



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Conditional Use Permit-2025-23

Hearing Date: September 25, 2025

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to allow	)	CUP-2025-23
a 2-lot Subdivision in the General Agricultural	)	
(AG) Zone per Elmore County Zoning Ordinance	)	FINDINGS OF FACT,
§7-2-26(B) Located at TAX 3, Section One,	)	CONCLUSIONS OF LAW,
Township Two South, Range Five East, Boise	)	AND ORDER
Meridian (8530 W Martha Ave) in Elmore County.	)	
_____	)	
	)	

In Re: Conditional Use Permit 2025-23: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on September 25, 2025, for a public hearing held pursuant to public notice as required by law, on a request for a Conditional Use Permit 2025-23 (the “**CUP**”) in a AG or General Agriculture zoned property (the “**Application**”) on Parcel RP02S05E017270. The Application is for a subdivision of a parcel. Elmore County Zoning Ordinance §10-1-2(A)(3) requires an approved conditional use permit prior to the subdivision of a parcel in the Agriculture (AG) base zone. The property consists of 30 acres located at Tax 3, Section One, Township Two South, Range Five East, Boise Meridian (8530 W Martha Ave) and is zoned General Agriculture (AG) (the “**Site**”). The Commission heard from staff and the applicant in support of the Application. One person signed up in support, but did not speak, three people signed up in neutral with one person speaking, and no one signed up in opposition. 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, approved the Application with conditions, as hereafter defined.

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:

1. Application form prepared and submitted by Ladean Denning (the “**Applicant**”) for the Conditional Use Permit; and
2. Payment of Application Fees in the amount of \$400 as required by the Land Use and Building Department’s Fee Schedule.

II. The Commission finds that the Applicant is:

Ladean Denning
8530 W Martha Ave
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 Elmore County Zoning and Development Ordinance (“**Zoning Ordinance**”), on September 18, 2024, 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 May 3, 2025, to neighboring property owners within three-hundred-foot 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 May 17, 2025.
- IV. On June 13, 2025, the Land Use and Building Department accepted a Conditional Use Permit application with required fees, per § 7-9-3 (A) (B) of the Zoning Ordinance.
- V. On June 30, 2025, the Department deemed the Application complete and set the matter for a Public Hearing on September 25, 2025.
- 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 radius of the property on September 15, 2025.
- VII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Department mailed Public Hearing Notices to agencies on September 15, 2025.
- 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 September 10, 2025.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on September 15, 2025.
- X. The Commission opened the public hearing on September 25, 2025. There was a supplemental memo submitted for late exhibits.
- 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 recommend approval of the Conditional Use Permit with twelve (12) conditions of approval and the Commission's decision on the Application is as set forth below.

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

The Conditional Use is requested by the Applicant to subdivide a 30-acre parcel into a 10 and 20-acre parcel.

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

A. Site Description: TAX 3, Section 1, Township Two South, Range Five East, Boise Meridian

Parcel Number: RP02S05E017270

B. The "Owner" of the Site is:

Ladean Denning

C. Applicant's Right to the Site is: The Applicant is the owner of the property

D. Site Characteristics:

Property Size: 30 acres

Existing Structures: Home with structures

Existing Vegetation: Brush

Slope: None

Flood Zone Status: In a Flood Zone

Irrigation: N/A

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

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), and the Comprehensive Plan, the current zoning for the Site is Agriculture (AG) Zone.

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

A. 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:

a) North: Zoned AG General Agricultural

- b) East: Zoned AG General Agricultural
- c) South: Zoned AG General Agriculture
- d) West: Zoned AG General Agricultural

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

- A.** Based on the officially adopted Elmore County land use map 2017-01 and materials found in the Department's file for Application, CUP-2025-23, 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):
 - a) Access Street and Designation: W Martha Ave
 - b) Highway District: Mountain Home Highway District
 - c) Fire Protection: Oasis Rural Fire District
 - d) Sewage Disposal: Existing structure has a private septic system
 - e) Water Service: Existing structure has a private well.
 - f) Refuse Disposal: Applicant will be responsible for obtaining and maintaining appropriate refuse disposal.
 - g) Drainage Structures: No drainage structures for the proposed use are planned or required at this time.

The Application, and its proposed use, will be adequately served by available public facilities and services such as highways, streets, law enforcement, fire protection, and Emergency Services.

IX. The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations 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 May 18, 2018, as Ordinance 2018-03; and
- c) The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.

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

- A.** That the Comprehensive Plan Future Land Use Map (Map 4) has the proposed property classified as General Agricultural.
- B.** The Application is in conformance with the Comprehensive Plan vision and policies for property owner rights.

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

- A.** The Elmore County Zoning Ordinance is the document governing the Site.

- B. In order to approve a Conditional Use Permit application, the Zoning Ordinance provides that the Planning and Zoning Commission make a decision based on the required findings in said Zoning Ordinance. The Conditional Use Permit standards are found in Section 7-9-7 of the Zoning Ordinance.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMITS PER ZONING ORDINANCE SECTION 7-9-7:

- 1. The proposed use shall, in fact constitute a Conditional Use as determined in Table 7-2-26 (B), Elmore County Land Use Table, as contained in Elmore County Zoning and Development Ordinance 2018-03:**

The Commission finds that the Applicant is proposing a Conditional Use Permit to subdivide one (1) lot from the existing parcel. The current zoning, Ag, allows for one dwelling per 40 acres, however, the zone allows properties to be subdivided into smaller lots through a Conditional Use Permit according to Table 7-2-26-(B). Furthermore, Zoning Ordinance § 7-9-5 states that for projects that require platting, such as this Application, that a Preliminary Plat needs to be submitted after the approval of the CUP within 12 months or with an extension if it goes longer than 12 months.

- 2. The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan 2014 and Zoning and Development Ordinance (Title 7) 2018-03:**

The proposal is in harmony and accordance with the following objectives and goals of the 2014 Elmore County Comprehensive Plan.

Private Property Rights Goal Statement 2: The community goal is to acknowledge the responsibilities of each property owner as a steward of the land, to use their property wisely, maintain it in good condition and preserve it for future generations.

Private Property Rights Objective #4: Land use laws and decisions should avoid imposing unnecessary conditions or procedures on development approvals which cause an unreasonable increase in housing costs.

Private Property Rights Objectives #7: The property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.

Private Property Rights Objectives #8: The property owners shall be responsible for maintaining their property in the best possible condition as circumstances allow.

Private Property Rights Objectives #9: The proposed owners must recognize they are only temporary stewards of the land and shall preserve and maintain their property for the benefit of future generations.

Private Property Rights Objectives #10: Property owners acknowledge and expect that Elmore County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses.

Private Property Rights Objectives #13: Elmore County will take appropriate measures to enforce all nuisance ordinances to protect quality of life and property rights.

Land Use Goal 1

Provide for the orderly growth and accompanying development of the resources within the County that is compatible with a rural lifestyle.

Land Use Goal 2

Achieve a land use balance, which recognizes that existing agricultural uses and new residential development may occur in the same community.

Land Use Goal 3

Continue to designate areas where rural type residential development will likely occur and recognize areas where agricultural development will likely occur.

Land Use Goal 4

Continue to designate areas within appropriate communities to stimulate recreation and tourism related developments and services.

Transportation Goal 1

To provide a comprehensive improved safe transportation and circulation system that will accommodate present and future needs of the County including residential, commercial, industrial and public development.

Transportation Goal 2

To provide safe, all-weather roadways constructed to an engineering standard in all new developments, with access to every parcel or lot in the development without land locking any parcel.

Housing Goal 1

To set aside adequate areas for housing that will accommodate present and anticipated residential growth and to implement zoning as a way to safeguard property rights and quality of life.

The proposed large lot residential subdivision supports property owner rights, affordable housing and rural development objectives of the Elmore County 2014 Comprehensive Plan for transportation, housing, and land use goals. Therefore, the Commission concludes that the proposed use is in harmony with the Comprehensive Plan.

The proposed subdivision is reviewed per standards established in Zoning Ordinance § 7-9-4 and the Commission finds the proposed use is consistent with those standards.

The proposed subdivision will be consistent with the development goals of Elmore County and will have adequate setbacks from all permanent structures as required in the Zoning Ordinance. The proposal is conditioned to ensure compliance with the Zoning Ordinance requirements.

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:

The Commission finds that the purpose statement for Agriculture (AG) base zone is found in Zoning Ordinance §7-2-5(A), providing:

The agriculture base zone is applied to most unincorporated areas of Elmore County and allows for a variety of land uses with a Conditional Use Permit when deemed appropriate. The proposed large-lot residential subdivision is one such use.

4. The proposed use shall comply with all applicable County Ordinances:

The Commission finds that the proposal is reviewed per standards established in Zoning Ord. §§ 7-2-26(B) and 7-9-4 and conditioned to meet safe access, services, setback, and permit requirements of Elmore County for a subdivision. Furthermore, the proposed subdivision application was transmitted to the following Elmore County agencies to ensure compliance with applicable County Ordinances. Their comments are incorporated in the Conditions of Approval.

- Elmore County Sheriff
- Elmore County Ambulance Service
- Elmore County Engineer
- Oasis Rural Fire District
- Mountain Home Highway District

5. The proposed use shall comply with all applicable State and Federal regulations:

The Commission finds that the proposed CUP was mailed to the following State agencies and the following state agencies replied. Their comments are integrated in the proposed conditions of approval to ensure that this Application meets all applicable State and Federal regulations.

- Central District Health
- Idaho Department of Environmental Quality
- Idaho Department of Water Resources

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:

The Commission finds that this proposal is surrounded by private residential lots, with some vacant agriculture lands. Surrounding the proposed Site are primarily agriculture/residential lots that have varying lot sizes. Therefore, this area is suitable for diverse housing types. The main residence is located on one of the two proposed lots and the Site is in a FEMA and Elmore County mapped floodplain. A preliminary map provided on the neighborhood meeting sheet indicates a bridge would be built to the proposed second lot. The proposed split is for a 30 acres parcel within FEMA designated Zone A and Flood Hazard Overlay of the Zoning Ordinance. The proposed Conditions of Approval will address the FEMA and County's floodplain regulations. That being said, the proposed subdivision is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

Aesthetically, the proposed use will not change existing views from the west, east, north, or south. The Application, with the proposed Conditions of Approval, will be operated and maintained in such a way as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and will not change the essential character of the area.

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

The Commission finds that the proposed subdivision is surrounded by vacant agriculture land with large lot rural residential development. Furthermore, the preliminary plat application will require additional construction protocols that the Applicant will need to adhere to address any future neighborhood concerns.

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:

The Commission finds that the proposed use is served by the following public facilities:

Highways/Roads – W Martha Ave is maintained by the Mountain Home Highway District

Fire Protection – Oasis Rural Fire District (ORFD)

Drainage Structures – No drainage structures for the proposed use are planned or required at this time. A bridge is proposed at the time of development of the second lot.

Refuse Disposal – Applicant will be responsible for obtaining and maintaining appropriate refuse disposal.

Water/Sewer – The existing structure has a private well and septic system.

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:

The Commission finds that all on-site improvements will be funded by the Applicant.

Agencies that could potentially be impacted by this Application have been notified; Sheriff and Elmore County EMS have provided comments, and all applicable requests have been included in the Conditions of Approval. The Applicant of the proposed subdivision will be financially responsible for developing the Site as indicated in the Applications. The proposed use shall be developed in a manner that will not create excessive additional requirements at public cost of public facilities and services.

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:

The Commission finds that the proposed subdivision may involve uses, activities, processes, materials, equipment, and conditions of operation detrimental to some people, surrounding property or the general welfare by reason of added traffic, noise, smoke, fumes, glare or odors. However, the Conditions of Approval associated with this CUP will ensure that those impacts are mitigated or reduced.

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

The Commission finds that the property is not on or near a scenic feature of major importance.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that the proposed CUP-2025-23 has complied with the following legislative documents governing the proposal:

- A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014; and
- B. Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.

ORDER – CONDITIONS OF APPROVAL:

Based on the aforementioned findings of facts and conclusions of law, and evidence presented at the September 25, 2025, public hearing, the Commission approves CUP-2025-23 with the following conditions of approval:

1. A Conditional Use Permit (CUP-2025-23) shall be granted to the Applicant, Ladean Denning, to subdivide a 30-acre parcel, RP02S05E017270 into 10- and 20-acre parcels.
2. The CUP approval shall be limited to one (1) year, in which the Applicant shall apply for a Preliminary Plat. If a Preliminary Plat is not applied for within that year, then the Applicant will be required to reapply for the Conditional Use Permit.
3. CUP-2025-23 shall comply with all requirements of Title 7 Chapter 2 ("Zoning") Chapter 9 ("Conditional Use Permit").
4. The approval shall be contingent upon the Applicant obtaining all certificates, permits, and other approvals required by Federal, State, or Local authorities.
5. Prior to applying for a Preliminary Plat, the Applicant shall submit a Floodplain Development Permit along with a Hydraulic and Hydrology (H&H) Analysis prepared by an Idaho Licensed Engineer to determine developable areas of the proposed lots and floodplain elevation for both proposed lots. H&H Analysis and its findings shall be reviewed and approved by the County Engineer and/or Floodplain Administrator and integrated into any site improvements necessary to support the Preliminary Plat application.
6. The Applicant shall not make any site improvements for bridge, drainage changes, grading, or access to the proposed lots prior to receiving approval of a Preliminary Plat in compliance with Title 10, Chapter 1 and Floodplain Development Permit for Hazard Damage Prevention in compliance with Title 8 Chapter 2.
7. Prior to applying for a Preliminary Plant, the Applicant shall acquire a 30' roadway easement to the proposed subdivision, and the legal document shall be provided to the Land Use and Building Department and County Engineer.
8. Prior to applying for a Preliminary Plat, the Applicant shall receive approval from the Oasis Rural Fire District for acceptable fire access to the proposed lots and other improvements necessary for fire protection and suppression.
9. The Applicant shall construct, maintain, and operate the project site in compliance with all federal, state, and local regulations at all times.
10. Upon applying for the Preliminary Plat, the Applicant's Surveyor shall indicate on the Plat the location of the floodplain in relation to the parcels as well as flood elevations at various areas of the Site.
11. The Applicant shall ensure that all property taxes are kept current.
12. Failure to comply with any of the above conditions of approval may result in the revocation of the approval.

Dated this _____ day of _____ 2025

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:

James Roddin, Interim 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.

4932-1563-7875, v. 2