

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: REZ-2016-01: 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 rezone application from Agriculture (“**Ag**”) to Interstate/Arterial Commercial (“**C2**”) (the “**Rezone Application**”) and amendment to the Elmore Comprehensive Plan Future Land Use Map (“**Plan Amendment**”), collectively known as the “**Project**.” Property is located in portions of Sections 7 and 8, Township 4 South, Range 7 East, B.M. (the “**Site**”). The Commission heard from the applicant in support of the Project. The Commission heard additional testimony neutral to the Project. The Commission received additional written testimony and information for the Project. Upon conclusion of the public hearing, the Commission duly considered all that was presented to them.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION

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 Project Application is comprised of:

- A.** Application form prepared and submitted by Mirazim Shakoori (the “**Applicant**”) for the Project; and
- B.** Letter from Bonnie Layton, dated November 25, 2015 detailing the request for the Plan Amendment.
- C.** 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:

Elmore Development, LLC; Mirazim Shakoori
2595 Old Oregon Trail
Mountain Home, ID 83644

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 April 1, 2015.
- B.** The Applicant conducted a neighborhood meeting on May 28, 2015 and May 12, 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 November 24, 2015.

D. Letter for the Plan Amendment was submitted on November 25, 2016.

E. Additional information for the project was submitted on June 22, 2016.

D. The Department deemed the Application complete on June 22, 2016.

F. 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.

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

H. 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.

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

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

K. The Commission moved to **recommend approval** of the Project with one (1) condition. The motion to **approve** the Application passed on a 4-0 vote.

IV. The proposed use of the Project is as follows:

A. The Commission finds the Rezone Application is proposed to rezone approximately 456 acres from Agriculture to Light Industrial. **The Commission further finds** that the Applicant does not have a specific use intended for the Site and wants to market the Site for industrial development.

B. The Commission finds the Plan Amendment is proposed to change the Comprehensive Plan Future Land Use Map designation for the Site from C2 – Highway Interstate Commercial to M1 – Light Industrial in order to negate a conflict with the Comprehensive Plan.

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

A. Site Description: 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.

B. Parcel Numbers: RP04S07E082440A, RP04S07E084210A, RP04S07E071840A, RP04S07E056500A, and RP04S07E083040A

C. The "Owner" of the Site is:

Elmore Development, LLC
2595 Old Oregon Trail
Mountain Home, ID 83647

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

E. Site Characteristics:

Property Size: 456 acres.

Existing Structures: None.

Existing Vegetation: Irrigated farm ground.

Slope: Relatively flat and less than 10% slope.

Flood Zone Status: Zone X located outside of all known flood zones

Irrigation: Surface and pivot irrigation

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, 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 irrigated farm ground.
Land uses to the east are dry BLM grazing and Interstate 84.
Land uses to the west are UP railroad tracks and irrigated farm ground.

VIII. The Commission finds the existing services as follows:

Access Roads: Old Oregon Trail Road and South Main Street, both are publically maintained paved roads.

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

Sewage Disposal: None.

Water Service: None.

Irrigation Service: Mountain Home Irrigation District.

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** that Idaho Code § 67-6509, also known as the Idaho Local Land Use Planning Act, provides requirements for adoption, amendment and repeal of comprehensive plans.
- B. **The Commission finds** in addition to the Rezone Application, the Plan Amendment is required to avoid conflict with the Comprehensive Plan.
- C. **The Commission finds** the Rezone Application in combination with the Plan Amendment as consistent with the Comprehensive Plan as stated in these findings.
- D. **The Commission finds** the Project is supported and consistent with the following objectives of the Comprehensive Plan:

Economic Objective #9. Establish appropriate industrial zones to further increase business and economic development in various communities and areas of Elmore County, particularly at appropriate locations near areas of city impact.

The Commission finds that the Site is approximately 0.5 miles south and east of the Mountain Home Area of City Impact. **The Commission further finds** that based on the Applicant's testimony and proximity to an Interstate 84 Exit this will further increase opportunities for business and economic development.

Land Use Objective # 5. Encourage and support commercial and industrial development if it complies with County ordinances and guidelines to create jobs and expand the tax base. Maintain two industrial zones; heavy and light.

The Commission finds that based on the Applicant's testimony the Site will be used and marketed as an industrial property to further create jobs and expand the tax base.

Land Use Objective #8. Review all commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.

The Commission finds that future uses in the Light Industrial Zone will require a zoning permit, conditional use permit and/or additional requirements from the Zoning Ordinance. **The Commission further finds** that these requirements will further help determine the Site's land use compatibility with the surrounding areas.

XI. Zoning Ordinance:

A. The Commission finds that in order to approve a Zoning Map Amendment (also known as a rezone) application, the following findings as set forth in Section 6-8-9 D of the Zoning Ordinance shall be made.

1. The Zoning Ordinance Map Amendment complies with the regulations outlined for this Chapter; and
2. The Zoning Ordinance Map Amendment shall not be materially detrimental to the public health, safety and welfare; and
3. The Zoning Ordinance Map Amendment request is in compliance with the Land Use/Zoning Map Amendment Matrix; and
4. The development agreement meets the requirements of this Title; and
5. That the approval by the Board, of a Zoning Ordinance Map Amendment request would not “impede”⁽¹⁾ the normal flow of development; and

Note: ⁽¹⁾ For the purpose of this Chapter and required finding (number 5 listed above), the definition of “Impede” shall be the interference with an existing or proposed activity that would delay or cause modification to the progress of normal development and/or development trends, or the causing of delays or interference with the normal flow of progress and/or development trends.

6. The Zoning Ordinance Map Amendment is not in conflict with the Comprehensive Plan.

B. The required findings of Section 6-8-9 D of the Zoning Ordinance, stated as questions, follow in bold text, followed by the Commission’s findings:

1. Does the Zoning Ordinance Map Amendment comply with the regulations outlined for this Chapter?

The Commission finds that with the condition of approval, the Project complies with the Zoning Ordinance regulations in Chapter 8.

2. Is the Zoning Ordinance Map Amendment materially detrimental to the public health, safety and welfare?

The Commission finds that Central District Health Department, the Highway District and Fire District have signed the Application. **The Commission finds** that these agencies provided no testimony stating the Project would be detrimental to the public health, safety and welfare.

The Commission finds that future uses in the Light Industrial Zone will require a zoning permit and/or conditional use permit. **The Commission finds** that the zoning and conditional use permits have provisions to further protect the public health, safety and welfare.

3. Is the Zoning Ordinance Map Amendment request in compliance with the Land Use/Zoning Map Amendment Matrix?

The Commission finds the Land Use/Zoning Map Amendment Matrix is identified as Zoning Ordinance Table 6-8-10. **The Commission further finds** that Zoning Ordinance Table 6-8-10 allows for a rezone from Agriculture to Light Industrial.

4. Does the development agreement meet the requirements of this Title?

The Commission finds that the requirement for a development agreement is better suited as a condition of approval for the Project. **The Commission further finds** that based on testimony by the Applicant the Site will be marketed as an industrial property and no specific use has been established at this time and therefore making the requirement of a development agreement necessary for when a change in use is proposed.

5. Does the approval by the Board, of a Zoning Ordinance Map Amendment request “impede”⁽¹⁾ the normal flow of development?

Note: ⁽¹⁾ For the purpose of this Chapter and required finding (number 5 listed above), the definition of “Impede” shall be the interference with an existing or proposed activity that would delay or cause modification to the progress of normal development and/or development trends, or the causing of delays or interference with the normal flow of progress and/or development trends.

The Commission finds that the Comprehensive Plan has the area designated as C2 – Highway/Interstate Commercial on the Future Land Use Map and therefore the surrounding area’s normal flow of development is anticipated to transform from the existing agriculture uses.

The Commission finds that the Comprehensive Plan definition of Light Industrial Manufacturing is consistent with the intent of the Highway/Interstate Commercial definition and designation on the Future Land Use Map in that the Light Industrial Manufacturing definition states: “Land uses in this category may require a mix of commercial or light industrial uses.” Therefore **the Commission further finds** the Rezone Application to be consistent with the projected growth pattern established in the Comprehensive Plan.

6. Is the Zoning Ordinance Map Amendment in conflict with the Comprehensive Plan?

The Commission finds that the Comprehensive Plan Future Land Use Map has the Site designated as C2 – Highway/Interstate Commercial.

The Commission finds the Rezone Application is in conflict with the Comprehensive Plan Future Land Use Map. **The Commission further finds** that the Applicant submitted the Plan Amendment to resolve the conflict.

The Commission finds that the Comprehensive Plan definition of Light Industrial Manufacturing is consistent with the intent of the Highway/Interstate Commercial definition and designation on the Future Land Use Map in that the Light Industrial

Manufacturing definition states: "Land uses in this category may require a mix of commercial or light industrial uses."

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 Plan Amendment meets the requirements established in Idaho Code Section § 67-6509.
4. The Commission concludes that the Rezone Application, with the approval of the Plan Amendment and condition of approval, meets the findings of the Zoning Ordinance Section 6-8-9 D.

RECOMMENDATION

Based upon the foregoing findings of fact and conclusion of law, the information contained in the Staff reports and the record for the Project, the Commission voted and hereby recommends **approval** of the Project with the following condition:

1. Recommend all future development projects submit a Development Agreement with Elmore County.

Dated this 17th day of August, 2016.

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
ABSENT
ABSENT
ABSENT
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.