

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2018-01: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 15th day of November, 2017, 6th day of December, 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 commercial kennel (the “**Application**”). Property is located in Beverly Hills Subdivision, Block 1, Lot 8, B.M. and is zoned Agriculture (the “**Site**”). The Commission heard from the applicant in support of the Application. The Commission heard public testimony from impacted individuals opposed for 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 Penelope Steward (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:

Penelope Steward
6739 S. 18th East
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 September 5, 2017.
- B.** The Applicant conducted a neighborhood meeting on October 6, 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 October 11, 2017.
- D.** The Department deemed the Application complete on October 16, 2017.
- E.** The Department mailed notice of the public hearing to neighboring property

owners within one-thousand (1,000) feet of the Site on October 20, 2017 pursuant to Zoning Ordinance Section 6-4-5.

F. The Department mailed notice of the public hearing to agencies on October 20, 2017 pursuant to Zoning Ordinance Section 6-4-4.

G. Notice of the public hearing was published in the Mountain Home News on October 25, 2017 pursuant to Zoning Ordinance Section 6-4-5 A.

H. Notice of the public hearing was posted on the Site on November 7, 2017 pursuant to Zoning Ordinance Section 6-4-5 B.

I. The Commission opened the public hearing on November 15, 2017 and received verbal and written information regarding the Application.

J. The commission closed the public hearing and tabled the decision until December 6, 2017.

K. The Commission moved to **approve** the Application with twelve (12) conditions of approval. The motion to **approve** the Application passed on a 4-1 vote with conditions.

IV. The proposed use of the Application as follows:

A. The Commission finds the proposed use for a commercial kennel.

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

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

A. Site Description: Beverly Hills Subdivision, Block 1 Lot 8, B.M. A common way of locating the property is from American Legion Blvd., turn onto South 18th East heading South, Continue over the railroad tracks for approximately ½ mile past Hamilton Road. The property is on the right side of the road at 6739 South 18th East.

B. Parcel Number: RP 001960010080 A

C. The "Owner" of the Site is:

Penelope Steward
6739 S. 18th East
Mountain Home, ID 83647

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

E. Site Characteristics:

Property Size: The site contains approximately 4.880 acres.

Existing Structures: Dwelling, other out building

Existing Vegetation: The vegetation consists grass and sage grass.

Slope: Relatively flat and less than 10% slope for majority of parcel.

Irrigation: Domestic irrigation.

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 North is agriculture/residential; East is agriculture/residential; South is agricultulre/residential and West is agriculture/residential.

VIII. The Commission finds the existing services as follows:

Access Roads: Public road: South 18th East.

Fire Protection District: Mountain Home Rural Fire District

Sewage Disposal: Individual Septic

Water Service: Shared Well

Highway District: Mountain Home 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) requires a Conditional Use Permit for a commercial kennel in the Agriculture Zone.

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 28.

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 # 6. Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.”

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 6-5-5 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 no conflict with the applicable base zone.

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 Chapter 27.

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.

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 vicinity is Agriculture and is in a platted subdivision.

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

The Commission finds that the area has a number of residential homes and platted subdivisions.

The Commission finds that the Applicant has been providing this service for several years.

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: No direct access to any highways.

Streets: Site has access to South 18th East, a publicly maintained road.

Police and Fire Protection: Police protection is provided by the Elmore County Sherriff's Department. The Site is located in the Mountain Home Rural 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 has a shared well.

Sewer: The Application has an individual 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.

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 is located off a public road and is maintained by Mountain Home Highway district.

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. Conditional Use Permit be granted for Penelope Steward and is nontransferable, it is not connected to the property.
2. Failure to comply with any condition may result in the revocation of the conditional use permit.
3. Approval of up to 20 dogs.
4. All outstanding taxes and fees must be paid.
5. Hours of operation for the public to adopt a dog is 8:00 am to 8:00 pm.
6. Maintain a secure 6 foot fence.

Dated this 17th day of January, 2018.

COMMISSION VOTE:

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

VOTED AYE
ABSENT
VOTED AYE
VOTED AYE
VOTED AYE
VOTED NAY



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.