION**

In Re: REZ-2016-01:

The Elmore County Board of Commissioners received: (i) a zoning ordinance map amendment and (ii) an amendment to the 2014 Elmore Comprehensive Plan Future Land Use Map #4 (collectively, the "Application"), from Elmore Development, LLC (the "Applicant") for that real property located in portions of Sections 7 and 8, Township 4 South, Range 7 East, B.M. (the "Property") along with the recommendation for approval from the Planning and Zoning Commission of Elmore County, Idaho (the "Commission") (the "Matter"). The Board heard the Matter on the 7<sup>th</sup> day of October, 2016, in a public hearing, held pursuant to public notice as required by law. The Board received verbal testimony from the Applicant, its representative and parties in opposition, and reviewed other information for the Matter which was part of the record. Upon conclusion of the public hearing, the Board set deliberations for October 14, 2016.

Upon the deliberation by the Board, the Board determined that the Application was incomplete, as it did not contain a Development Agreement Application as required by Section 6-8-9 B.2 of the Elmore County Zoning and Development Ordinance, which was adopted on March 21, 2012, as Ordinance 2012-01; amended on September 19, 2012, as Ordinance 2012-03, July 23, 2014, as Ordinance 2014-01 (collectively, the "Zoning Ordinance").

A Development Agreement is defined under the Zoning Ordinance as "[a] written agreement between the Board and an owner or applicant concerning the use or development of a property as a condition of a zoning ordinance map amendment and drafted in accord with Idaho Code section 67-6511A and this title. Zoning Ordinance, Section 6-2-1 (emphasis added).

The Zoning Ordinance provides that a Development Agreement Application is required for a Zoning Ordinance Map Amendment. The pertinent section reads as follows:

"B. Process: Zoning Ordinance Map Amendment requests shall be subject to a public hearing, review, and approval subject to the regulations of this Chapter and Title. The process shall be as follows:

1. An application and fees, as set forth in this Title, shall be submitted to the Director on forms provided by the Growth and Development Department.
2. A Development Agreement Application and approval shall be required for all Zoning Ordinance Map Amendment requests in compliance with this Title." Zoning Ordinance, Section 6-8-9 B.2 (emphasis added).

Furthermore, in order for the Board to approve a Zoning Ordinance Map Amendment, the Board shall find, *inter alia*, that "[t]he development agreement meets the requirements of this Title." Zoning Ordinance, Section 6-8-9 D.4. The provision of the Ordinance is as follows:

"D. Required Findings: Upon recommendation from the Commission, the Board shall make a full investigation and shall, at the public hearing, review the Zoning Ordinance Map Amendment request and Development Agreement. The Board shall make the following findings: ...



4. The development agreement meets the requirements of this Title." Zoning Ordinance, Section 6-8-9 D.4.

The Zoning Ordinance goes on to require that the Board's approval of the Zoning Ordinance Map Amendment is conditioned upon the execution and recordation of the development agreement. Zoning Ordinance section 6-8-9 F provides that: "F. Final approval of a Zoning Ordinance Map Amendment shall be contingent upon an executed and recorded development agreement in compliance with this Chapter and Title."

The Zoning Ordinance contains an entire chapter pertaining to development agreements. In addition to the forgoing, the Zoning Ordinance in the Development Agreement chapter provides the following:

**"Section 6-29-2: Applicability:**

A. ...

B. Applications for all other zoning ordinance map amendments shall require a concurrent submission of a development agreement application." Zoning Ordinance, Section 6-29-2 B (emphasis added).

The Board is required to make the following finding in connection with the development agreement which is required for Zoning Ordinance Map Amendments:

**"Section 6-29-5: Required Finding:**

A. In order to approve the application, the Board shall make the following finding:

1. That the proposed development agreement complies with the regulations of this Chapter." Zoning Ordinance, Section 6-29-5.

No Development Agreement or Development Agreement application was made a part of the Application so the submittal of the Application for approval of the Matter to the Board from the Director and Commission is incomplete does not comply with the Zoning Ordinance. The Board is unable to make the finding that, without a development agreement and the development agreement application, the Application is in compliance with the Zoning Ordinance.

The Commission, in its recommendation for approval of the Matter, added the following condition: "1. Recommend all future development projects submit a Development Agreement with Elmore County." Elmore County Planning and Zoning Commission Findings of Fact, Conclusions of Law and Recommendation dated August 17, 2016, p. 7.

The Commission is recommending, not requiring, that future development projects have development agreements. This is not consistent with the Zoning Ordinance in two ways. First development agreements are required and not recommended and second, they are required as a condition of any zoning ordinance map amendments.

Based upon its review, the Board is not aware of any waiver(s) within the Zoning Ordinance which would permit the Application to be approved without the required Development Agreement and the Development Agreement Application or which would otherwise permit a delay or the deferral in the filing of such application until a future date.

ORDER

Therefore based upon the foregoing, the Board makes the following Orders:

1. The hearing on the Application, as to be amended pursuant to this Order, will be continued, until a date to be determined by the Board, the Director and the Applicant, which hearing shall be subject to all notice and hearing requirements under the Local Land Use Planning Act, Idaho Code §§ 67-6501 through - 6538 ("LLUPA") and the Zoning Ordinance pertaining to the proposed application. In the event the continued hearing is not heard by the Board within nine (90) days of this Order, the Board will make a final decision upon the Application without the Development Agreement Application and the Development Agreement.
2. This matter is remanded back to the Commission and the Director for them to obtain the necessary Development Agreement Application from the Applicant and a recommended Development Agreement, subject to further Commission hearing, following all notice and hearing requirements under LLUPA and the Zoning Ordinance, in order for the Commission to make the required recommendation to the Board.
3. The Elmore County Clerk shall deliver a copy of this executed Order to the Applicant, the Commission and the Director.

It is so Ordered as of this 14th day of October, 2016.

ELMORE COUNTY BOARD OF COMMISSIONERS:

By: [Signature]  
Franklin L. Corbus, Chairman

By: RECUSED  
Wesley R. Wootan, Commissioner

By: [Signature]  
Albert Hofer, Commissioner



Attest:  
By: [Signature]  
Barbara Steele, Clerk



ELMORE COUNTY LAND USE & BUILDING DEPARTMENT  
520 E 2<sup>nd</sup> South – Mountain Home, ID 83647 – (208) 587-2142  
[www.elmorecounty.org](http://www.elmorecounty.org)  
Application for Development Agreement

Please attach a draft development agreement. Do not fax! Please complete in INK.

Name: Elmore Development, LLC

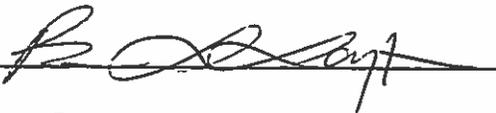
Mailing Address: 2595 Old Oregon Trail, Mtn. Home, ID 83647

Email / Phone: (510) 432-5568

Related Case # / Background: REZ 2016-01

Comprehensive plan amendment and rezone from agriculture to light industrial. This development agreement is submitted in order to comply with the

Additional Information: Current land use code

Signature: 

Printed Name: Bonnie L. Layton

File Number: <u>REZ-2016-01</u>	<b>For Administrative Use Only</b>
Date Accepted: <u>11-9-16</u>	By: <u>TW</u>



# **DEVELOPMENT AGREEMENT BETWEEN ELMORE COUNTY AND OWNER**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between County of Elmore, Idaho, a duly formed and existing county pursuant to the laws and Constitution of the State of Idaho, the party of the first part, hereinafter referred to as "COUNTY" and Elmore Development, LLC, an Idaho limited liability company, the party of the second part, hereinafter referred to as "Owner."

## **RECITALS**

**WHEREAS**, Owner is the sole owner of a certain tract of land in the County of Elmore, State of Idaho, which property is more particularly described in Exhibit A attached hereto (the "Parcel"); and

**WHEREAS**, Owner has applied to COUNTY for a rezone of the Parcel from "A" (Agricultural) Zone to "M-1" (Light-Industrial) Zone and has also applied for an amendment to the Comprehensive Plan Future Land Use Map to change the designation of the Parcel from "C-2" (Interstate/Highway Commercial) to "M-1" (Light Industrial) to avoid a future conflict; and

**WHEREAS**, the rezone and map change are sought by the Owner for the following purpose(s): a change in the zoning designation to "M-1" (Light Industrial) will allow the Owner to attract potential commercial/light industrial businesses to the Parcel, which will create opportunities to develop the Parcel accordingly and to bring employment opportunities to the County; and

**WHEREAS**, Owner acknowledges there is no specific development project contemplated on the Parcel, but that a rezone and amendment to the Comprehensive Plan Future Land Use Map is sought in order to attract businesses and encourage development consistent with the allowed uses in an "M-1" (Light Industrial) zone;

**WHEREAS**, Title 67, Chapter 65 of the Idaho Code ("Local Land Use Planning Act") and Article 12, Section 2 of the Idaho Constitution provides authority for Elmore County to adopt land use and regulation ordinances to protect the health, safety, and welfare of their citizens; and

**WHEREAS**, the Board of Commissioners of Elmore County (the "Board") adopted the 2014 Elmore County Comprehensive Plan on January 20, 2015 (the "Comprehensive Plan"); and

**WHEREAS**, the County has the authority to enter into development agreements to condition the rezone of a Parcel pursuant to Idaho Code § 67-6511A; and

**WHEREAS**, pursuant to Idaho Code § 67-6511A, the Elmore County Zoning and Development Ordinance (the "Zoning Ordinance") Chapter 29 – Development Agreements (DA) Standards and Requirements further governs the creation, form, recording, modification, enforcement and termination of development agreements. The Zoning Ordinance requires the submission of a development agreement with applications for certain zoning ordinance map amendments, including rezones; and

**WHEREAS**, the Zoning Ordinance was adopted on March 21, 2012 as Ordinance 2012-01, which ordinance was subsequently amended on September, 19, 2012, as Ordinance 2012-03 and on July 23, 2014 as Ordinance 2014-01; and.

**WHEREAS**, the COUNTY and Owner desire to formalize and clarify the respective obligations of the parties; and

**WHEREAS**, the COUNTY finds that this Agreement complies with the regulations of Chapter 29 of the Zoning Ordinance; and

**WHEREAS**, the parties agree that the Parcel shall be developed in accordance with this Agreement, all applicable County ordinances, and any additional conditions and requirements imposed upon the Parcel by the Elmore County Land Use and Building Department and/or Board during any required approval process, or as the result of design review.

## **AGREEMENT**

**NOW THEREFORE, BE IT RESOLVED**, that the parties hereto do hereby agree to the following commitments and terms as follows:

### **SECTION 1. INCORPORATION OF RECITALS.**

The Recitals to this Agreement are incorporated into this Agreement by this reference as if fully set forth herein.

### **SECTION 2. DEVELOPMENT.**

The parties acknowledge there is no specific development project contemplated on the Parcel, but that a rezone and amendment to the Comprehensive Plan Future Land Use Map is sought in order to attract businesses and encourage development consistent with the allowed uses in an "M-1" (Light Industrial) zone. A project description of future uses proposed for the Parcel will be submitted and the Parcel will be developed in accordance with this Agreement, all applicable County ordinances, and any additional conditions and requirements imposed upon the Parcel by the Elmore County Land Use and Building Department (the "Department"), the Elmore County Planning and Zoning Commission (the "Commission") and/or the Board during any required approval process, or as the result of design review.

### **SECTION 3. COMMITMENTS.**

Owner shall fully and completely comply with the following conditions of approval:

- A. Future development of the Parcel will be submitted and the Parcel will be developed in accordance with this Agreement, all applicable County ordinances, and any additional conditions and requirements imposed upon the Parcel by the Department, the Commission and/or the Board during any required approval process, or as the result of design review.

### **SECTION 4. LIABILITY AND INDEMNITY OF COUNTY.**

#### **A. COUNTY REVIEW.**

Owner acknowledges and agrees that the COUNTY is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the COUNTY's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates or acceptances, relating to the use and development of the Parcel and that the COUNTY's review

and approval of any such plans and the improvements or the issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure or ensure Owner or any of Owner's heirs, successors, assigns, tenants, and licensees, against damage or injury of any kind and/or at any time.

**B. COUNTY PROCEDURES.**

Owner acknowledges that notices, meetings, and hearings have been lawfully and properly given and held by the COUNTY with respect to Owner's rezone and plan amendment applications in Case Number REZ-2016-01 and any related or resulting development agreements, ordinances, rules and regulations, resolutions or orders of the Board. Owner agrees not to challenge the lawfulness, procedures, proceedings, correctness or validity of any of such notices, meetings, hearings, development agreements, ordinances, rules, regulations, resolutions or orders.

**C. INDEMNITY.**

Owner agrees to, and does hereby, defend, hold harmless and indemnify the COUNTY, the Board, all County elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all injuries to persons or property resulting from the negligence or willful conduct of the Owner, its officers, agents, employees, contractors and subcontractors in performing the duties described in this Agreement.

**D. DEFENSE EXPENSES.**

Owner shall, and does hereby agree, to pay, without protest, all expenses incurred by the COUNTY in defending itself with regard to any and all of the claims identified in Subsection 4C of this Agreement. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the COUNTY.

**SECTION 5. AGREEMENT MODIFICATION.**

This Agreement may be modified only by a written document, signed by the parties, or their successors in interest, after complying with the notice and hearing procedures of Idaho Code § 67-6511A, Idaho Code §67-6509 and Zoning Ordinance Section 6-29-7 Amendment or Termination of Final Development Agreement.

**SECTION 6. ZONING REVERSION CONSENT.**

The execution of this Agreement shall be deemed written consent by Owner to change the zoning of the Parcel to its prior designation upon failure to comply with the conditions imposed by this Agreement after a reasonable time as determined by the Board. No reversion shall take place until after a hearing on this matter pursuant to Idaho Code §67-6511A. Upon notice and hearing, as provided in this Agreement and in Idaho Code §67-6509, if the Parcel is not used as approved, or if the approved use is terminated or is abandoned, the Board may order that the Parcel will revert to the zoning designation (and land uses allowed by that zoning designation) existing immediately prior to the rezone action, i.e., the Parcel conditionally rezoned from "A" (Agricultural) Zone designation to "M-1" (Light-Industrial) Zone designation shall revert back to the "A" (Agricultural) Zone designation.

**SECTION 7. PERIODIC REVIEW.**

COUNTY may, while this Agreement is in effect, periodically review the extent of good faith substantial compliance with the terms of this Agreement pursuant to Zoning Ordinance Section 6-29-6. Owner shall have the duty to demonstrate Owner's good faith compliance with the terms of this Agreement during such review.

#### **SECTION 8. REQUIRED PERFORMANCE.**

Owner shall comply with all commitments set out in this Agreement. Owner shall timely and satisfactorily carry out all required performance to appropriately maintain, in the discretion of the COUNTY, all commitments set forth in this Agreement.

#### **SECTION 9. DEFAULT AND REMEDIES.**

In the event of a default or breach of this Agreement or of any of its terms or conditions, the party alleging default shall give the breaching party not less than ninety (90) days Notice of Default, in writing, unless an emergency exists threatening the health and safety of the public. If such an emergency exists, written notice shall be given in a reasonable time and manner in light of the circumstances of the breach. The time of the giving of the notice shall be measured from the date of the written Notice of Default. The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time during which said default may be satisfactorily cured. During any period of curing, the party charged shall not be considered in default for the purposes of termination or zoning reversion, or the institution of legal proceedings. If the default is cured, then no default shall exist and the charging party shall take no further action.

#### **SECTION 10. TERMINATION.**

This Agreement may be terminated in accordance with the notice and hearing procedures of Idaho Code §67-6509 and Zoning Ordinance Section 6-29-7, and the zoning designation upon which the use is based reversed, upon failure of Owner, a subsequent owner, or other person acquiring an interest in the Parcel to comply with the terms of this Agreement. Owner shall comply with all commitments in this Agreement prior to establishing the approved land use.

#### **SECTION 11. COMPLIANCE WITH LAWS.**

Owner agrees that Owner will comply with all federal, state, county and local laws, rules and regulations applicable to the Parcel, including the requirements of the Zoning Ordinance. Owner's failure to comply with the above laws or the terms of this Agreement will subject Owner to an enforcement action by the COUNTY in a court of competent jurisdiction.

#### **SECTION 12. RELATIONSHIP OF PARTIES.**

It is understood that this Agreement between Owner and the COUNTY is such that Owner is an independent party and is not an agent of the COUNTY.

#### **SECTION 13. CHANGES IN LAW.**

This Agreement shall not prevent the COUNTY in subsequent actions applicable to the Parcel from applying new rules, regulations, ordinances, resolutions or policies that do not conflict with the commitments applicable to the Parcel as set forth in this Agreement.

Any reference to laws, ordinances, rules, regulations, or resolutions shall include such laws, ordinances, rules, regulations, or resolutions as they have been, or as they may hereafter be amended.

**SECTION 14. TIME OF ESSENCE.**

Time is of the essence in the performance if all terms and provisions of this Agreement.

**SECTION 15. RECORDATION AND TERM.**

**A. RECORDATION.**

Pursuant to Idaho Code §67-6511A and Zoning Ordinance Section 6-29-3(F), this Agreement shall be recorded by the Clerk in the Elmore County Recorder's Office.

**B. TERM.**

The parties agree that this Agreement shall run with the land and bind the Parcel in perpetuity, and shall inure to the benefit of and be enforceable by the parties, and any of their respective legal representatives, heirs, successors, and assigns.

**SECTION 16. NOTICES.**

Except as otherwise provided in this Agreement and/or by law, all notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof, (1) when delivered in person on a business day at the addresses set forth below, or (2) in the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage paid, certified or registered mail, return receipt requested, at the addresses set forth below.

Notices and communications required to be given to COUNTY shall be addressed to, and delivered at, the following address:

Director  
Elmore County Land Use and Building Department  
520 E 2<sup>nd</sup> South  
Mountain Home, ID 83647

Notices and communications required to be given to Owner shall be addressed to, and delivered at, the following address:

Elmore Development, LLC  
c/o Mirazim Shakoori  
3535 E. 36<sup>th</sup> St.  
Mountain Home, ID 83647

A party may change its address by giving notice, in writing, to the other party, in the manner provided for in this section. Thereafter, notices, demands, and other pertinent correspondence shall be addressed and transmitted to the new address.

**SECTION 17. EFFECTIVE DATE.**





## Exhibit "A" Legal Description

The Southwest Quarter of the Southwest Quarter of Section 5, Township 4 South, Range 7 East, Boise Meridian.

All of the Northwest Quarter, the Southwest Quarter of the Southeast Quarter and all of the Southwest Quarter of Section 8; that part of the East Half of the Southeast Quarter and that part of the South Half of the Northeast Quarter, all in Section 7, lying North and East of the Oregon Short Line Railroad Company right of way, all in Township 4 South, Range 7 East, Boise Meridian,

SAVING and EXCEPTING and EXCLUDING the following described portions of said property, to wit:

(a) A tract of land in the Southwest Quarter of the Northwest Quarter of Section 8, Township 4 South, Range 7 East, Boise Meridian, bounded as follows:

Beginning at the north quarter of Section 8, Township 4 South, Range 7 East, Boise Meridian, and running thence South  $0^{\circ}10'21''$  West a distance of 2574.76 feet to a brass right-of-way marker on the north right-of-way line of the Elmore County Road; thence North  $89^{\circ}34'22''$  West along the northerly right-of-way line of the Elmore County Road a distance of 1379.60 feet to an iron pin, the true point of beginning North  $9^{\circ}14'22''$  East 514 feet to an iron pin; thence North  $58^{\circ}35'38''$  West 42.4 feet to an iron pin; thence North  $1^{\circ}25'38''$  West 162.6 feet to an iron pin; thence South  $89^{\circ}34'12''$  West 674.6 feet to an iron pin; thence South  $3^{\circ}24'12''$  East 266.3 feet to an iron pin; thence South  $16^{\circ}44'12''$  East 315.3 feet to an iron pin; thence South  $12^{\circ}07'08''$  West 117.65 feet to an iron post on the northerly right-of-way line of the Elmore County Road a distance of 550.4 feet to an iron pin, the true point of beginning;

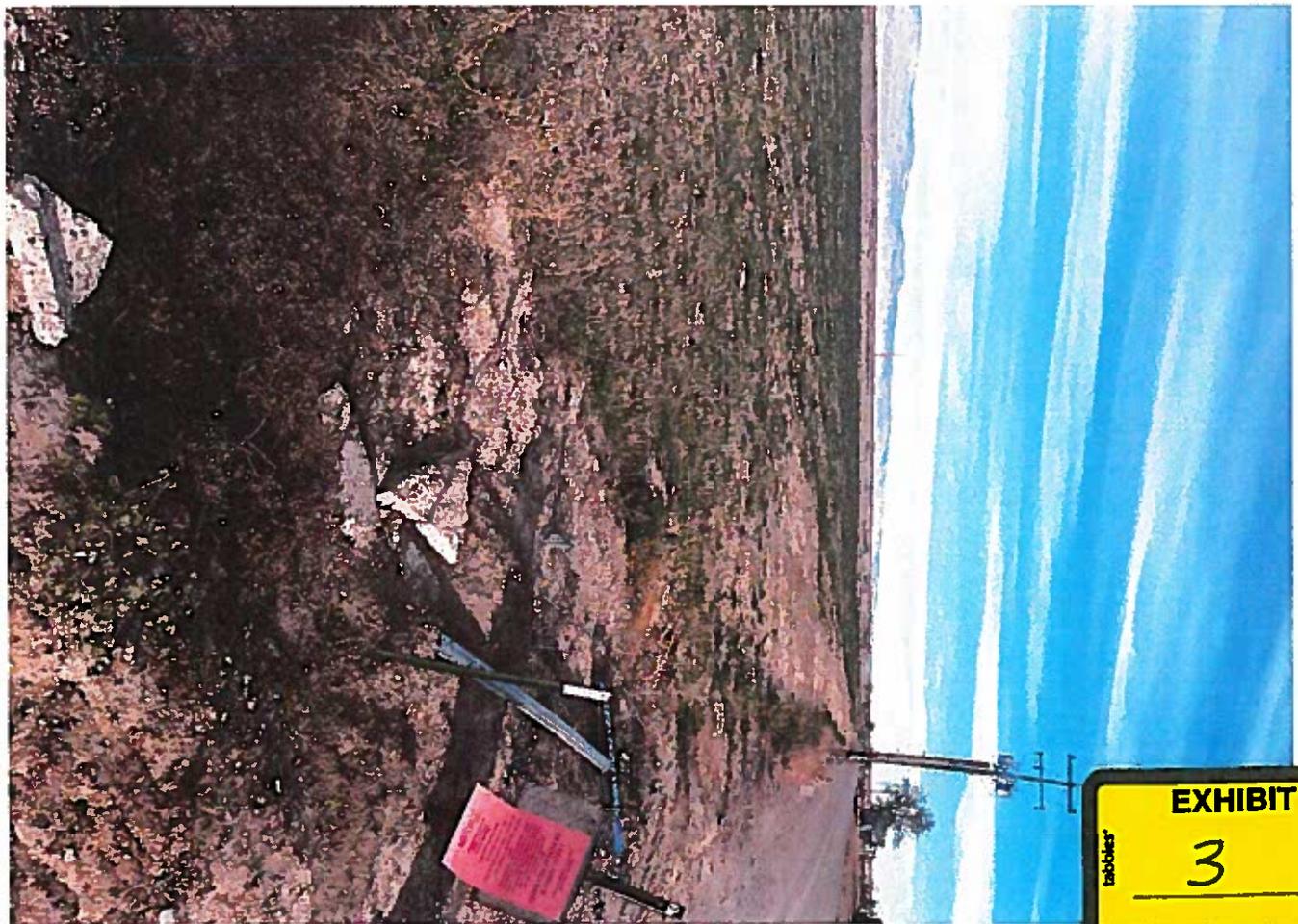
(b) That portion thereof taken by Eminent Domain proceedings by the State of Idaho, designated as Project No. F-FG-3022 (19) Highway Survey as shown on the plans thereof in the office of the Department of Highways of the State of Idaho, including Parcel No. 8; and Parcel No. 8A and Parcel No. 8-E-2, being a permanent easement for a ditch, and including the temporary easements described in said Eminent Domain proceedings.

(c) A parcel of land located in the SW1/4NE1/4 Section 7, Township 4 South, Range 7 East, Boise Meridian, Elmore County, Idaho, more particularly described as follows: Commencing at the intersection of the Easterly Right-of-Way of a County Road and the North boundary of the SW1/4NE1/4 Sec. 7, T4S, R7E, and running thence East along said North Boundary a distance of 359 feet to a point; running thence South 512 feet to a point of the East Right-of-Way of a County Road; running thence Northwesterly along said Right-of-Way Boundary a distance of 625.3 feet to the REAL POINT OF BEGINNING.

(d) Commencing at the Northeast corner of Section 7, Township 4 South, Range 7 East, Boise Meridian, thence South  $0^{\circ}06'28''$  West along the East line of said Section 7, a distance of 2632.86 feet to a point in line parallel with and 25.0 feet Southeasterly from the centerline and bears South  $14^{\circ}26'24''$  East from Station 16+97.05 of the Bonecher Road and Bennett Road Connector Survey as shown on plans of U.S. Highway No.'s 20, 26, and 30, Project No. F-FG-3022 (19) Highway Survey and being the REAL POINT OF BEGINNING; thence South  $75^{\circ}33'36''$  West along said parallel line 538.50 feet to a point opposite Station 22+35.55 of said Bonecher and Bennett Road Connector Survey; thence South  $75^{\circ}33'36''$  West leaving said last parallel line 18.0 feet, more or less, to a point in the Southerly right of way line of existing Bennett Road; thence Westerly along said existing Southerly right of way line and the Southerly right of way line extended 704.0 feet, more or less, to a

point of intersection with said Southerly right of way line extended and the Northeasterly right of way line of the Oregon Short Line Railroad; thence South  $30^{\circ}52'06''$  East along said Northeasterly Railroad right of way line 426.0 feet, more or less to a point in a line parallel with and 100.0 feet Northwesterly from the centerline and bears North  $30^{\circ}52'06''$  West from Station 75+32.32 of said U.S. Highway No.'s 20, 26 and 30, Project No. F-FG-3022 (19) Highway Survey; thence North  $59^{\circ}07'54''$  East along said parallel line 190.55 feet to a point opposite Station 77+22.87 of said Highway Survey; thence North  $64^{\circ}08'07''$  East 306.27 feet to a point that bears North  $27^{\circ}07'06''$  West 80.0 feet from Station 80+22.87 of said Highway Survey; thence North  $68^{\circ}13'25''$  East-183.16 feet to a point in a line parallel with and 70.0 feet Northwesterly from the centerline and bears North  $22^{\circ}41'24''$  West from Station 82+00 of said Highway Survey; thence Northeasterly along said parallel line being a 2361.83 foot radius curve right 360 feet more or less, to a point in a line parallel with and 25.0 feet Westerly from the centerline of said Bonecher Road and Bennett Road Connector Survey, which point bears North  $8^{\circ}18'54''$  West 70.0 feet from Station 87+75.00 of said U.S. Highway No.'s 20, 26 and 30, Project No. F-FG-3022 (19) Highway Survey; thence North 100 feet more or less, to the POINT OF BEGINNING.

(e) Commencing at the West Quarter corner of Section 8, thence North  $75^{\circ}33'36''$  East 72.32 feet; thence Southeasterly along a 75.0 foot radius curve 126.55 feet, thence South approximately  $77^{\circ}$  west and 232.50 feet more or less, thence North 100 feet more or less to the POINT OF BEGINNING.



tabbles

**EXHIBIT**  
3



Elmore County, Idaho  
Land Use & Building Department

# LEGAL NOTICE OF PUBLIC HEARING

Elmore County  
Planning & Zoning Commission  
will hold a Public Hearing to accept  
ordinance and to consider an application for  
a development agreement related to a zoning  
change from Agricultural to Light Industrial  
and an Amendment to the Comprehensive  
Plan.

Applicant: Elmore Development, LLC

Hearing Date: Wednesday, May 12, 2010

At 7:00 p.m. Case #09-00000000

In the War Memorial Building

Appointed: Layton

515 Park Street

Mountain Home, Idaho

For more information, contact

COURTY PLANNER

(208) 837-2447 Ext. 255



Elmore County, Idaho  
Land Use & Building Department

## LEGAL NOTICE OF PUBLIC HEARING

Elmore County  
Planning & Zoning Commission  
will hold a Public Hearing to accept  
testimony and to consider an application for  
a development agreement related to a zoning  
change from Agriculture to Light Industrial  
and an Amendment to the Comprehensive  
Plan.

Applicant: Elmore Development, LLC

Hearing Date: Wednesday November 30, 2016

At 7:00 p.m. Case: REZ-2016-01

In the War Memorial Hall

(American Legion)

515 East 2<sup>nd</sup> South

Mountain Home, Idaho

For more information, contact

**COUNTY PLANNER**

(208) 587-2142 Ext 254



Elmore County, Idaho  
Land Use & Building Department

## LEGAL NOTICE OF PUBLIC HEARING

Elmore County  
Planning & Zoning Commission  
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Applicant: Elmore Development, LLC

Hearing Date: Wednesday November 30, 2016

At 7:00 p.m. Case: REZ-2016-01

In the War Memorial Hall

(American Legion)

515 East 2<sup>nd</sup> South

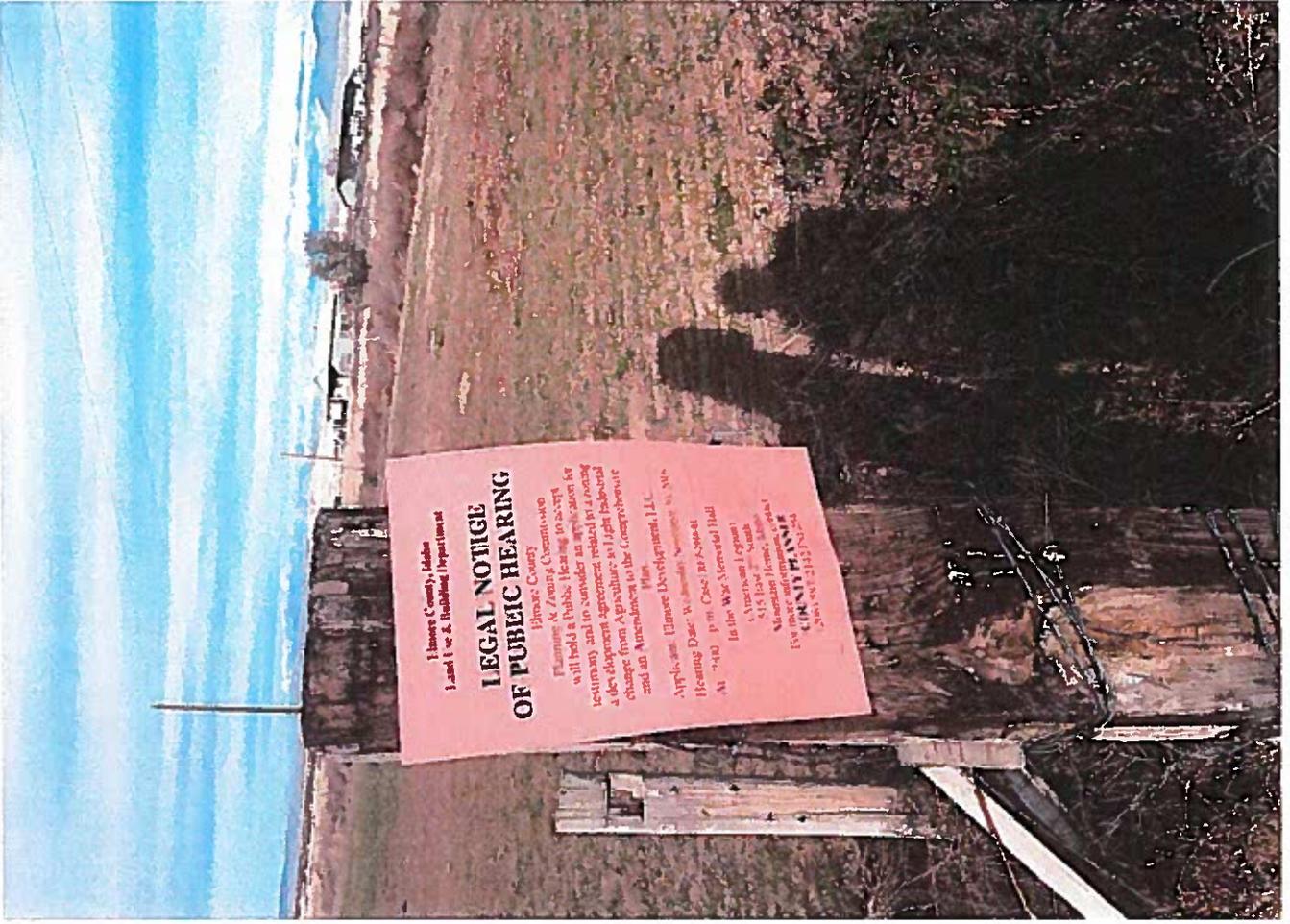
Mountain Home, Idaho

For more information, contact

**COUNTY PLANNER**

(208) 587-2142 EXT 254



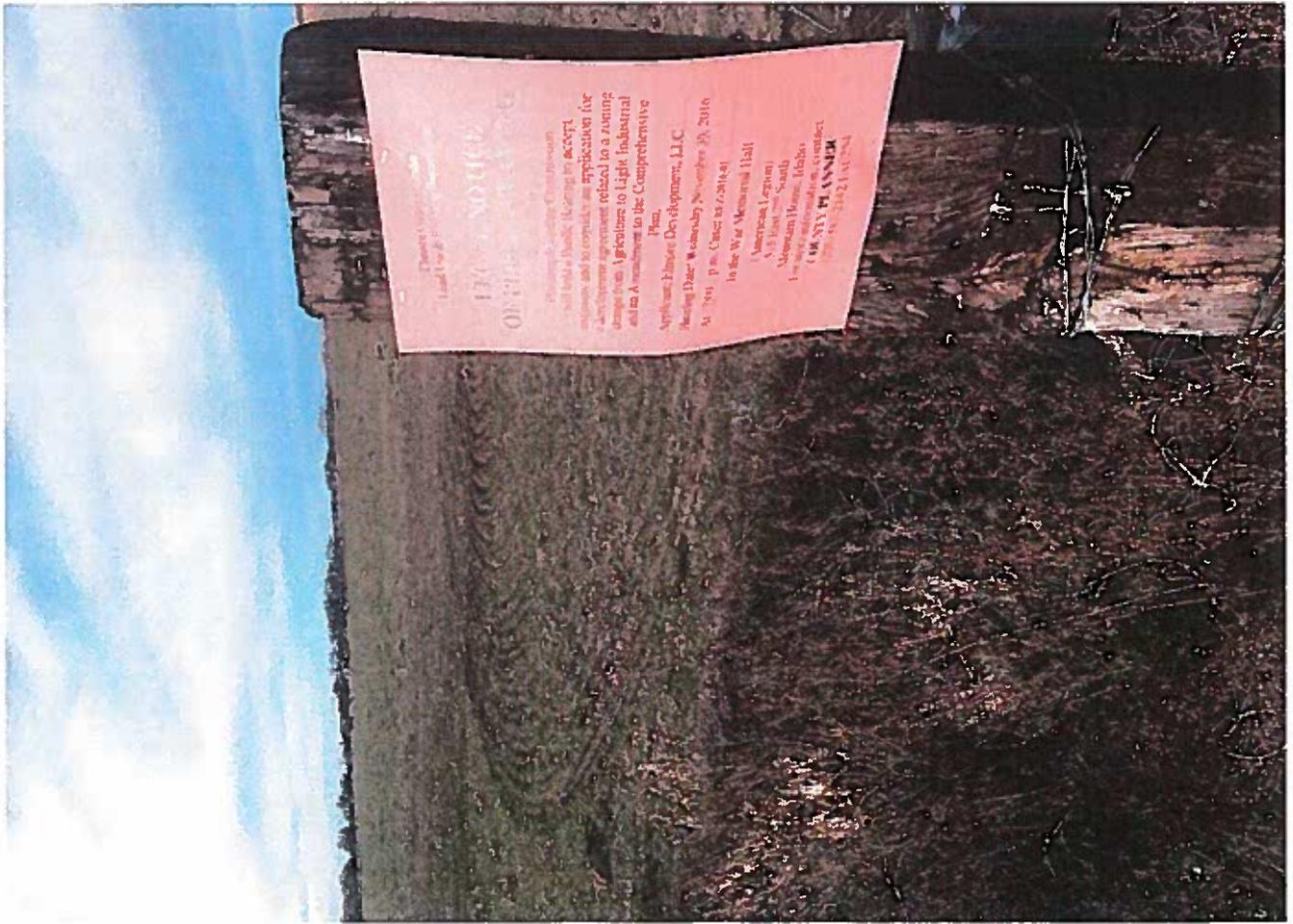


Elmore County, Alabama  
 Land Use & Building Department

**LEGAL NOTICE  
 OF PUBLIC HEARING**

Elmore County  
 Planning & Zoning Commission  
 will hold a Public Hearing to accept or  
 deny an application for a zoning  
 change from Agriculture to Light Industrial  
 and an Amendment to the Comprehensive  
 Plan.

Applicant: Elmore Development, LLC  
 Hearing Date: Wednesday, November 25, 2016  
 At 7:00 p.m. Case No. 2016-04  
 In the Wm. Mervin Hall  
 (American Legion)  
 515 East Main Street  
 Wetumpka, Alabama 36087  
 COUNTY PLANNER  
 Tel: 334-215-7004

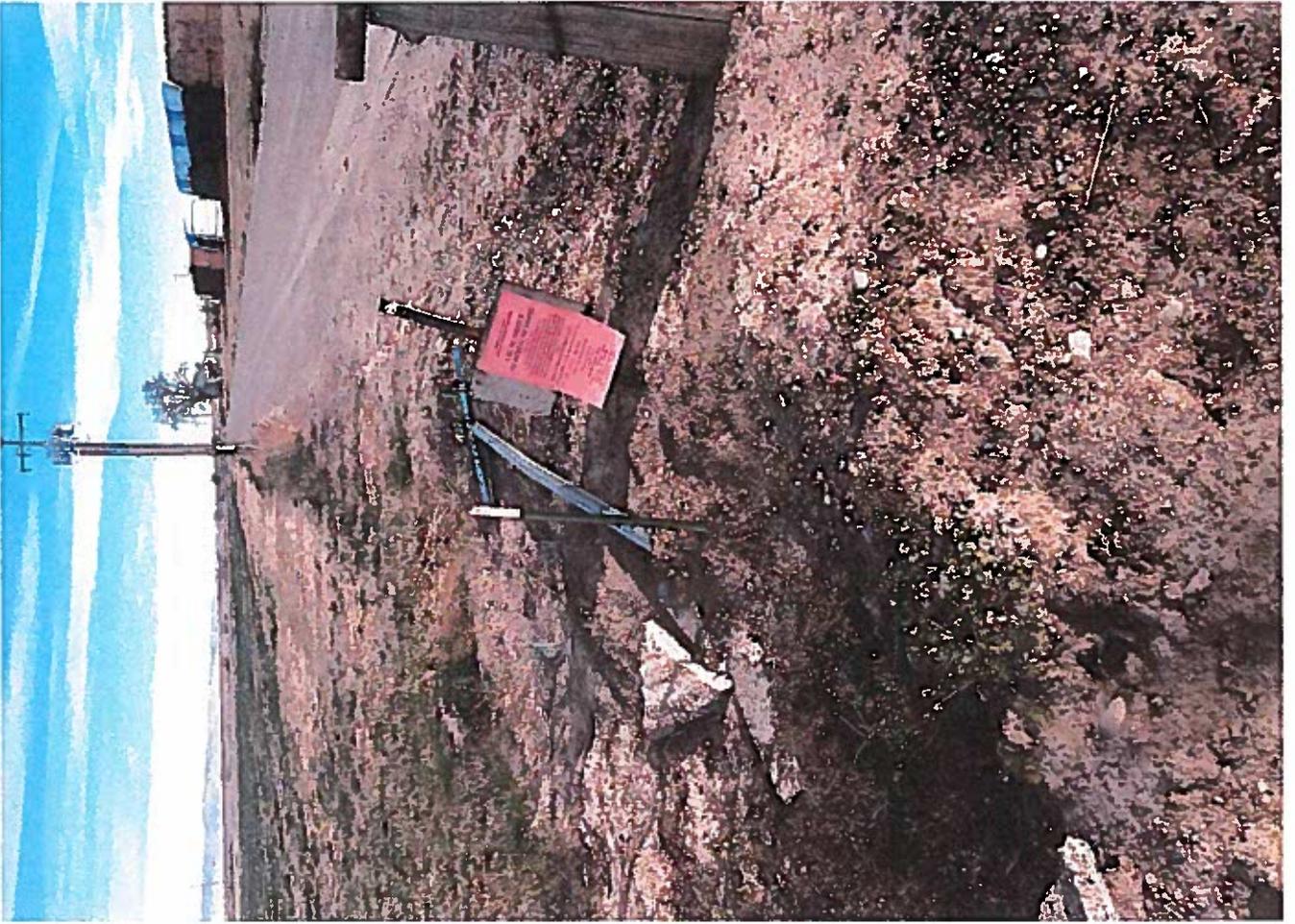


Elmore County, Alabama  
 Land Use & Building Department

**LEGAL NOTICE  
 OF PUBLIC HEARING**

Elmore County  
 Planning & Zoning Commission  
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 COUNTY PLANNER  
 Tel: 334-215-7004



**ELMORE COUNTY**  
**PLANNING AND ZONING COMMISSION**

---

520 East 2<sup>nd</sup> South Street  
Mountain Home, ID 83647  
Telephone 208-587-2130, ext. 502 Fax 208-587-2120

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN pursuant to the laws of the State of Idaho and Ordinances of Elmore County, that the Elmore County Planning and Zoning Commission (the "Commission") will hold a PUBLIC HEARING at 7:00 p.m. on Wednesday, November 30, 2016 in the War Memorial Hall (American Legion) 515 East 2nd South Street, Mountain Home, Idaho, to accept testimony and consider an application from Elmore Development, LLC (Mirazim Shakoori) for a Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan. Case Number: REZ-2016-01. The site is located in portions of the Section 7 and 8, Township 4 South, Range 7 East, B.M. A common way of locating the property is from I-84 head east, take exit 90, turn right on Old Oregon Trail Rd. for approximately 2 miles.

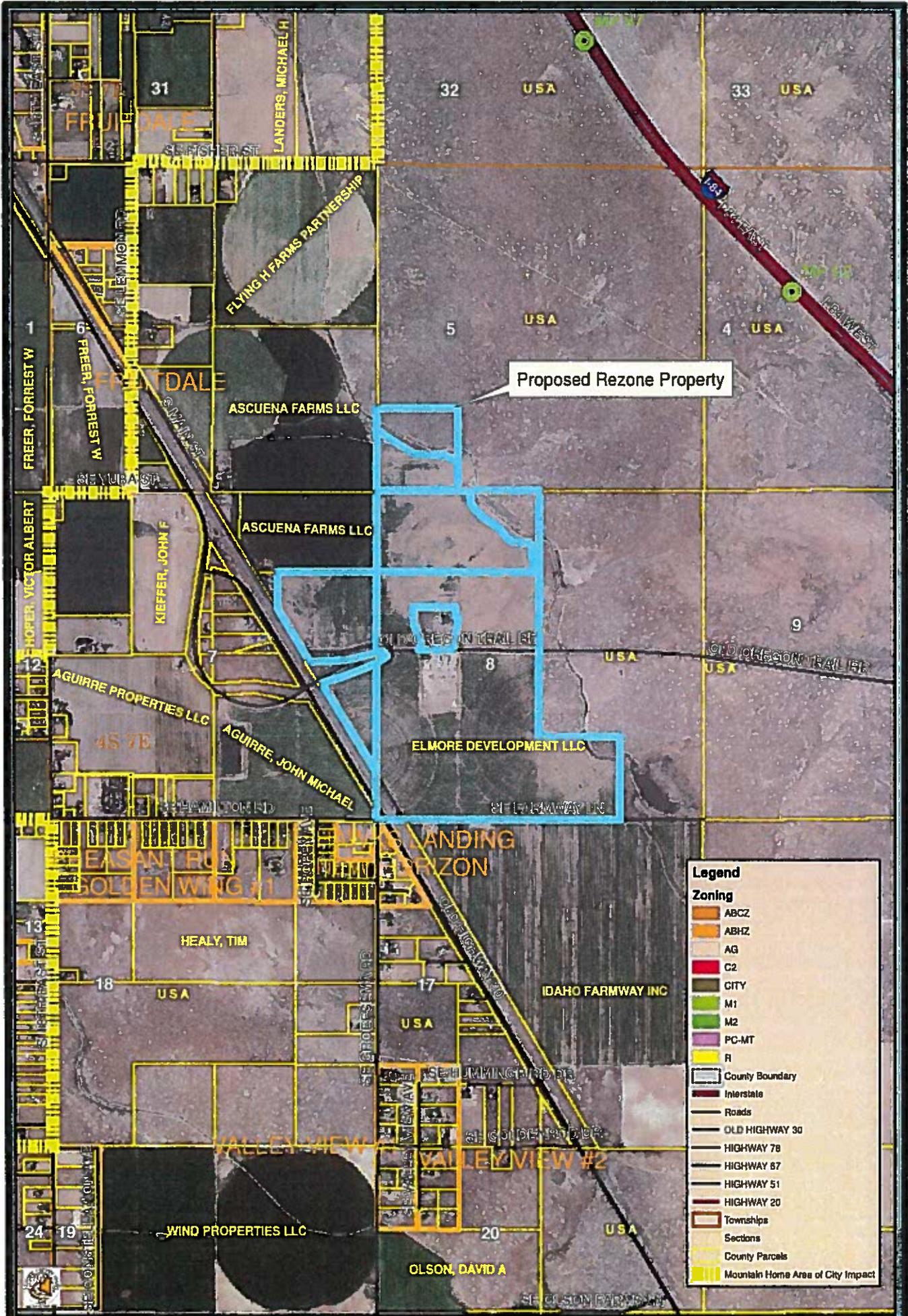
The matter of REZ-2016-01 was remanded to the Commission from the Elmore County Board of Commissioners on October 14, 2016 to obtain the required Development Agreement Application. This application may be reviewed prior to the hearing in the Land Use and Building Department during regular business hours. Any and all interested persons shall be heard at said public hearing and the public is welcome and invited to submit testimony. Anyone who wishes to testify but is unable to attend may submit written testimony prior to the hearing by sending it to Elmore County Land Use and Building Department, 520 East 2<sup>nd</sup> South Street, Mountain Home, Idaho, 83647.

The Elmore County Clerk is responsible for ensuring compliance with the American Disabilities Act (ADA) of 1993, the Elmore County Clerk is responsible ADA coordinator. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from M. Bate, Elmore County Courthouse, in accordance with the ADA regulations.

One publication: Wednesday, November 9, 2016

  
Alan Christy, Director  
Elmore County Land Use and Building Department





Proposed Rezone Property

**Legend**

**Zoning**

- ABCZ
- ABHZ
- AG
- C2
- CITY
- M1
- M2
- PC-MT
- R

County Boundary  
 Interstate  
 Roads  
 OLD HIGHWAY 30  
 HIGHWAY 78  
 HIGHWAY 87  
 HIGHWAY 51  
 HIGHWAY 20  
 Townships  
 Sections  
 County Parcels  
 Mountain Home Area of City Impact



# 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

Date: November 2, 2016

To: Whom It May Concern

Subject: Notice of Public Hearing

Applicant: Elmore Development, LLC (Mirazim Shakoori) - Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan.

Case #: REZ-2016-01

A public hearing will be held before the Elmore County Planning and Zoning Commission on the enclosed application. The hearing is scheduled for Wednesday, November 30, 2016 at 7:00 p.m. in the War Memorial (American Legion) Hall at 515 East 2<sup>nd</sup> South Street, Mountain Home, Idaho.

Please review the application and return your written comments to the Elmore County Land Use and Building Department, 520 East 2<sup>nd</sup> South Street, Mountain Home, ID, 83647, by 5 p.m. on Friday, November 25, 2016, so your comments are included in the record. If you prefer, please come to the hearing to testify before the Commission.

If you have any questions or if we can be of any assistance, please do not hesitate to contact the office. To ensure compliance with the American Disabilities Act (ADA) of 1993, the Elmore County Clerk the responsible coordinator. Provisions will be made for persons with disabilities who are unable to attend this hearing. A grievance procedure is available from M. Bate, Elmore County Courthouse, in accordance with the ADA regulations.

Sincerely,

  
Alan Christy  
Director

Enclosures: Application

CC:

366th CES/CENP  
366th OSS/OSOA  
Aspen Engineers, Chartered  
QRU of Atlanta  
Atlanta Highway District  
Atlanta Rural Fire District  
Bliss School District #234  
Dept of Environmental Quality Boise Reg  
Boise Project Board of Control  
Bonneville Power Administration/Department of Energy  
Bruneau River Soil Conservation District  
Bruneau Grand View School District #365  
Bureau of Land Management  
Central District Health Department  
Century Link  
Century Link  
Tesoro Logistics NW Pipeline  
City of Glenns Ferry  
City of Mountain Home  
City of Mountain Home  
City of Mountain Home Public Works  
City of Mountain Home Development Services  
Community Planning Association  
Division of Building Safety  
Division of Building Safety  
Eastern Elmore County Rec District  
Economic Development for Glenns Ferry  
Elmore Ambulance Service  
Elmore County Extension Office  
Elmore County Fair & Rodeo Board  
Elmore County Sheriff  
St. Luke's Elmore Medical Center  
Elmore Soil & Water Conservation District  
EPA Idaho Operations Office  
FAA Helena Airport District Office  
Federal Bureau of Investigation  
Caldwell Transportation  
Glenns Ferry Fire Dept  
Glenns Ferry Highway District  
Glenns Ferry Municipal Airport  
Glenns Ferry School District #192  
Grandview Ambulance Service  
Grandview Rural Fire District  
Idaho Air National Guard  
Idaho Army National Guard

Idaho Army National Guard  
Idaho Dept of Aeronautics  
Idaho Dept of Agriculture  
Idaho Dept of Agriculture  
Idaho Dept of Fish & Game  
Idaho Dept of Fish & Game  
Idaho Dept of Health & Welfare Div of Family &  
Community Services  
Idaho Dept of Lands BSU Planning  
Idaho Dept of Lands Eastern Supervisory Area  
Manager  
Idaho Dept of Lands Southwest Area Manager  
Idaho Dept of Transportation District 3  
Idaho Dept of Water Resources Western Region  
Idaho Governor's Office of Energy Resources  
Idaho Power Corporate Real Estate  
Idaho State Fire Marshall  
Idaho State Historic Preservation Office  
Idaho Waste Systems  
Intermountain Gas Co.  
King Hill Domestic Water Assoc.  
King Hill Irrigation District  
King Hill Rural Fire District  
Mellen Subdivision Water District  
USPS - Mountain Home  
Mtn. Home Aviation  
Mtn. Home Economic Development  
Mtn. Home Fire Dept.  
Mtn. Home Highway District  
Mtn. Home Irrigation District  
Mtn. Home Municipal Airport Board  
Mtn. Home Rural Fire District  
Mtn. Home School District #193  
Oasis Volunteer Fire Department  
Pine Ambulance Service  
Prairie QRU and Fire, Inc.  
Prairie Elementary District #191  
Prairie Free Library District  
Shared Vision Inc.  
Rural Telephone  
Southwest Idaho Rural Development  
The Peregrine Fund/World Center for Birds of Prey  
Union Pacific Railroad  
US Army Corp of Engineers  
US Dept of the Interior BLM Twin Falls District  
US Fish and Wildlife Service  
USFS Mtn Home Ranger District  
West Side Sewer District  
Western Elmore County Rec District  
Williams NW Pipeline

**NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN pursuant to the laws of the State of Idaho and Ordinances of Elmore County, that the Elmore County Planning and Zoning Commission (the "Commission") will hold a PUBLIC HEARING at 7:00 p.m. on Wednesday, November 30, 2016 in the War Memorial Hall (American Legion) 515 East 2nd South Street, Mountain Home, Idaho, to accept testimony and consider an application from Elmore Development, LLC (Mirazim Shakoori) for a Development Agreement related to applications for a Zoning Change from Agriculture to Light Industrial and an Amendment to the Comprehensive Plan. Case Number: REZ-2016-01. The site is located in portions of the Section 7 and 8, Township 4 South, Range 7 East, B.M. A common way of locating the property is from I-84 head east, take exit 90, turn right on Old Oregon Trail Rd. for approximately 2 miles.

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Alan Christy, Director  
Elmore County Land Use and  
Building Department  
One publication: November 9, 2016

**FAXED**

11/4/2016 KP

Proofed

Date: 11/4/2016

OK, With Changes

OK, No Changes

Re-Proof

Proofed by:

*KP*

Please sign & fax or email  
back with any corrections by  
10am Monday 11/7/16.

Total cost will be \$52.00

THANK YOU  
STACY SWENSON  
MTN. HOME NEWS  
PH. (208) 587-3331 • FAX (208) 587-9205

**ELMORE COUNTY  
PLANNING AND ZONING COMMISSION**

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**MINUTES**

**Wednesday, November 2, 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, Jeff Blanksma, Mitch Smith, and Ed Oppedyk. Also present were Attorney of record Phil Miller, Director Alan Christy and staff member Beth Bresnahan.

**PLEDGE OF ALLEGIANCE**

**PUBLIC MEETING**

**Ordinance and Comprehensive Plan Work Session**

The commission discussed updates to the ordinance and comprehensive plan.

**ANNUAL MEETING**

**Voting of new officers for 2017**

Osborn opened nominations.

Duerig nominated Osborn for Chairperson.

Oppedyk seconded.

Osborn closed nominations.

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

Osborn will remain Chairperson for 2017.

Osborn opened nominations for Vice Chairman.

Osborn nominated Duerig for Vice Chairman.

Holland seconded.

Osborn closed nominations.

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

Duerig will remain Vice Chairman for 2017.

**MINUTES**

**Minutes from October 19, 2016.**

Smith moved to approve.

Oppedyk seconded.

Motion carried unanimously.

**INFORMATION ITEMS**

**Upcoming P & Z Schedule**

Christy stated that there will be a special meeting on November 30, 2016 for a public hearing. He stated that there will not be a meeting on November 16, 2016. He stated that there will be regularly scheduled meetings on December 7<sup>th</sup> and 21<sup>st</sup>, 2016.

**MEETING ADJOURNED at 7:26 p.m.**

---

Patti Osborn, Chairperson

Date:

Attest:  
Alan Christy, Director

---

Date: