

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2016-03: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 20th day of July, 2016, for a public hearing, held pursuant to public notice as required by law, on a request for a Conditional Use Permit (the “**CUP**”) for a substation in the Light Industrial Zone and the Mountain Home Area of City Impact (the “**Application**”). Property is located in the SE¼SE¼, Section 22, Township 3 South, Range 6 East, B.M. (the “**Site**”). The Commission heard from the applicant in support of the Application. The Commission received additional written testimony and information for the Application. The Commission heard testimony in support, neutral and in opposition of the Application. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

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

I. The Commission finds that Application is comprised of:

A. Application form prepared and submitted by Idaho Power (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:

Idaho Power
PO Box 70
Boise, ID 83707

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 January 29, 2016.

B. The Applicant conducted a neighborhood meeting on March 7, 2016 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 April 12, 2016.

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

E. The Department mailed notice of the public hearing to neighboring property owners within one-thousand (1,000) feet of the Site on June 23, 2016 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on June 23, 2016 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on June 29, 2016 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on July 8, 2016 pursuant to Zoning Ordinance Section 6-4-5 B.

I. Chairperson Osborn recused herself from the public hearing due to being an employee of Idaho Power and to avoid any perception of potential conflict of interest.

J. The Commission opened the public hearing on July 20, 2016 and received verbal and written information regarding the Application.

K. The Commission moved to **approve** the Application with six (6) conditions of approval. The motion to **approve** the Application passed on a 3-0 vote.

IV. The proposed use of the Application as follows:

A. **The Commission finds** the proposed use for a substation in the Light Industrial Zone and the Mountain Home Area of City Impact.

B. **The Commission finds** that the submitted master site plan shows the substation.

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

A. **Site Description:** SE¼SE¼, Section 22, Township 3 South, Range 6 East, B.M. A common way of locating the property is from US 30 head west on E 5th St North, road changes to W 5th St North, then north on N Haskett St, then west on NW Turner Rd, then north on NW Sawmill Rd, then west on W 10th St North and just past the intersection of N 18th West.

B. **Parcel Number:** RP 03S06E229620 A

C. **The "Owner" of the Site is:**
Weitz and Company, Inc
1900 W. Main St.
Boise, ID 83702

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

E. **Site Characteristics:**

Property Size: The Parcel contains approximately 115 acres. The Applicant will utilize approximately .5 acres for the substation.

Existing Structures: None.

Existing Vegetation: The vegetation consists mainly of sagebrush.

Slope: Relatively flat and less than 10% slope.

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

Irrigation: None.

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

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

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

Land uses to the south are grazing. Land uses to the north are grazing. Land uses to the east are shooting range and gravel pit. Land uses to the west are grazing.

VIII. The Commission finds the existing services as follows:

Access Roads: Publically maintained road W 10th North St, which is a non-paved road.

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

Sewage Disposal: None.

Water Service: None.

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

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

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

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

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

X. Comprehensive Plan:

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

XI. Zoning Ordinance:

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

1. The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 8, Table 6-8-11 (C), Elmore County Land Use Table, as contained in this Ordinance;
2. The proposed use shall be in harmony with and in accordance with the Comprehensive Plan and this Ordinance (Title 6);
3. The proposed use complies with the purpose statement of the applicable base zone and with the specific use standards as set forth in this Chapter;
4. The proposed use shall comply with all applicable County Ordinances;
5. The proposed use shall comply with all applicable State and Federal regulations;
6. The proposed use shall be designed, constructed, operated, and maintained in such a way as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity; and that such use shall not change the essential character of said area;
7. The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development;
8. The proposed use shall be served adequately by available public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, or that the person responsible for the establishment of the proposed conditional use shall be able to provide adequately any such services;
9. The proposed use shall not create excessive additional requirements at public cost for public facilities and services and the proposed use shall not be detrimental to the economic welfare of the County;
10. The proposed use shall not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors;
11. The proposed use shall have vehicular approaches which shall be so designed as not to create an interference with traffic on surrounding public or private roadways;
12. The proposed use shall not result in the destruction, loss or damage of a natural or scenic feature of major importance.

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

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

The Commission finds that Section 6-8-170 E.3 states "Power Distribution Facilities:
"3. Electric transmission lines and substations shall require conditional use approval."

The Commission finds Public or Quasi Public Use requires a conditional use permit Table 6-8-11 (C) of the Elmore County Zoning and Development Ordinance.

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

The Commission finds that the application is in harmony and accordance with the Elmore County Comprehensive Plan and this Ordinance.

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

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

The Commission finds that the Application complies with the purpose statement of the Light Industrial zone in Zoning Ordinance Section 6-8-5 A in that 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. Uses within the M1 district require reasonable access to arterial roadways. Land uses in this category may require a mix of commercial or light industrial uses that consists of clean types of manufacturing, processing, warehousing, repair and general industrial 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.

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

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

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

The Commission finds that the essential character of the area will not be negatively changed.

The Commission finds this is necessary for the solar project that was approved on November 18, 2015.

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

The Commission finds visual impacts will be minimal. Neighbors within 1,000 feet have been notified of this application.

The Commission finds the noise is minimal and less than 60 decibels as testified by the applicant.

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

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

Highways: Mountain Home Highway District.

Streets: W 10th North St is a non-paved road, maintained by the Highway District. The Highway District provided no comment on the application.

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

Fire Protection: The Fire District.

Drainage Structures: Condition of 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 that the proposed use will not create excessive additional requirements at public costs.

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

The Commission finds that no excessive traffic, noise, smoke, fumes, glare or odors are anticipated with the proposed use.

COMMISSION VOTE:

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

RECUSED
VOTED AYE
VOTED AYE
ABSENT
ABSENT
ABSENT
VOTED AYE



K.C. Duerig, Vice-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.

The Commission finds the noise is minimal and less than 60 decibels as testified by the applicant.

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

The Commission finds that the Application will not increase traffic patterns as the Highway District has signed the Application.

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 substation will have a security fence.
2. The development will comply with all the requirements of Elmore County Zoning and Ordinance section 6-8-170.
3. All outstanding fees, if any, must be paid prior to the issuance of an Elmore County building permit.
4. The proposed use will be constructed in substantial conformance with the master site plan. The application must be amended if there are any substantial changes.
5. Prior to the issuance of a building permit, an overall site plan must be approved by the County Engineer. The development will comply with all recommendations of the County Engineer.
6. Failure to comply with any of the conditions will result in revocation of the Conditional Use Permit.

Dated this 17th day of August, 2016.