



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Conditional Use Permit-2023-16

Hearing Date: April 25, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to)	CUP-2023-16
allow a childcare facility in a C-2 Zone per)	
Elmore County Zoning Ordinance §7-2-26(B))	FINDINGS OF FACT,
at Lot 17, Blk 2, Airport subdivision in Elmore)	CONCLUSIONS OF LAW,
County.)	AND ORDER
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In Re: Conditional Use Permit: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on April 25, 2024, for a public hearing held pursuant to public notice as required by law, on a request for a Conditional Use Permit (the “**CUP**”) in a Highway/Interstate Commercial (C2) zoned property (the “**Application**”) on Assessors’ Parcel RP000040020170. The Application is for a modular building with classrooms to be put on this property. Elmore County Zoning Ordinance (“Zoning Ordinance”) table §7-2-26(B) allows a childcare facility with a conditional use permit in the Highway/Interstate Commercial (C-2) base zone. The property consists of one (1) acre located in at Lot 17, Blk 2, at Airport subdivision and is zoned Highway/Interstate Commercial (the “**Site**”). The Commission heard from the Staff and Applicant in support of the Application. No one had signed up in opposition, neutral or support of the proposal. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Application and, approved the Application with conditions, as hereafter defined.

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 Application and the analysis and recommendations of the Elmore County Land Use and Building Department (the “**Department**”) record.

I. The Commission finds that Application is comprised of:

Application form prepared and submitted by Terry Blom, the Director of

CUP-2023-16 Community Council of Idaho FCO

Development and Community Relations for the Community Council of Idaho (the “**Applicant**”) for the Conditional Use Permit.

Those supplemental letters, documentation and memoranda submitted by the Applicant or on his behalf, whether submitted in response to questions from Staff or the Commission in connection with Application.

II. The Commission finds that the Applicant is:

Community Council of Idaho
317 Happy Day Blvd, Suite 250
Caldwell, ID, 83627

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

- I. In accordance with section § 7-3-2 (A) of the Zoning Ordinance, on January 11, 2023, the Applicant completed a pre-application conference with the department prior to the submission of the Application.
- II. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on March 23, 2023, and July 6, 2023, to neighboring property owners within three-hundred feet (300’), giving notice of the time, date, and location of the meeting.
- III. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on April 12, 2023, and August 3, 2023.
- IV. On April 20, 2023, the Land Use and Building Department accepted a Conditional Use Permit application, and the required fees per § 7-9-3 (A) (B) of the Zoning Ordinance.
- V. After approval of the necessary Zoning Text Amendment, on March 21, 2024, the Department deemed the Application complete and set the matter for a Public Hearing on April 25, 2024.
- VI. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to landowners within the required three hundred-foot (300’) radius of the property on April 10, 2024.
- VII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Department mailed Public Hearing Notices to agencies on April 10, 2024.
- VIII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on April 10, 2024.

- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on April 18, 2024.
- X. The Commission opened the public hearing on April 25, 2024. There was no verbal and written information provided by the public regarding the Application.
- XI. At the conclusion of the testimony, the Chairperson closed the public hearing.
- XII. The Commission commenced deliberations on the Application.
- XIII. Thereafter, the Commission moved to approve the Conditional Use Permit (CUP-2023-16) to allow a childcare facility in the Highway/Interstate Commercial (C-2) base zone and the Commission's decision on the Application is set forth below.

IV. The Commission finds the proposed use of the Application as follows:

The submitted Conditional Use Permit application is to allow a modular building for a childcare facility in the Highway/Interstate Commercial (C-2) base zone in Elmore County. There is an existing childcare facility on the adjoining parcel - RP000040020180 - owned by the Community Council of Idaho.

V. The Commission finds the following facts and circumstances pertaining to the Site:

- I. **Site Description:** Lot 17, Blk 2, Airport Sub

Parcel Number: RP000040020170

- II. **The "Owner" of the Site is:**

Community Council of Idaho
317 Happy Day Blvd, Suite 250
Caldwell, ID, 83627

- III. **Applicant's Right to the Site is:** Applicant is the owner of the property.

- IV. **Site Characteristics:**

Property Size: one (1) acre

Existing Structures: None

Existing Vegetation: Sage

Slope: None

Flood Zone Status: Not in a Flood zone.

Irrigation: No irrigation lines on site

Views: Visible from Airbase Rd

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

Based on the officially adopted Elmore County land use maps 2017-01 (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), the Comprehensive Plan, and the Zoning Ordinance, the current zoning for the site is Highway/ Interstate Commercial (C-2).

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

- I. Based on the officially adopted Elmore County land use maps, the Comprehensive Plan, and the Zoning Ordinance, the surrounding land use and zoning are as follows:
 - I. North: Undeveloped / City of Mountain Home
 - II. East: C2 Zone, Childcare facility
 - III. South: AG, residence
 - IV. West: C2 zoned Self-access storage facility / Highway/ Interstate Commercial

VIII. The Commission finds the existing services and access to the proposed site are as follows:

- I. Based on the officially adopted Elmore County land use map 2017-01 and materials found in the Department's file for Application, CUP-2023-16, the following facts concerning services and infrastructure, are not in dispute and are adopted as finding of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):
 - I. Access Street and Designation: Airbase Rd
 - II. Highway District: Idaho Transportation Department
 - III. Fire Protection: Mountain Home Rural Fire Department
 - IV. Sewage Disposal: Individual Septic
 - V. Water Service: Individual Well
 - VI. Irrigation District: Not in an Irrigation District
 - VII. Drainage District: Not in a Drainage District

IX. The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations for consideration of the Application:

- I. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the “Comprehensive Plan”); and
- II. Zoning Ordinance, adopted May 18, 2018, as Ordinance 2018-03 and amended thereafter; and
- III. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.; and
- IV. Other applicable local, state, and federal laws and regulations.

X. The Commission finds the following regarding the Comprehensive Plan.

- I. That the Comprehensive Plan Future Land Use Map (Map 4) has the proposed property classified as Highway/Interstate Commercial Future Land Use designation.
- II. The Application is in conformance with the Comprehensive Plan policies for Private Property Rights.

XI. The Commission finds the following regarding the Zoning Ordinance.

- I. The Zoning Ordinance is the document governing the Site.
- II. In order to approve a Conditional Use Permit application, the Commissioners shall conduct a public hearing and make a decision in compliance of the Zoning Ordinance Title 7 Chapter 9.
- III. To approve a Child and Adult Daycare Facility, the Commission shall make a finding that the proposal complies with Section 7-2-76 of the Zoning Ordinance.

XII. The Planning and Zoning Commission (“Commission”) makes the following findings for Section 7-9-7.

- I. The proposed use shall, in fact constitute a Conditional Use as determined in Ordinance Table 7-2-26 (B).

Finding: The Commission finds that the proposed use is in fact a Conditional Use as determined in Ordinance Table 7-2-26 (B).

- II. The proposed use shall be in harmony with and in accordance with the Comprehensive Plan and this Ordinance:

Finding: The Commission finds that the use of this property meets Elmore County Comprehensive Plan by having a learning facility that is safe, functional, and enhances academic, social, emotional, and physical development. Encourage and support local school improvement projects,

which strengthen educational and cultural programs. Elmore County Code Table 7-2-26 (B) as of March 1, 2024, allows for a Child and Adult Care Facility in C2 zone with an approved Conditional Use Permit.

- III. The proposed use complies with the purpose statement of the applicable base zone of Ordinance Section 7-2-5 and with the specific use standards as set forth in this Chapter.

Finding: The Commission finds this application is in compliance with special use standards for Adult and Childcare Facilities as described Section 7-2-5 as described below. Therefore, the proposal complies with Zoning Ordinances section 7-2-5.

- IV. The proposed use shall comply with all applicable County Ordinance.

Finding: The Commission finds that CUP-2023-16 has been reviewed by the Land Use and Building Department staff, County Engineer, and County Counsel. Furthermore, this proposal was discussed in an agency meeting on April 4, 2024. The Application was transmitted to the following County Departments and Offices. Their comments are incorporated into the conditions of approval for this CUP. Therefore, the use will comply with all County Ordinance requirements for the operation of this Childcare Head Start Facility.

- Mountain Home Highway District- was not present.
- Mountain Home Rural Fire District- was present and had no comment.
- Elmore County Sheriff - was present and had no comment.
- Mountain Home Highway District - was not present.

- V. The proposed use shall comply with all applicable State and Federal laws, rules and/or regulations.

Finding: The Commission finds that CUP-2023-16 was reviewed by the Land Use and Building Department staff, County Engineer, and County Counsel. Furthermore, this proposal was discussed in an agency meeting on April 4, 2024. The Application was transmitted to the following State and Federal Agencies. Their comments are incorporated into the conditions of approval for this CUP. Therefore, the proposed use will meet and comply with all State and Federal laws, rules and/or regulations.

- Idaho Transportation Department - was not present.
- Central District Health – was present and provided comments.

- VI. 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.

Finding: The Commission finds that the Community Council of Idaho will be taking this empty lot and will be putting a modular building in for classrooms on it and asphaltting a parking lot with landscaping around the building and perimeter of the property to operate this Childcare Facility. This is an improvement on the existing lot, and helps the surrounding properties of residential, businesses and storage units to become a more cohesive area.

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

Finding: The Commission finds that this proposed site plan shows improvements for this parcel, which will only improve the visual character of this area and it will not impede or disturb any other development in this area.

- VIII. The proposed use shall be served adequately by available public facilities and services such as highways, streets, police protections, 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.

Finding: The Commission finds that due to review of the aforementioned agencies, the proposed facility improvements will not change the demand placed on the public facilities and services indicated above. Furthermore, the necessary improvements will be made by the Applicant as required in the conditions of approval.

- IX. 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.

Finding: The Commission finds that due to review of the aforementioned agencies, the proposed facility improvements will not change the demand placed on the public facilities and services indicated above. Furthermore, the necessary improvements will be made by the Applicant as required in the conditions of approval.

- X. 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.

Finding: The Commission finds that from the standpoint of the surrounding business community the only significant changes will be improved appearance, landscaping, parking, etc., which will improve their relationship with the local business and community.

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

Finding: The Commission finds that there are no significant natural or scenic features of importance in this area, and therefore, there will be no loss or damage of any natural or scenic feature of major importance with the addition of this classroom.

XIII. The Planning and Zoning Commission (“Commission”) makes the following findings for Zoning Ordinance Section 7-2-76: Child and Adult Daycare Facility:

- I. There shall be a minimum of thirty-five (35’) square feet of net floor area indoors per client. This space shall be measured wall to wall in rooms that are regularly used by the clients, exclusive of halls, bathrooms, and kitchen.

Finding: The Commission finds the proposed building is a sixty-four (64’) foot by twenty-eight (28’) foot for a total area of one thousand seven hundred and ninety-two (1,792) square foot. Which means that the new building can only have 51 clients in it. The Community Council of Idaho plans to have 69 clients total. However, those will be split between the two (2) different classroom buildings (the current and new buildings).

- II. On-site vehicles pick up and turnaround areas shall be provided to ensure safe discharge and pick up of clients.

Finding: The Commission finds there is a one-way entrance and a one-way exit for the client drop-off area. There is an entrance/exit off SW Contrail Ave for a parking lot in front of the new modular classroom. There are 7 employees working there and they will have to have a minimum of nineteen (19) parking spaces required, (per table 10-8-4 in Zoning Ordinance. The proposal provides for forty-four (44) spaces. ADA requirement in Zoning Ordinance Table 10-8-6, the site will have a minimum of three (3) ADA parking spots.

- III. The decision-making body shall specify the maximum number of allowable clients as a condition of approval, based on health and safety requirements, considerations of site and building design and capabilities, and recommendations from applicable government agencies.

Finding: The Commission finds the proposed facility, due to its square footage, allows for maximum occupancy of fifty-one (51) clients. The Community Council of Idaho plans to have 69 clients total. However, those will be split between the two (2) different classroom buildings (the current and new buildings).

- IV. The decision-making body shall consider the uses of the surrounding properties in the determination of the compatibility of the proposed daycare center with such uses. The decision-making body may require additional conditions as are necessary to protect the public health, safety, and welfare of the clients.

Finding: The Commission considers that to the North of the property is Airbase Road and desert on the other side of the road. To the South of the property is a residence. To the West are storage units which is fenced in with brown slats in it. To the East is a plumbing store that is fenced in with chain link. The rear property is surrounded by chain link fence and will have employees out front while children are being dropped off to the facility.

- V. The use shall comply with the flood hazard overlay as set forth in the Title.

Finding: The Commission finds the site is not in a FEMA designated floodplain.

- VI. No portion of the facilities used by clients shall be within three hundred (300') feet of explosive or hazardous material storage including, but not limited to, the following uses: brewery or distillery, explosive manufacturing or storage, flammable substance storage, gasoline or diesel fuel sales facility, manufacture or processing of hazardous chemicals or gases, and winery.

Finding: The Commission finds that there are no noticeable hazards that can be seen within the three hundred feet (300'). There is a storage unit by the property and it is unknown what is in the units, so the class room will be put a minimum of three-hundred (300') feet from the storage unit.

- VII. The applicant or owner shall secure and maintain a basic daycare license from the State of Idaho Department of Health and Welfare family and Children's Services Division.

Finding: The Commission finds that the Applicant has a current daycare license from the Idaho Department of Health and Welfare and will provide those to the Department upon request.

- VIII. The applicant shall provide a minimum outdoor play area of one hundred (100') square feet per child. The minimum play area requirement may be waived if: a) there is greater or equal area of parks that abut the facility that can be used by the children, or b) the program design is such that the number of children using the play area at any one time conforms to the one hundred (100') square feet/child criteria.

Finding: The Commission finds the proposed site has an outdoor play area behind the current head start building with thirteen thousand nine-hundred and four (13,904') square feet, which exceeds the one-hundred (100) square feet per child.

- IX. All outdoor play areas shall be completely enclosed by a minimum of six (6) foot barriers to secure against exit/entry by small children and to screen abutting properties. The fencing material shall meet the swimming pool barrier requirements of the Elmore County Building Code as set forth in this Title.

Finding: The Commission finds the current outdoor play area has six (6') foot fencing around it. The existing plans do not show added area for an outdoor play area.

- X. Outdoor play equipment over six (6') feet high shall not be located in the front yard or within any required yard.

Finding: The Commission finds that the current play equipment is located in the back of the property with chain link fence surrounding it.

CONCLUSIONS OF LAW:

As discussed above, the Commission concludes that the proposed use complies with the following applicable laws:

- I. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the "Comprehensive Plan"); and
- II. Zoning Ordinance, adopted May 18, 2018, as Ordinance 2018-03 and amended thereafter; and
- III. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.; and
- IV. Other applicable local, state, and federal laws and regulations.

ORDER:

Based on evidence presented at the April 25th, 2024 public hearing, the Commission approves CUP-2023-16 with the following conditions of approval:

CUP-2023-16 Community Council of Idaho FCO

- I. Conditional Use Permit 2023-16 shall be granted to Community Council of Idaho and Terry Blom, to put a modular classroom on 1.01-acre lot within a Highway/Interstate Commercial C2 Zoned on Parcel RP000040020170.
- II. The approval shall be limited to one (1) year in which the Applicant shall obtain all necessary approvals and permits. If the applicant has not commenced construction activities within that year, a one-year extension of approval may be considered. After that, the CUP approval shall be deemed null and void.
- III. The approval shall be contingent upon the Applicant obtaining all certificates, permits and other approvals required by federal, state, and local authorities.
- IV. There shall be no more than sixty-nine (69) clients and no more than thirty-seven (37) staff positions.
- V. The Applicant shall follow the Elmore County Zoning Ordinance for Child and Adult Daycare Facility 7-2-76.
- VI. The Applicant shall follow the Elmore County Zoning Ordinance for Parking Spaces 10-8-4 and ADA requirements from Zoning Ordinance 10-8-6. There will be a minimum of three (3) ADA parking spaces.
- VII. The Applicant shall ensure that modular unit to be installed on new property has received approval from Central District Health prior to applying for a Building Permit. The manufactured unit shall meet the building code, Section 9-1-1 of Elmore County, which references 2015 International Building Code.
- VIII. The Applicant shall receive permits and approval for the increased septic flow from Central District Health to allow for additional students and adults in the existing facility.
- IX. The Applicant shall improve the ingress and egress point to the facility from Hwy 67 and SW Conrail Ave by asphaltting that area prior to applying for a Building Permit.
- X. The Applicant shall provide a Landscape Plan in compliance with Elmore County Code Section 10-7-4 for Landscape Design and General Standards with the first Building Permit to demonstrate landscaping details for perimeter of the property as well as around both structures.
- XI. The Applicant shall provide lighting details with the first Building Permit in compliance with Title 7 Chapter 6, Lighting and Standards and Plans, Sections 1 through 7.
- XII. The Applicant shall update and improve the exterior of the existing unit.

XIII. The Applicant shall provide a new Site Plan with the Building Permit that amends the location of the new modular building to be placed outside the three hundred (300) feet of explosive or hazardous material storage, within the Storage Units to the west.

Dated this ____ day _____ of 2024.

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED	YAY
VICE CHAIRPERSON JEFF BLANKSMA	VOTED	YAY
SUSAN FISH	VOTED	YAY
ED OPPEDYK	ABSENT	
K.C. DUERIG	VOTED	YAY
MITCH SMITH	VOTED	YAY

Patti Osborn, Chairperson

ATTEST:

Mitra Metha-Cooper, Director

NOTICE PURSUANT TO IDAHO CODE § 67-6519(5)(c)

The Applicant shall have the right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. An applicant denied an application or aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

NOTICE PURSUANT ZONING ORDINANCE SECTION 7-3-10 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 fourteen (14) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.

4877-0959-1496, v. 1