

## BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

**In Re:** CUP-2018-02: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the "**Commission**"), the 4<sup>th</sup> of April, 2018 and 18<sup>th</sup> of April, 2018, 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 an existing five (5) lot subdivision into a fifty-three (53) buildable lot subdivision (the "**Application**"). Property is in the W1/2 NE1/4, Section 15, Township 3 South, Range 6 East, B.M., and is zoned Agriculture and in the Mountain Home Area of City Impact (the "**Site**"). The Commission heard testimony from the applicant. The Commission heard public testimony in favor of the Application. The commission heard public testimony from individuals opposed to the Application. The Commission received written testimony in favor of the Application as well as written testimony opposed 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 Jim Carrie, doing business as Intermountain Development (the "**Applicant**") for the CUP; and
  - B. Those supplemental letters, 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:**

Jim Carrie, doing business as Intermountain Development  
425 East 5<sup>th</sup> N.  
Mountain Home, ID 83647
  
- III. **The Commission finds the following as to the procedural matter pertaining to the Application:**
  - A. The Applicant participated in a pre-application meeting with the Department on December 19, 2017.
  - B. The Applicant conducted a neighborhood meeting on January 5, 2018 as required by Elmore County Zoning and Development Ordinance (the "**Zoning Ordinance**") section 6-4-3.
  - C. The Applicant submitted the Application and a \$400.00 fee to the Department on February 13, 2018.

- D. The Department deemed the Application complete on February 20, 2018.
- E. The Department mailed notice of the public hearing to Agencies on February 21, 2018 Pursuant to Zoning Ordinance Section 6-4-4.
- F. The Department mailed notice of the Public Hearing to neighboring property owners within one-thousand (1,000') feet of the Site on February 23, 2018 pursuant to Zoning Ordinance Section 6-4-5.
- G. Notice of the Public Hearing was published in the Mountain Home News on February 28, 2018 pursuant to Zoning Ordinance Section 6-4-5 A.
- H. Notice of the Public Hearing was posted on the Site March 12, 2018 pursuant to Zoning Ordinance Section 6-4-5 B.
- I. The Commission opened the Public Hearing on March 21, 2018 and received verbal and written information regarding the Application.
- J. The Commission voted to table the discussion for this application until the next scheduled meeting on April 18, 2018.
- K. The Commission moved to approve the Application with four (4) conditions of approval. The motion to approve passed in a 5-0 vote.

**IV. The proposed use of the Application as follows:**

- A. **The Commission finds** the proposed use is to subdivide an existing five (5) lot subdivision, recorded as Frontage Road Estate Subdivision, into a fifty-three (53) buildable lot residential subdivision called Blue Sage Subdivision.

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

- A. **Site Description:** Portion of the W1/2 NE1/4, Sections 15, Township 3 South, Range 6 East, B.M. A common way of locating the property is from Sunset Strip turn onto Frontage Road. The Site is located approximately one (1) mile on the right.
- B. **Parcel Numbers:** RP003210010010A, RP003210010020A, RP003210010030A, RP003210010040A, RP003210010050A.
- C. **The "Owner" of the Site is:**  
James and Sharlene Carrie  
425 East 5<sup>th</sup> N.  
Mountain Home, ID 83647
- D. **Applicant's Property Right in the Site is:** Owner, doing business as Intermountain Development.
- E. **Site Characteristics:**  
*Property Size:* The site contains approximately 65.44 acres.  
*Existing Structures:* None  
*Existing Vegetation:* The vegetation consists mainly of grassland and sagebrush.  
*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 (AG) in the Mountain Home Area of City Impact pursuant to the adopted zoning map, Ordinance 2013-02 and adopted Mountain Home Area of City Impact Map, Ordinance 2010-01.

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

Land uses to the South are residential subdivisions. Land uses to the North are Interstate 84 and rural residential. Land uses to the East are residential subdivision and rural residential. Land uses to the West are agricultural farming and rural residential.

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

*Access Roads:* Public road, NW Frontage Road to the North.

*Fire Protection District:* Mountain Home Rural Fire Protection District.

*Sewage Disposal:* None

*Water Service:* Community Well maintained by the subdivision.

*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 2012-03 and on July 14, 2014, as Ordinance 2014-01; and
- C. The Local Land Use Planning Act, Idaho Code § 67-6501; and
- D. Other applicable local, state and federal laws and regulations, including but not limited to the City of Mountain Home Comprehensive Plan and City of Mountain Home Zoning Ordinances as required pursuant to Zoning Ordinance Title 7, Chapter 1.

**X. Comprehensive Plan.**

- A. **The Commission finds** that the site is located within the Mountain Home Area of City Impact and the Comprehensive Plan of the City of Mountain Home is the planning document governing the Site pursuant to Zoning Ordinance Section 7-1-4 A.
- B. **The Commission finds** that the Department staff provided information regarding the City of Mountain Home Comprehensive Plan.
- C. **The Commission finds** the City of Mountain Home provided no analysis of the City of Mountain Home Comprehensive Plan, therefore the Comprehensive Plan for the County was utilized in making the decision for the CUP pursuant to Zoning Ordinance Section 6-27-7 A.2.

**D. The Commission finds** that the Comprehensive Plan Future Land Use Map has the site classified as rural residential/mixed use.

**XI. Zoning Ordinance.**

**A. The Commission finds** that the Site is located within the Mountain Home Area Of City Impact and the Subdivision Ordinance of the City of Mountain Home is the document governing the Site pursuant to Zoning Ordinance Section 7-1-4 C.

**B. The Commission finds** the City of Mountain Home provided no analysis of the City of Mountain Home Zoning and/or Subdivision Ordinances, therefore the County Zoning Ordinance was utilized in making the decision for the CUP pursuant to the standards and findings found in Chapter 27 of the Zoning Ordinance.

**C. The Commission finds** that in order to approve the CUP application, 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 not result in the destruction, loss or damage of a natural or scenic feature of major importance.
12. 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.

D. 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 a Residential Subdivision 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, 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 objective and goals of the 2014 Elmore County Comprehensive Plan:

- *Land Use Objective 6* – Encourage orderly development of subdivisions and individual land parcels.
- *Land Use Objective 12* – Encourage and support land use proposals that are constant with the community design objectives of all communities and districts within the County.
- *Land Use Objective 22* – Strongly encourage and support higher density Residential Development that is located within the Area of City Impact.
- *Housing Objective 1* – Land in the County that is contiguous with residential areas in Cities should be used for residential development and for the future growth of the city.
- *Housing Objective 5* – Continue to work with Mountain Home Air Force Base regarding housing needs on the base and within the County.
- *Housing Objective 9* – Support new housing developments near, adjacent to, or within Areas of City Impact.

- *Suburban Mountain Home Vicinity-Land Use (5)*- Encourage new development to comply with the County Comprehensive Plan. Continue the land use and density restrictions currently in place for the Mountain Home Aquifer Water Recharge Area. Recognize that residential development should occur near the City of Mountain Home, but new development must blend and complement the existing rural lifestyle in the area. Development within this area must minimize residential conflicts with agricultural operations and animals. Dust control would be a necessary approval criterion for any new development in this area. Animal units should be reevaluated in this area to better reflect small parcel developments. Any new Planned Community should not have a negative impact or be detrimental on the economic and housing viability of Mountain Home.

**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 6-8-5 A in that “residential land use is allowed in the Ag zone subject to site development standards and compatibility with agriculture operation”.

**The Commission finds** the Site has existing neighboring residential land uses that are located in the agriculture zone.

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

**The Commission finds** the Conditional Use application complies with all applicable County Ordinances.

**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 proposed use will be harmonious to the surrounding area and will not change the appearance of the general vicinity; there are 13 platted subdivisions within 1 mile of the said property with an average lot size of 1 acre.

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

**The Commission finds** that there are a number of residential homes and platted subdivisions of similar size within a mile of the proposed subdivision, therefore 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:* Site does not have frontage to a highway.

*Streets:* Site has access to NE Frontage Road., a public maintained road. The application proposed public roads that are to be maintained by the Highway District. The Highway District has not required a traffic impact study. All new roads will only access NE Frontage Road.

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

*Drainage Structures:* Per city request there be a swell added next to the road for storm water retention.

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

*Potable, Non-Potable Water, Fire Suppression Water Supplies:* The Application proposed a community well.

*Sewer:* The Application proposed individual septic 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 or bonded prior to recording a final plat, 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 two new vehicular approaches onto NE Frontage 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.

**The Commission finds** that any new vehicular approach to NE Frontage Road will have to be approved by the 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 finding 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:

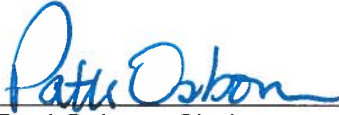
1. That the Conditional Use Permit to subdivide an existing 5-lot subdivision Frontage Estates into a 53-buildable lot subdivision (Blue Sage Subdivision) shall meet the twelve (12) standards as set forth in the Elmore County Zoning and Development Ordinance 6-27-7.
2. That the Conditional Use Permit CUP 2018-02 shall meet the Mountain Home Area of City Impact requirements with the exception of Curb and Gutter requirements and the exception of dry sewer and water line requirements; however, a swell will be added next to the road for storm water retention.
3. That the Conditional Use Permit will uphold the proposed 53 buildable-lot subdivision in 2 phases.
4. That the Conditional Use Permit shall comply with all applicable State and Federal Regulations.

Dated this 16<sup>th</sup> day of May, 2018.



**COMMISSION VOTE:**

CHAIRPERSON PATTI OSBORN	VOTED AYE
VICE CHAIRMAN K.C. DUERIG	VOTED AYE
SUSAN FISH	VOTED AYE
MITCHELL SMITH	VOTED AYE
ED OPPEDYK	ABSENT
JEFF BLANKSMA	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 fourteen (14) 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 (the 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 fourteen (14) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.