

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2017-01: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 18th day of January, 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 Contractors Yard in the Agricultural Zone and North Mountain Home Aquifer Recharge Overlay Zone (the “**Application**”). The Property is located in a portion of the SE¼ of the NE¼, Section 24, Township 3 South, Range 6 East, B.M. (the “**Site**”). The Commission heard from the Applicant in support of the Application. The Commission received additional written testimony and information for the Application. The Commission heard testimony in neutral to 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 Jeff Bitton for Rocky Mountain Cranes, LLC, Dusty Bitton, Owner (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:

Rocky Mountain Cranes, LLC
Dusty Bitton, Owner
P.O. Box 4110
McCall, ID 83638 prepare packet

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 November 22, 2016.

B. The Applicant conducted a neighborhood meeting on December 10, 2016 at the Site.

C. The Applicant submitted the Application and \$800 fee to the Department on December 13, 2016 .

- D. The Department deemed the Application complete on December 20, 2016.
- E. The Department mailed notice of the public hearing to neighboring property owners within one-thousand (1,000) feet of the Site on December 20, 2016 pursuant to Elmore County Zoning and Development Ordinance (the "Zoning Ordinance") Section 6-4-5.
- F. The Department mailed notice of the public hearing to agencies on December 20, 2016 pursuant to Zoning Ordinance Section 6-4-4.
- G. Notice of the public hearing was published in the Mountain Home News on December 28, 2016 pursuant to Zoning Ordinance Section 6-4-5 A.
- H. Notice of the public hearing was posted on the Site on January 10, 2017 pursuant to Zoning Ordinance Section 6-4-5 B.
- I. The Commission opened the public hearing on January 18, 2017 and received verbal and written information regarding the Application.
- J. The Commission moved to **approve** the Application with five (5) conditions of approval. The motion to **approve** the Application passed on a 6-0 vote.

IV. The proposed use of the Application as follows:

- A. **The Commission finds** the proposed use for a Contractors Yard in the Agriculture Zone.
- B. **The Commission finds** that the submitted master site plan shows the proposed parking area and size for the Contractors Yard.

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

- A. **Site Description:** A portion of the SE1/4 NE1/4 of Section 24, Township 3 South, Range 6 East, B.M. that lies north and east of Interstate 84.
- B. **Parcel Number:** RP 03S06E242230
- C. **The "Owner" of the Site is:**
Rocky Mountain Crane
P.O. Box 4110
McCall, ID 83638
- D. **Applicant's Property Right in the Site is:** Owner
- E. **Site Characteristics:**
 - Property Size:* The Parcel contains approximately 2.34 acres.
 - Existing Structures:* None.
 - Existing Vegetation:* The vegetation consists mainly of grass and

sagebrush.

Slope: Relatively flat and less than 10% slope.

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

Irrigation: None.

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, Elmore County Ordinance 2013-02.

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

North: Agriculture / Dry Grazing

Northeast: Existing large automobile wrecking/salvage yard

East: Agriculture / Dry Grazing

South: Interstate 84 / Mountain Home City Limits and Area of City Impact

West: Interstate 84 / Mountain Home City Limits and Area of City Impact

VIII. The Commission finds the existing services as follows:

Access Roads: Publically maintained paved road N 18th East St.

Fire Protection District: Mountain Home Rural Fire District (the “**Fire District**”).

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 the Application is in conformance with the Comprehensive Plan as stated in the findings.

XI. Zoning Ordinance:

A. 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 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.

B. 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 Ordinance Table 6-8-11 (C) requires a conditional use permit to operate a contractor yard.

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 utilized the following goals and objectives of the 2014 Elmore County Comprehensive Plan in analyzing the Application:

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

The Commission finds the Application has been signed by the Mountain Home Highway District, Mountain Home Rural Fire District and Central District Health Department. **The Commission further finds** any comment supplied by these agencies is noted on the Application.

“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 Commission finds no conflicts with the design objectives for the Suburban Mountain Home Vicinity in the 2014 Comprehensive Plan. **The Commission further finds** the Suburban Mountain Home Vicinity Community Goals were analyzed due to the property bordering the City of Mountain Home City Limits and Mountain Home Area of City Impact.

“Suburban Mountain Home Vicinity Land Use - Development within this area must minimize residential conflicts with agricultural operations and animals.”

The Commission finds there are limited residences adjacent to the property and the nearest county residential subdivision is 0.25 miles to the north.

The Commission finds the City of Mountain Home residential uses are buffered from the site by Interstate 84.

The Commission finds the site is also within the North Mountain Home Aquifer Recharge Overlay Zone and currently has a residential density of one home per five acres.

“Suburban Mountain Home Vicinity Land Use - Continue the land use and density restrictions currently in place for the Mountain Home Aquifer Water Recharge Area.”

The Commission finds the property is located within the Mountain Home Aquifer Water Recharge Area.

The Commission finds the proposed use will not increase the residential density nor is the proposed use anticipated of having an impact on any water recharge area.

"Suburban Mountain Home Vicinity Natural Resources - Protect the Mountain Home Aquifer Water Recharge Area from incompatible land use encroachment and development to preserve community drinking water."

The Commission finds the property is located within the Mountain Home Aquifer Water Recharge Area.

The Commission finds the proposed use will not increase the residential density nor is the proposed use anticipated of having an impact on any water recharge area.

The Commission finds a conditional use permit is required pursuant to Ordinance Table 6-8-11 (C).

The Commission finds additional regulations for a Contractors Yard are set forth in Ordinance Section 6-8-74 and states:

"A. All structures or outdoor storage areas shall be located a minimum of one hundred (100') feet from any residential district.

B. Outdoor storage areas shall comply with this Chapter.

C. The site shall not be used as a "junkyard" or "automobile wrecking yard" as herein defined in this Title."

The Commission finds the property is more than one hundred 100' to a residential district as the City of Mountain Home City Limits is approximately 440' from the property.

The Commission finds that with the proposed conditions, the proposed use complies with all outdoor storage requirements and does not become a junk or automobile wrecking yard.

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 the purpose statement for the Agriculture base zone if found in Ordinance S-section 6-8-8 A. and states:

"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 due to the small size of the property (2.34 acres), the property location next to Interstate 84 and lack of surface irrigation on the site staff believes the proposed use is "compatible with farming and ranching".

4. Does the proposed use comply with all applicable County Ordinances?

The Commission finds a conditional use permit is required pursuant to Ordinance Table 6-8-11 (C).

The Commission finds additional regulations for a Contractors Yard are set forth in Ordinance Section 6-8-74 and states:

- "A. All structures or outdoor storage areas shall be located a minimum of one hundred (100) feet from any residential district.*
- B. Outdoor storage areas shall comply with this Chapter.*
- C. The site shall not be used as a "junkyard" or "automobile wrecking yard" as herein defined in this Title."*

The Commission finds the property is more than one hundred 100' to a residential district as the City of Mountain Home City Limits is approximately 440' from the property. Staff has proposed conditions to ensure the proposed use complies with all outdoor storage requirements and does not become a junk or automobile wrecking yard.

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

The Commission finds the Applicant intends to install a business sign and due to the proximity of Interstate 84 sign regulations are controlled by the Idaho Transportation Department ("ITD").

The Commission finds that with a proposed condition of approval, the sign complies with ITD requirements.

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 the site is adjacent to an existing automobile wrecking/salvage yard that is 30 acres in size with several hundred vehicles.

The Commission finds that 12 parking spots are proposed and conditioned for portable cranes.

The Commission finds the addition of a contractor yard to the area will not change the essential character of the area due to the existing wrecking yard.

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

The Commission finds the site is adjacent to an existing automobile wrecking/salvage yard that is approximately 30 acres in size.

The Commission finds there are limited residences adjacent to the property and the nearest county residential subdivision is 0.25 miles to the north.

The Commission finds the City of Mountain Home residential uses are buffered from the site by Interstate 84.

The Commission finds the site is also within the North Mountain Home Aquifer Recharge Overlay Zone and currently has a residential density of one home per five acres.

The Commission finds due to the current zoning, existing uses adjacent to the property and limited residences the proposed use will not be hazardous or disturbing to existing neighboring uses or impede their normal development.

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 – The property is bordered to the south and west by interstate 84. No direct access to Interstate 84.

Streets – The property has frontage on North 18th East Street, which is a public road maintained by Mountain Home Highway District (the “Highway District”). The Highway District has signed the Application and stated an approach permit is required by the Highway District. A condition of approval ensures the Highway District comments are addressed.

Police – Elmore County Sherriff’s Department.

Fire Protection – Fire protection is provided by the Mountain Home Rural Fire District (the “Fire District”). The Fire District signed the Application with no additional comment or requirements.

Drainage Structures – No drainage structures for the proposed use are planned or required.

Refuse Disposal – No Refuse Disposal for the proposed use is planned or required.

Water – No water service for the proposed use is planned or required.

Sewer – No sewer service for the proposed use is planned or required.

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 all on-site improvements will be funded by the applicant.

The Commission finds impacted agencies were given notice of the public hearing.

The Commission finds agencies have signed the Application and no comments have been provided that determine or show additional requirements or public facilities and service requirements.

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 the proposed use will not involve activities that create excessive production of traffic, noise, smoke, fumes, glare or odors.

The Commission finds the Highway District signed the Application and stated a new approach to the property is required.

The Commission finds the Highway District has not required a traffic impact study for the traffic.

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 the Site has frontage on North 18th East Street, which is a public road maintained by Highway District.

The Commission finds the Highway District has signed the Application and stated an approach permit is required by the Highway District.

The Commission finds a condition of approval ensures the Highway District comments are addressed.

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 Contractors Yard shall comply with all outdoor storage requirements of the Elmore County Zoning and Development Ordinance.**
2. **No more than twelve (12) portable cranes or other pieces of construction equipment shall be stored on site.**
3. **A new vehicular approach shall be obtained from the Mountain Home Highway District (the "Highway District") and constructed to the Highway District specifications.**
4. **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 Idaho Transportation Department.**
5. **The site shall comply with all applicable State and Federal Regulations.**

Dated this 1st day of February, 2017.

COMMISSION VOTE:

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



 Patti Osborn, Chairperson

ATTEST:


Alan Christy, 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.