

## BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

**In Re:** CUP-2017-03: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 20<sup>th</sup> 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 a Billboard (the “**Application**”). Property is located in Section 15, Township 1 South, Range 4 East, B.M. and is zoned Highway/Commercial (the “**Site**”). The Commission heard from the applicant in support of the Application. The Commission heard public testimony from impacted individuals against 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 Michael Eisenman (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:**

Michael Eisenman  
3350 W Americana Terrace, Ste 340  
Boise, ID 83706

**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 July 5, 2017.

**B.** The Applicant conducted a neighborhood meeting on July 24, 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 26, 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 a Billboard.

B. **The Commission finds** the Application's request for a Billboard is consistent with information submitted by the Applicant.

C. **The Commission finds** that the submitted master site plan proposes a Billboard.

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

A. **Site**

**Description:** Section 15, Township 1 South, Range 4 East, B.M. A common way of locating the property is from the Interstate 84 head south on Simco Road for approximately 1/4 mile, the property is on the right-hand side of Simco Road.

B. **Parcel Number:** RP 01S04E150100 A

C. **The "Owner" of the Site is:**

Michael Eisenman  
3350 W. Americana Terrace, Ste 340  
Boise, ID 83706

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

E. **Site Characteristics:**

*Property Size:* The site contains approximately 40 acres.

*Existing Structures:* Cell Tower

*Existing Vegetation:* The vegetation consists mainly of a sage 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 Highway/Commercial 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/Commercial Businesses. Land uses to the north are (i-84) Agriculture/Dry Grazing. Land uses to the east are Agriculture/Dry Grazing. Land uses to the west are Agriculture/Dry Grazing.

**VIII. The Commission finds the existing services as follows:**

*Access Roads:* Public roads SW Simco Road.

*Fire Protection District:* None.

*Sewage Disposal:* None

*Water Service:* None

*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 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 Ordinance Table 6-8-11(C) has no requirements for billboard signs, however, Chapter 22 Section 25 states Billboards Stationary and Mobile requires a conditional use permit.

**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, Chapter 22, Section 25.

**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 # 8. Review all commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.”*

*“Land Use Objective #12. Encourage and support land use proposals that are consistent with the community design objectives of all communities and districts within the County.”*

*“The Simco Road District: Continue to support and solicit new business industries to locate in Simco Road to provide economic development opportunities for the County.”*

**The Commission finds** the Application does comply with the Zoning Ordinance as the Application does meet all the required findings of Ordinance Section 6-22-25.

**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 Highway/Commercial zone in Zoning Ordinance Section 6-5-5 A in that *“Highway/Interstate Commercial: The purpose of the C2 district is to permit the establishment of general business and commercial uses that have direct access to State Highways and convenient access to the Interstate. Shopping centers will be encouraged and strip development shall be discouraged. This district may also be located on arterial thoroughfares or in areas where general commercial business is compatible with surrounding land uses. The Highway/Interstate commercial category is needed to accommodate large or intensive commercial and/or business establishments that are typically oriented to a major roadway or freeway interchange.”*

**The Commission finds** neighboring agriculture uses are in the immediate vicinity and therefore negative impacts on existing agriculture operations is limited.

**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 6-22-25.

**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 Highway/Commercial. Therefore, the **Commission further finds** that the Application as proposed is harmonious and appropriate with the general vicinity.

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

**The Commission finds** that the addition of a Billboard will not be hazardous to existing neighboring uses and will provide a service for neighboring properties.

**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:* Interstate 84 is adjacent to the site.

*Streets:* Site has access to SW Simco 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 not located in a Fire District.

*Drainage Structures:* The Application proposed no drainage structures.

*Refuse Disposal:* The Application proposed no refuse disposal.

*Potable, Non-Potable Water, Fire Suppression Water Supplies:* The Application proposed no water system.

*Sewer:* The Application proposed no sewer system.

**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 SW Simco Road.

**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. The billboard shall meet the design standards set in the Elmore County Zoning and Development Ordinance.
2. No more than one (1) billboard is allowed on site. Any billboard shall be approved by the Idaho Transportation Department.
3. The site shall comply with all applicable State and Federal Regulations.

Dated this 1<sup>st</sup> day of November, 2017.

**COMMISSION VOTE:**

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

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

  
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Patti Osborn, Chairperson

**ATTEST:**

  
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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.