



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Conditional Use Permit-2024-09

Hearing Date: May 23, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to)	CUP-2024-09
allow a towing and impound yard in a)	
General Agriculture/Grazing/Forest, AG)	FINDINGS OF FACT,
Zone per Elmore County Zoning Ordinance)	CONCLUSIONS OF LAW,
§7-2-26(B) Located at Tax 1 in Lot 7 of)	AND ORDER
Desert Edge Ranch (7079 SW Old)	
Grandview Hwy) in Elmore County.)	
_____)	

In Re: Conditional Use Permit: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on May 23, 2024, for a public hearing held pursuant to public notice as required by law, on a request for a Conditional Use Permit 2024-09 (the “**CUP**”) in an AG or General Agriculture/Grazing/Forest zoned property (the “**Application**”) on Parcel RP00044000007B. The Application is for a towing and vehicle impound yard. Elmore County Zoning Ordinance (“Zoning Ordinance”) §7-2-214 allows for a Vehicle Impound Yard pursuant to a conditional use permit in the AG zone. The property consists of five (5) acres located at Tax 1 in Lot 7 Desert Edge Ranch or 7079 SW Old Grandview Hwy and is zoned AG or General Agriculture/Grazing/Forest. (the “**Site**”). The applicant is Mr. William Geib (“Applicant”). The Commission heard from Elmore County Land Use and Building Department (“Department”) staff. The Applicant was not present. No one had signed up in opposition, neutral or opposition to the Applicant. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Application, and after making conclusions in accordance with the applicable law, **denied** the Application.

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, the analysis and recommendations of the Department, the record, and the Commission.

I. The Commission finds that Application is comprised of:

Application form prepared and submitted by the Applicant.

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:

William Geib
7079 SW Old Grandview Hwy.
Mountain Home, ID 83647

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 December 4, 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 January 9, 2024, to neighboring property owners within one thousand (1,000') feet radius, 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 January 23, 2024.
- IV. On March 20, 2024, 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. On March 22, 2024, the Department deemed the Application complete and set the matter for a Public Hearing on May 23, 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 one thousand (1,000') feet radius of the property on May 7, 2024.
- VII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Department mailed Public Hearing Notices to agencies on May 7, 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 May 8, 2024.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on May 14, 2024.

- X. The Commission opened the public hearing on May 23, 2024. During the staff presentation, the Commission learned that the Pre-application Neighborhood Meeting was conducted by the Applicant more than 30 days prior to submission of the Application to the Department. This action was in violation of the Zoning Ordinance § 7-3-3 (E).
- XI. There was no verbal and written testimony regarding the Application from the Applicant or members of the public. At the conclusion of the testimony, the Chairperson closed the public hearing.
- XII. The Commission commenced deliberations on the Application.
- XIII. Thereafter, the Commission denied the CUP to allow a towing and vehicle impound yard in the Agriculture (AG) Zone and the Commission's decision on the Application is as set forth on the signature page below.
- XIV. The Commission voted to recommend a fee waiver to the Board of County Commissioners, pursuant to Zoning Ordinance § 7-3-2 (F) for the Applicant's re-application of the requested CUP.

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

The submitted Conditional Use Permit application to allow a towing and vehicle impound yard in the Agriculture (AG) base zone in Elmore County.

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

- I. **Site Description:** Tax 1 in Lot 7 Desert Edge Ranch

Parcel Number: RP00044000007B

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

Rose Geib (Wife to William Geib)
7079 SW Old Grandview Hwy.
Mountain Home, ID 83647

- III. **Applicant's Right to the Site is:** Husband to Owner of property Rose Geib.

- III. **Site Characteristics:**

Property Size: 5 acres

Existing Structures: Sea container and residence

Existing Vegetation: Gravel

Slope: None

Flood Zone Status: Not in a flood zone.

Irrigation: No irrigation lines on site

Views: Vehicle Impound Yard is not visible from highway

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, the Comprehensive Plan, and the Zoning Ordinance, the current zoning for the site is General Agricultural/Grazing/Forest (AG) base zone.

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: Desert / Agricultural Zoned AG
- II. East: Residential / Agricultural Zoned AG
- III. South: Out building / Agricultural Zoned AG
- IV. West: Residential / Agricultural Zoned AG

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-2024-09, 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: Old Grandview Highway
- II. Highway District: Mountain Home Highway District
- III. Fire Protection: Mountain Home Rural Fire Department
- IV. Sewage Disposal: None
- V. Water Service: None

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. Comprehensive Plan, 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
- III. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.
- 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 General Agricultural/Grazing/Forest (AG) base zone.
- II. The Application is in conformance with the Comprehensive Plan vision and 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 consider CUP-2024-09, the Commissioners conducted a public hearing on May 23, 2024 to make a decision on the proposed vehicle impound yard in compliance with the Zoning Ordinance Title 7 Chapter 9, Chapter 2, and Chapter 3.

XII. The 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 use does in fact constitute a conditional use as determined in the Zoning Ordinance.

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

Finding: The Commission finds that the use of this property meets Elmore County Comprehensive Plan by having a vehicle impound yard to support its Property Owners Rights section.

The Commission further finds that the CUP application **does not** comply with Elmore County Code 7-3-3(E). Elmore County Code 7-3-3(E) requires that the Applicant conduct the required neighborhood meeting no more than thirty (30) days prior to the submittal of its application. The application was received fifty seven (57) days after the pre-application neighborhood meeting.

- 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 the proposed use complies with the purpose statement of the applicable base zone, Agriculture (AG). However, the commission finds that the proposal **does not** comply with special use standards for a Vehicle Impound Yard as established in the Zoning Ordinances section 7-2-214.

The Commission finds that Elmore County Code 7-2-214 - A-1 requires the fence or wall and screening material to be a minimum of ten (10') feet in height. The applicant's fence is six (6') feet in height and will need to be revised to meet this standard or will need a variance from this requirement.

The Commission finds that Elmore County Code 7-2-214 - B-2 requires that no person shall establish, operate, or maintain a vehicle impound yard, any portion of which is within one thousand (1,000) feet of nearest edge of the right of way and visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined. The proposed vehicle impound yard does not meet this requirement and will need to be revised to meet this standard or will need a variance from this requirement.

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

Finding: The Commission finds that CUP-2024-09 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. The application was turned in past the thirty-day (30) requirement of the neighborhood meeting and application turn in time. The application does not meet the Zoning Ordinance since the impound yard is less than one thousand (1,000') feet from the right of way of the highway. The fence is also shorter than the ten (10') feet required height of the ordinance.

- Mountain Home Highway District - was not present.
- Mountain Home Rural Fire Department - was present and had no comment.

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

Finding: The Commission finds that CUP-2024-09 is 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. The Commission finds that there is no issue with state statutes according to this vehicle impound yard.

- Central District Health - had no comment.
- Department of Environmental Quality – had no comment.

- 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 vehicle impound yard is in the back part of the property and is not visible from the highway.

- 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 vehicle impound yard will not impede or disturb any other property owners in this area. The impound yard sits in the back of the Applicants property away from the other homes and property

- 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 the proposed facility improvements will not change the load/demand placed on the services indicated above. By not causing more traffic than there already is. Police and fire protection will not change since the impound yard is locked. There is no place for run to go other than on Applicants property. Customer has refuse service and is on a well and septic.

- 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 the proposed facility improvements will not change the load/demand on the public services of the county. Applicant is on a well and has septic on property and will not be adding any extra employees.

- 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, they will only improve their relationship with the local business and community. All vehicles will be put behind a locked fenced in area to the southwest corner of the property. Vehicles will be non-working and most of the fluids will be drained from vehicles and if there is a leak, the Applicant will put down absorbent material or absorbent snake.

- 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 the vehicle impound yard.

XIII. The Commission makes the following findings for Zoning Ordinance Section 7-2-214 for Vehicle Impound Yard

I. Screening:

- I. Outdoor storage and outdoor activity areas shall comply with this Chapter. The fence or wall and screening materials shall be a minimum of ten (10') feet in height.
- II. No portion of the vehicle impound yard outdoor storage areas and/or outdoor activity areas may be visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined.
- III. All materials or parts shall be stored and located within the fenced or walled area. No vehicles or materials shall be stored so they exceed the height of the fence or wall.

Finding: The commission finds that the proposal **does not** comply with screening requirements. The Commission finds the Applicant has proposed a six (6) foot high fence with a locking gate that will store materials and parts behind the fence. The Commission finds that Elmore County Code 7-2-214 - A-1 requires the fence or wall and screening material to be a minimum of ten (10') feet in height. The Applicant's fence is six (6') feet in height and will need a variance from this requirement. Looking south from the highway to the property, you can not see the impound yard. He has a sea-container that is in front of the impound yard. The fence at six (6') feet high and screens off much of the vehicles inside the fenced in area, you might see a truck roof top.

II. Site Related Standards:

- I. All structures or outdoor activity areas shall be located a minimum of three hundred (300') feet from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential district.
- II. No person shall establish, operate, or maintain a vehicle impound yard, any portion of which is within one thousand (1,000') feet of the nearest edge of the right of way and visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined.
- III. The use shall comply with the flood hazard overlay as set forth in this Title.

Finding: The Commission finds that the Applicant's property is not in a floodplain. The Commission finds that the proposal **does not** comply with the site related standards. Elmore County Code 7-2-214 - B-2 requires that no person shall establish, operate, or maintain a vehicle impound yard, any portion of which is within one thousand (1,000) feet of nearest edge of the right of way and visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined. The proposed vehicle impound yard does not meet this requirement and will need a variance from this requirement.

CONCLUSIONS OF LAW:

Based on the aforementioned findings of fact, the Commission concludes that the proposed CUP-2024-09 has NOT complied with the following standards and requirements governing the proposal:

- I. Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- II. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.

CONCLUSIONS OF LAW:

Based on the aforementioned findings of fact, the Commission concludes that the proposed CUP-2024-09 has complied with the following standards and requirements governing the proposal:

- I. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014.

ORDER

Based on evidence presented at the May 23, 2024, public hearing, the Commission **denies** CUP-2024-09.

The Commission recommends a fee waiver for the future CUP application for this use to the Board of County Commissioners.

Dated this _____ day of _____ 2024.

COMMISSION VOTE:

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

Patti Osborn, Chairperson

ATTEST:

Mitra Mehta-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.

