

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In Re: CUP-2017-04: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), the 15th day of November, 2017, for a public hearing, held pursuant to public notice as required by law, on a request for a Conditional Use Permit (the “**CUP**”) to subdivide a parcel of land (the “**Application**”). Property is located in Section 10, Township 3 North, Range 10 East, 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 neutral 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 Brett Yagues (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:

Brett Yagues
1467 Hamilton Road
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 July 14, 2017.

B. The Applicant conducted a neighborhood meeting on August 8, 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 September 7, 2017.

D. The Department deemed the Application complete on September 12, 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 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 to subdivided a parcel of land.

B. **The Commission finds** the Application's request to subdivide a parcel of land is consistent with information submitted by the Applicant.

C. **The Commission finds** that the preliminary plat proposes 5 new parcels of land.

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

A. **Site Description:** Section 10, Township 3 North, Range 10 East, B.M. A common way of locating the property is from the Highway 20 turn onto N. Pine Featherville Rd, turn right onto E. Pine Creek Road then turn left onto Abbott Gulch Road. Continue on Abbott Gulch Road for ¼ mile.

B. **Parcel Number:** RP 0103N10E108410 A

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

Brett Yagues
1467 Hamilton Road
Mountain Home, ID 83647

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

E. **Site Characteristics:**

Property Size: The site contains approximately 38.45 acres.

Existing Structures: None

Existing Vegetation: The vegetation consists mainly of a sage grass.

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

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 North is river/agriculture/residential; East is agriculture/residential; South is Forest Service Property and West is agriculture/residential.

VIII. The Commission finds the existing services as follows:

Access Roads: Private road: Abbott Gulch.

Fire Protection District: None.

Sewage Disposal: None

Water Service: None

Highway District: None.

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 residential subdivision 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."

The Pine, Featherville and Fall Creek Communities Lan Use Goals were Analyzed: "Encourage new development to comply with the County Comprehensive Plan."

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 size of the property, the property location, all proposed lots have access to a road.

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 there is a platted subdivision to the East (Ponderosa Acres Subdivision) and to the West (Hummingbird Hollow Subdivision). 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 area has a number of residential homes and platted subdivisions and will not be hazardous to existing neighboring uses.

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 Abbott Gulch Road, a privately maintained road.

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 individual water systems.

Sewer: The Application proposed individual sewer systems.

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 proposed is located off a private road and is not maintained by any 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. Proposed use will comply with Chapter 28 of the Elmore County Zoning and Development Ordinance.
2. Failure to comply with any condition may result in the revocation of the conditional use permit.
3. All improvements must be completed or bonded prior to recording the final plat.
4. All outstanding taxes and fees must be paid.

Dated this _____ day of _____, 2017.

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 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.