

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2016-01: 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 group child care facility in the Agriculture Zone and Mountain Home Area of City Impact (the “**Application**”). Property is located in Lots 17 – 20, Block 3, Mellen Subdivision (the “**Site**”). The Commission heard from the applicant in support of 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 Maricarmen Martinez (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:

Maricarmen Martinez
656 NW Cedar Ave.
Mountain Home, ID 83647

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 September 9, 2015.

B. The Applicant conducted a neighborhood meeting on October 5, 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 October 6, 2015.

D. The Department deemed the Application complete on October 8, 2015.

E. The Department mailed notice of the public hearing to neighboring property

owners within one-thousand (1,000) feet of the Site on October 19, 2015 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on October 19, 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 six (6) 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 group child care facility in the Agriculture Zone and City of Mountain Home Area of Impact.

B. The Commission finds that the submitted master site plan shows the playground area and facility area.

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

A. Site Description: Lots 17 – 20, Block 3, Mellen Subdivision. A 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, turn left onto NW Cedar Ave, site is located on the left at 656 NW Cedar Ave.

B. Parcel Number: RP 00087003017B A

C. The “Owner” of the Site is:

Maricarmen Martinez
656 NW Cedar Ave
Mountain Home, ID 83647

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

E. Site Characteristics:

Property Size: The Site contains approximately .262 acres.

Existing Structures: The Site contains a house and shed

Existing Vegetation: The vegetation consists mainly of grass and 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: Portion of the Site utilizes subsurface irrigation.

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

The current zoning for the Site is Agriculture Zone 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 residential. Land uses to the north are residential. Land uses to the east are residential. Land uses to the west are residential.

VIII. The Commission finds the existing services as follows:

Access Roads: Publically maintained road NW Cedar Ave, which is a paved road.

Fire Protection District: Mountain Home Rural Fire Protection District.

Sewage Disposal: Community Septic, Westside Sewer District.

Water Service: Community Well, Mellen Subdivision Water District.

Highway District: Glens Ferry Highway District (the "**Highway District**").

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

A. Comprehensive Plan. City of Mountain Home Comprehensive Plan, adopted as Elmore County Ordinance 2010 and Zoning Ordinance section 7-1-4A (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 in section X1.C.

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 City of Mountain Home 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 child and adult daycare facility in the Agriculture 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.

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

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.)

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 6-8-5 A in that “Residential land use is allowed in the Ag zone subject to site development standards and compatibility with agricultural operations.”

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.

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

The Commission finds that with the conditions 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 visual impacts will be minimal or non-existent. The daycare is existing.

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 Land Use and Building Department has received one (1) input from neighbors.

The Commission finds that the neighbors were notified for the Administrative decision and there were no comments from neighboring property owners.

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 has no comment.

Streets: NW Cedar Ave is a paved road maintained by Mountain Home Highway District. Mountain Home Highway District provided no comment on the application.

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

Fire Protection: Mountain Home Fire Protection District.

Drainage Structures: not applicable.

Refuse Disposal: not applicable.

Potable, Non-Potable Water, Fire Suppression Water Supplies: Mellen Subdivision Water District.

Sewer: Westside Sewer District.

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 there is no data provided 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 smoke, fumes, glare or odors are anticipated with the proposed use.

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 NW Cedar Ave.

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. There will adequate parking and must comply with Section 6-8-66.
- 2. All signage will comply with zoning and building regulations.
- 3. Facility will be and remain state licensed and will have all other required permits from regulatory agencies.
- 4. Area shall have a secured fencing for safety purposes.
- 5. Maximum number of children shall be set by state agency not to exceed 25.
- 6. Submit a revised site plan with the proposed driveway.

Dated this 2nd day of December, 2015.

COMMISSION VOTE:

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