

## BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

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

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

#### FINDINGS OF FACT

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

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

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

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

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

Hammett Community Park  
C/O Pam Howard  
P.O. Box 123  
Hammett, ID 83627

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

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

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

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

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

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

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

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

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

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

**C. The “Owner” of the Site is:**

Hammett Community Church  
9223 W Church  
Hammett, ID 83627

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

**E. Site Characteristics:**

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

*Existing Structures:* None

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

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

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

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

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

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

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

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

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

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

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

*Sewage Disposal:* None

*Water Service:* None

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

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

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

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

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

**X. Comprehensive Plan.**

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

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

**XI. Zoning Ordinance.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CONCLUSIONS OF LAW**

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

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

### ORDER

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

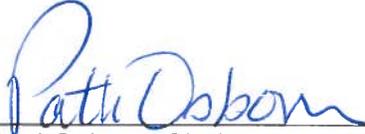
1. Ten (10) parking spots shall be constructed as specified on the master plan with an adequate turn around.
2. All signage shall comply with zoning and building regulations.
3. All outstanding fees, if any, shall be paid prior to the issuance of an Elmore County building Permit.
4. Failure to comply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

Dated this 5th day of August, 2015.

**COMMISSION VOTE:**

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

VOTED AYE  
ABSENT

  
\_\_\_\_\_  
Patti Osborn, Chairperson

**ATTEST:**

  
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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.