

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

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

I. The Commission finds that Application is comprised of:

A. Application form prepared and submitted by Mountain Home Solar 1, LLC. (the “**Applicant**”) for the CUP; and

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

II. The Commission finds that the Applicant is:

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

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

A. The Applicant participated in a pre-application meeting with the Department on June 26, 2015.

B. The Applicant conducted a neighborhood meeting on August 18, 2015 as required by Elmore County Zoning and Development Ordinance (the “**Zoning**”

Ordinance”) Section 6-4-3.

C. The Applicant submitted the Application to the Department on September 24, 2015.

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

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

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

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

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

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

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

IV. The proposed use of the Application as follows:

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

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

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

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

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

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

C. The “Owner” of the Site is:

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

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

E. Site Characteristics:

Property Size: The Site contains approximately 190 acres.

Existing Structures: The Site contains no existing structures.

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

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

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

Irrigation: none.

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

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

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

Land uses to the south are irrigated farm ground. Land uses to the north are grazing (non-irrigated). Land uses to the east are gravel pit/firing range for the Mountain Home police department. Land uses to the west are grazing land.

VIII. The Commission finds the existing services as follows:

Fire Protection District: Mountain Home Rural Fire Protection District

Sewage Disposal: Not Applicable

Water Service: Not Applicable

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

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

A. Elmore County Ordinance 2010-01 and Elmore County Zoning Ordinance section 7-1-4 (the "**Comprehensive Plan**"); and

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

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

X. Comprehensive Plan:

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

XI. Zoning Ordinance:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Commission finds that a 20 MW solar electrical generating facility in the Light Industrial Zone requires a conditional use permit in Table 6-8-11 (C).

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

The Commission finds that the application is in harmony and accordance with the following provisions of the City of Mountain Home Comprehensive Plan:

1.1 City of Mountain Home Statement of Purpose

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

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

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

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

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

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

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

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

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

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

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

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

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

The Commission finds the Application does comply with the Zoning Ordinance as the Application does meet all the required findings of Zoning Ordinance section 6-27-7 as specified in section X1.C of these findings.

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

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

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

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

The Commission finds the Application does comply with the Zoning Ordinance as the Application does meet all the required findings of Zoning Ordinance section 6-27-7 as specified in section X1.C of these findings.

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

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

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

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

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

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

The Commission finds visual impacts will be minimal.

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

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

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

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

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

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

Drainage Structures: Conditions of approval requiring county Engineer approval.

Refuse Disposal: not applicable.

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

Sewer: Not applicable.

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

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

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

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

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

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

The Commission finds that the Application proposes to improve/maintain W. 10th North.

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

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

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

CONCLUSIONS OF LAW

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

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

ORDER

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

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

Dated this 2nd day of December, 2015.

COMMISSION VOTE:

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

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



 Patti Osborn, Chairperson

ATTEST:



Alan Christy, Director

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

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

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

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