

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2017-02: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 20th day of September, 2017, for a public hearing, held pursuant to public notice as required by law, on a request for a Conditional Use Permit (the “**CUP**”) for an Auto Repair Facility, Car Dealer and Storage Yard (the “**Application**”). Property is located in Section 34, Township 3 South, Range 6 East, B.M. and is zoned Agriculture/Area of Impact, Mountain Home (the “**Site**”). The Commission heard from the applicant in support of the Application. The Commission heard public testimony from impacted individuals in support and neutral 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 Edgar Hernandez (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:

Edgar Hernandez
1292 SW Torres-Pedroza Dr.
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 February 22, 2017.
- B.** The Applicant conducted a neighborhood meeting on June 17, 2017 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 July 13, 2017.
- D.** The Department deemed the Application complete on July 26, 2017.
- E.** The Department mailed notice of the public hearing to neighboring property

owners within one-thousand (1,000) feet of the Site on August 23, 2017 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on August 23, 2017 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on August 30, 2017 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on September 12, 2017 pursuant to Zoning Ordinance Section 6-4-5 B.

I. The Commission opened the public hearing on September 20, 2017 and received verbal and written information regarding the Application.

J. The Commission moved to **approve** the Application with twelve (12) conditions of approval. The motion to **approve** the Application passed on a 5-0 vote.

IV. The proposed use of the Application as follows:

A. **The Commission finds** the proposed use for an Auto Repair Facility, Car Dealer and Storage Yard.

B. **The Commission finds** the Application's request for an Auto Repair Facility, Car Dealer and Storage Yard is consistent with information submitted by the Applicant.

C. **The Commission finds** that the submitted master site plan proposes an Auto Repair Facility, Car Dealer and Storage Yard.

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

A. **Site Description:** Section 34, Township 3 South, Range 6 East, B.M. A common way of locating the property is from the intersection of Airbase Road and Highway 51, travel south on Highway 51 for approximately 1 mile, the property is on the right-hand side on the corner of Highway 51 and SW Smith Road.

B. **Parcel Number:** RP 03S06E349820 A

C. **The "Owner" of the Site is:**
Edgar Hernandez
1292 SW Torres-Pedroza Dr.
Mountain Home, ID 83647

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

E. **Site Characteristics:**

Property Size: The site contains approximately 4.280 acres.

Existing Structures: Double Wide Manufactured Home, garage, shed and barn.

Existing Vegetation: The vegetation consists mainly of a few trees, sagebrush and grass.

Slope: Relatively flat and less than 10% slope.

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

Irrigation: None of the property is being irrigated utilizing surface or subsurface irrigation water rights.

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, Ordinance 2013-02.

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

Land uses to the south are Agriculture/Dry Grazing. Land uses to the north are Agriculture/Residential. Land uses to the east are Agriculture/Residential. Land uses to the west are Agriculture/Residential.

VIII. The Commission finds the existing services as follows:

Access Roads: Public roads Highway 51 on the East and SW. Smith on the South.

Fire Protection District: Glenns Ferry King Hill Rural Fire Protection District.

Sewage Disposal: Individual

Water Service: Well

Highway District: Mountain Home Highway District (the "Highway District") and the Idaho Transportation Department (the "ITD").

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 the Comprehensive Plan Future Land Use Map has the site classified as Agriculture.

B. The Commission finds the Application is in conformance with the Comprehensive Plan as stated in the findings.

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 Elmore County 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 an Auto Repair Facility, Car Dealer and Storage Yard requires a conditional use permit in Table 6-8-11 (C).

The Commission finds in addition to a conditional use permit, additional requirements for the proposed use under the Application are found in the Zoning Ordinance, Section 6-8-48, 6-8-49 and 6-9-199.

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 objectives and goals of the 2014 Elmore County Comprehensive Plan:

"Land Use Objective # 2. Continue to coordinate planning and development with applicable highway district(s), fire district(s) and health officials.

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

Land Use Objective #10. Continue to evaluate and update "Area of Impact" agreements with the cities of Mountain Home and Glenns Ferry as required by State Code."

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.

The Commission finds there are residents adjacent to the property.

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 6-8-8 A in that *"General Agriculture: The purpose of the Ag district is to preserve and protect the supply of agriculture and grazing land in Elmore County until development is appropriate. This district will also control the infiltration of urban development and other uses into agriculture areas, which will adversely affect agricultural operations. Uses that are compatible with farming, ranching, grazing, forest products, and limited mining may be considered in this district. Residential land use is allowed in the Ag zone subject to site development standards and compatibility with agricultural operations. The "Ag" land use designation is the base zone throughout Elmore County. It contains areas of productive irrigated croplands, grazing lands, forestland, mining lands, public lands as well as rangeland and ground of lesser agricultural value."*

The Commission finds an Auto Repair, Car Dealer and Storage Facility are allowed in the Agriculture Zone with a Conditional Use Permit.

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.

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

The Commission finds that conditions of approval were proposed to ensure the Application met all State and Federal regulations, namely meeting all requirements requested by ITD.

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 majority of the vicinity is residential. The Applicant has installed a six (6') foot chain link fence around the property.

7. Will the proposed use be hazardous or disturbing to existing neighboring uses or impede their normal development?

The Commission finds that the site is adjacent to an existing mobile home park and residences. There may be hazardous material stored on property, such as batteries, fuel and oil.

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: Site has frontage to Highway 51 and ITD has required an approach permit to be obtained.

Streets: Site has access SW Smith Road, a public maintained road. The Highway District has not required a traffic impact study.

Police and Fire Protection: Police protection is provided by the Elmore County Sherriff's Department. The Site is within the Mountain Home Fire Protection District.

Drainage Structures: There proposed drainage structures.

Refuse Disposal: The Application proposed no refuse disposal.

Potable, Non-Potable Water, Fire Suppression Water Supplies: There is an existing well on the property.

Sewer: There is an existing septic system on property.

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 the Application proposed all improvements, required to be built be funded by the Applicant and therefore not be detrimental to the economic welfare of the County.

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 the Application will not create any excessive production of noise, smoke, fumes, glare or odors.

The Commission finds that the Highway District did not require a traffic impact study and therefore no excessive production of traffic is anticipated by the Highway District.

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 Highway 51 or SW Smith Road. An approach permit has been requested by ITD onto Highway 51.

The Commission finds that the Highway District did not required a traffic impact study and therefore no interference with traffic on public roads is anticipated by the Highway District for the Application.**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. 1. The Auto Repair and Service Shop shall comply with all outdoor storage requirements of the Elmore County Zoning and Development Ordinance.
2. No more than one (1) business sign shall be allowed on site. Any business sign shall be for the business utilizing the property and any business sign shall be approved by the Land Use and Building Department.
3. The site shall comply with all applicable State and Federal Regulations.
4. No Building Permit shall be issued until concerns from ITD have been met.

Dated this 1st day of November, 2017.

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN
 VICE CHAIRMAN K.C. DUERIG
 SUSAN FISH
 ED OPPEDEYK
 JEFF BLANKSMA
 DAVID HOLLAND
 MITCH SMITH

VOTED AYE
 VOTED AYE
 VOTED AYE
 VOTED AYE
 ABSENT
 ABSENT
 VOTED AYE



 Patti Osborn, Chairperson

ATTEST:



 Beth Bresnahan, 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.