



# Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order  
Application: Request for Conditional Use Permit 2024-14  
Hearing Date: June 27<sup>th</sup>, 2024

## BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to	)	CUP-2024-14
allow a 2-lot Platted Subdivision in an	)	
Agriculture (AG) Zone in the Area of City	)	FINDINGS OF FACT,
Impact per Elmore County Zoning Ordinance	)	CONCLUSIONS OF LAW,
§7-2-26(B) Located in Lot 5, Block 1,	)	AND ORDER
Rattlesnake Creek Subdivision, in Elmore	)	
County.	)	
	)	
	)	

**In Re:** Conditional Use Permit 2024-14: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on June 27, 2024, for a public hearing held pursuant to public notice as required by law, on a request from SIRP, LLC (“**Applicant**”), for a Conditional Use Permit 2024-14 (the “**CUP**”) in the Agriculture (AG) zoned property (the “**Application**”) on Parcel RP0022300100A. The Application is for a subdivision of a parcel. Elmore County Zoning Ordinance §10-1-2 requires an approved conditional use permit prior to the subdivision of a parcel in the Agriculture (AG) base zone. The property consists of 4.7 acres located in Lot 5, Block 1 Rattlesnake Creek Subdivision (the “**Site**”). The Commission heard from staff and the applicant in support of the Application. No one testified in opposition, neutral or in favor to the proposal. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Application, and after making conclusions in accordance with the applicable law, approved the Application with conditions as amended, as hereafter defined.

### 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 Application, the analysis and recommendations of the Elmore County Land Use and Building Department (the “**Department**”), and the record.

#### 1) The Commission finds that Application is comprised of:

- a) Application form prepared and submitted by Applicant for CUP-2024-14; and
- b) Those supplemental letters, documentation and memoranda submitted by the Applicant or on his behalf, whether submitted in response to questions from employees (the “**Staff**”) from the Department or the Commission in connection with Application to the Commission.

**2) The Commission finds that the Applicant is:**

SIRP, LLC  
703 N 14<sup>th</sup> E  
Mountain Home, ID 83647

**3) The Commission finds the following facts as to the procedural matters pertaining to the Application:**

- I. In accordance with section § 7-3-2 (A) of the Elmore County Zoning and Development Ordinance (“**Zoning Ordinance**”), on March 28<sup>th</sup>, 2024, the Applicant completed a pre-application conference with the department, prior to the submission of the Application.
- II. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant mailed out Neighborhood Meeting Letters on February 29<sup>th</sup>, 2024, to neighboring property owners within three hundred (300’), giving notice of the time, date, and location of the meeting.
- III. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meeting on March 19<sup>th</sup>, 2024.
- IV. On March 28<sup>th</sup>, 2024, the Department accepted a Conditional Use Permit application per § 7-3-2 of the Zoning Ordinance along with the \$400.00 application fee.
- V. On May 28<sup>th</sup>, 2024, the Department deemed the Conditional Use application complete and set the matter for a Public Hearing on June 27<sup>th</sup>, 2024.
- VI. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to surrounding landowners on May 28<sup>th</sup>, 2024.
- VII. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on May 28<sup>th</sup>, 2024.
- VIII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on June 12<sup>th</sup>, 2024.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on June 18<sup>th</sup>, 2024.
- X. The Commission opened the public hearing on June 27<sup>th</sup>, 2024, and received verbal and written information regarding the Application.
- XI. At the conclusion of the testimony, the Chairperson closed the public hearing.
- XII. The Commission commenced deliberations on the application.
- XIII. Thereafter, the Commission moved to recommend approval of the Conditional Use to the Board of County Commissioners with eleven (11) conditions of approval and the Commission’s decision on the Application is as set forth below.

**4) The Commission finds the proposed Conditional Use Permit request as follows:**

The Conditional Use is requested by the Applicants to subdivide a 4.7-acre parcel into a 2-lot platted subdivision.

**5) The Commission finds the following facts and circumstances pertaining to the Site:**

**A. Assessors' Parcel Number:** RP002230010050A.

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

SIRP, LLC

**C. Applicant's Right to the Site is:**

The Applicant is the owner of the property.

**D. Site Characteristics:**

Property Size: 4.7-acre parcel

Existing Structures: N/A

Existing Vegetation: The vegetation consists of grass and sagebrush.

Slope: The proposed site is not on slopes greater than 15%.

Flood Zone: The parcel is located in a designated flood zone.

Irrigation: Mountain Home Irrigation District.

Views: In a subdivision.

**6) The Commission finds the current zoning of the Site is as follows:**

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), and the Comprehensive Plan, the current zoning for the Site is Agriculture (AG) Zone.

**7) The Commission finds the Site is within an existing subdivision surrounded by other residential parcels of similar size.**

**8) The Commission finds the existing services and access to the proposed site are as follows:**

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners) and materials found in the Department's file for CUP-2024-14, the following facts concerning services and infrastructure, are not in dispute, and are adopted as findings of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):

1. Access Street and Designation: private access from E 12<sup>th</sup> S Street that is a public road maintained by the City of Mountain Home Street Department.
2. Fire Protection: The property is within the Mountain Home Rural Fire District.
3. Sewage Disposal: Septic Leech Field arrival by Central District Health
4. Water Service: Private Well
5. Irrigation District: Mountain Home Irrigation District
6. Drainage District: N/A
7. Area of Impact: Mountain Home

**9) The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations for consideration of the Application:**

- A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the “Comprehensive Plan”); and
- B. The City of Mountain Home Comprehensive Plan and City of Mountain Home Zoning Ordinance for Development in the Area of City Impact §9-16-16.
- C. Zoning Ordinance § 7-9-7, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- D. The Local Land Use Planning Act, § 67-6501; § 67-6516 et seq.; and
- E. Other applicable local, state, and federal laws and regulations.

**10) The Commission finds the following regarding the Comprehensive Plan.**

- A. That the Comprehensive Plan Future Land Use Map (Map 4) has the property classified as Agriculture.
- B. The Application is in conformance with the Private Property Rights section of the Comprehensive Plan.

**11) The Commission finds the following regarding the Zoning Ordinance.**

- A. Elmore County Zoning Ordinance § 7-9-7, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- B. The City of Mountain Home Comprehensive Plan and City of Mountain Home Zoning Ordinance for Development in the Area of City Impact §9-16-16

**12) The Commission finds the eleven (11) required findings pertaining to a Conditional Use per Zoning Ordinance §7-9-7(C) are met.**

**1. The proposed use shall, in fact constitute a Conditional Use as determined in Chapter 2, Table 7-2-26 (B), Elmore County Land Use Table, as contained in Elmore County Zoning and Development Ordinance 2018-03:**

**Finding:** The Commission finds that the subdivision is zoned AG. Elmore County Zoning Ordinance Title 10 Chapter 1 Section 10-1-2 A(3) requires a Conditional Use Permit must be approved prior to allowing the division of the parcel. Table 7-2-26 (B) also requires a Conditional Use Permit for residential subdivision in AG zone.

**2. The proposed use shall be in harmony with and in accordance with the Elmore County Comprehensive Plan 2014 and Zoning and Development Ordinance (Title 7) 2018-03:**

The Commission finds that as per the currently negotiated Area of Impact agreement with the City of Moutian Home, the proposed subdivision lies within the City’s area of impact. The proposal is in harmony with and accordance with the following Private Property Rights – public

service objectives and goals of the Elmore County Comprehensive Plan 2014 and the City of Mountain Home design standards for the preliminary plat, which is a concurrently processed with CUP-2024-14.

*Private Property Rights Goal Statement 2: The community goal is to acknowledge the responsibilities of each property owner as a steward of the land, to use their property wisely, maintain it in good condition and preserve it for future generations.*

*Private Property Rights Objectives # 3: Elmore County calls upon the federal and state land management and natural resource management agencies to coordinate in advance, with the Elmore County officials, any proposed actions which will impact either federally or state managed lands in Elmore County because of the relationship between public land actions and the corresponding impact on private and properties plus the historically developed custom and culture of the County.*

*Private Property Rights Objectives #7: The property owners shall not use their property in a manner that negatively impacts upon the surrounding neighbors or neighborhoods.*

*Private Property Rights Objectives #8: The property owners shall be responsible for maintaining their property in the best possible condition as circumstances allow.*

*Private Property Rights Objectives #9: The proposed owners must recognize they are only temporary stewards of the land and shall preserve and maintain their property for the benefit of future generations.*

*Private Property Rights Objectives #10: Property owners acknowledge and expect that Elmore County will preserve private property rights and values by enforcing regulations that will ensure against incompatible and detrimental neighboring land uses.*

*Private Property Rights Objectives #13: Elmore County will take appropriate measures to enforce all nuisance ordinances to protect quality of life and property rights.*

*Community Goal – Promote new affordable housing and rehabilitation of existing homes for residents of all income levels.*

*Community Goal – Continue to encourage development that supports the small community/ rural atmosphere of Elmore County.*

Furthermore, the proposed subdivision is reviewed per standards established in the city of Mountain Home Zoning Ordinance section 9-16-16. The Commission finds that the city of Mountain Home has made no comment on the conditional use permit or the preliminary plat application. The proposed subdivision will be consistent with the development goals of Elmore County and will have adequate setback from all permanent structures. The Applicant has submitted a proposed site plan to demonstrate compliance with Conditional Use Permit standards and Preliminary Plat specifications. The proposal is conditioned to ensure compliance with requirements for each jurisdiction. The Applicant will be required to provide confirmation from the City of Mountain Home that it has either met the requirements of City of Mountain Home

applicable to an application within the area of impact or that such requirements have been waived.

**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:**

The Commission finds that the purpose statement for Agriculture (AG) base zone is found in Zoning Ordinance §7-2-5(A), providing:

The agriculture base zone is applied to most unincorporated areas of Elmore County and allows for a variety of land uses with a Conditional Use Permit when deemed appropriate. The proposed subdivision is located in City of Mountain Home area of impact in Elmore County. The use is surrounded by active and inactive AG land as well as approved and proposed residential subdivisions. The proposal has followed all applicable procedural requirements of the AG zone for a Conditional Use Permit.

**4. The proposed use shall comply with all applicable County Ordinances:**

The Commission finds that the proposal is reviewed per standards established in Zoning Ord. §§ 7-9-4 and 7-2-26(B) and conditioned to meet safe access, services, setback, and permit requirements of Elmore County for a subdivision. Furthermore, the proposed subdivision application was transmitted to the following Elmore County agencies to ensure compliance with applicable County Ordinances and City Ordinances if applicable. These agency comments are incorporated into the Conditions of Approval:

- Elmore County Sheriff
- Elmore County Ambulance Service
- Elmore County Engineer
- Elmore County Assessor
- Elmore County Treasurer
- Mountain Home Highway District
- The City of Mountain Home
- Mountain Home Rural Fire District.

**5. The proposed use shall comply with all applicable State and Federal regulations:**

The Commission finds that State and Federal agencies were notified of this Application. Their comments are integrated in the Conditions of Approval to ensure that this Application meets all applicable state and federal requirements.

- Central District Health
- Idaho Department of Water Resources
- Idaho Department of Environmental Quality
- Idaho Department of Lands

**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:**

The Commission finds that this Application is surrounded by private residential, active agriculture lots, and is in a platted subdivision, Ray Fishers Rattlesnake Creek Subdivision. Surrounding the proposed Site are primarily agriculture/ residential lots wherein the lots have varying sizes. Therefore, this area is surrounded by low-density housing projects and is suitable for diverse housing types. Therefore, the proposed subdivision is harmonious and appropriate in appearance with the existing or intended character of the general vicinity.

Aesthetically, the proposed use will not change existing views from the west, east, north, or south. The Application, with the Conditions, will be operated and maintained in such a way as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and will not change the essential character of the area.

**7. The proposed use shall not be hazardous or disturbing to existing neighboring uses or impede their normal development:**

The Commission finds that the proposed subdivision is surrounded by dry grazing land with single family dwelling neighbors. Furthermore, the preliminary plat application, which is processed concurrently, will require additional construction protocols that the Applicant will need to adhere to in order to address this concern.

**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:**

The Commission finds that the proposed use is served by the following public facilities:

Highways/Roads – E 12<sup>th</sup> S Street is maintained by the City of Mountain Home Street Department.

Fire Protection – The Applicant’s property is in Mountain Home Rural Fire District. (MHRFD)

Drainage Structures – No drainage structures for the proposed use are planned or required at this time. The parcel is located within the AE flood zone. All future development activity at the site will demonstrate compliance with the Elmore County Flood Damage Prevention, Title 8 Chapter 2 of the Elmore County Code.

Refuse Disposal – Applicant will be responsible for obtaining and maintaining appropriate refuse disposal.

Water/Sewer –The proposed subdivision will have private wells and septic systems which will be reviewed and approved by Central District Health (CDH). Subsequently, the City of Mountain Home has submitted a letter waiving the requirements for dry lines.

The proposed CUP and Preliminary Plat have been transmitted to all applicable agencies. Their comments are integrated into the Conditions to ensure that this Application meets all applicable standards and requirements. Therefore, the Application, and its proposed use, will be adequately served by available public facilities and services such as highways, streets, law enforcement, fire protection, and emergency 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:**

The Commission finds that all on-site improvements will be funded by the Applicant.

Agencies that could potentially be impacted by this Application have been notified; at this time there have not been any notable comments submitted to the Department. The Applicant of the subdivision will be financially responsible for developing the Site as indicated in the Application and Conditions of Approval. The use shall be developed in a manner that would not create excessive additional requirements at public cost of public facilities and services.

**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:**

The Commission finds that the proposed subdivision may involve uses, activities, processes, materials, equipment, and conditions of operation detrimental to some people, surrounding property or the general welfare by reason of added traffic, noise, smoke, fumes, glare or odors. However, the Conditions of Approval associated with this CUP as well as the Preliminary Plat will ensure that those impacts are mitigated.

**11. The proposed use shall not result in the destruction, loss, or damage of a natural or scenic feature of major importance:**

The Commission finds that the proposed site does not contain a natural or scenic site of major importance expressed in the Application, the Department’s review of these Applications, and lack of public comment.

**CONCLUSIONS OF LAW**

Based on the aforementioned findings of fact, the Commission concludes that CUP-2024-14 has complied with the following legislative documents governing the proposal:



- A. Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014; and
- B. The City of Mountain Home Comprehensive Plan and City of Mountain Home Zoning Ordinance for Development in the Area of City Impact §9-16-16.
- C. Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- D. The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.

### **ORDER – CONDITIONS OF APPROVAL**

Based on the aforementioned findings of fact and conclusions of law, the Commission APPROVES CUP-2024-14 with the following conditions of approval.

1. A Conditional Use Permit (CUP-2024-14) shall be granted to the applicant and property owner, SIRP, LLC, to subdivide 4.7 Acres of Agriculture (AG) in order to develop a 2-lot subdivision on parcel RP002230010050A.
2. Proposed use shall comply with all requirements of Title 7 Chapter 2 (“Zoning”) and Chapter 9 (“Conditional Use Permit”) of the Elmore County Zoning and Development Ordinance 2018-03.
3. The approval shall be contingent upon Applicant obtaining all certificates, permits, and other approvals required by Federal, State, or Local authorities.
4. The Applicant shall identify and record an ingress/egress and public utility easement on the final plat.
5. The Applicant shall receive approval from the Mountain Home Rural Fire District for acceptable fire access to the proposed lots and other improvements necessary for fire suppression.
6. The Applicant shall obtain any applicable permits for any structures and/or other permissible projects on the property.
7. The Applicant shall construct, maintain, and operate the project Site in compliance with all federal, state, and local regulations at all times.
8. The Applicant shall receive Floodplain Development approvals from the Land Use and Building Department for all development activity at the site as required in Title 8 Chapter 2 of the Elmore County Zoning and Development Ordinance.
9. The Applicant shall ensure that all property taxes are kept current.
10. Based on the location of the Application within the area of impact, the Applicant shall provide proof of compliance with all applicable City of Mountain Home requirements and ordinances, or the City of Mountain Home’s agreed waiver of such requirements.
11. Failure to comply with any of the above conditions of approval may result in the revocation of the Conditional Use Permit.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2024

**COMMISSION VOTE:**

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

\_\_\_\_\_  
Jeff Blanksma, Vice Chairman

**ATTEST:**

\_\_\_\_\_  
Mitra Mehta-Cooper, Director

**NOTICE PURSUANT TO IDAHO CODE § 67-6519(5)(c)**

The Applicant shall have the right to request a regulatory taking analysis pursuant to Idaho Code § 67-8003. An applicant denied an application or aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

**NOTICE PURSUANT ZONING ORDINANCE SECTION 7-3-10 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 fourteen (14) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.



July 19, 2024

JJ. Howard LLC  
5983 W State St, Suite D  
Boise, ID, 83703

RE: Rattlesnake Subdivision

To whom it may concern:

The City of Mountain Home Public Works Department has reviewed the plat for Rattlesnake #2 Subdivision and the request not to install dry-line water and sewer for the subdivision. The City agrees with the request not to install these dry lines as both parcels in the subdivision are contiguous with the City of Mountain Home.

Please let me know if you have questions or need additional information regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Curtis", is written over a light gray rectangular background.

Chris Curtis  
Director of Public Works  
City of Mountain Home, Idaho



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To whom it may concern,

10/8/2024

RE: Rattlesnake Creek #2

With the Rattlesnake Creek #2 project being inside the area of impact and being contiguous to the city limits, and lots being under 5 acres the development is required to put in a central water system that is in accordance with city, county and state standards. Design standards must be designed to city standards and streets shall be concrete or asphalt.

City Code

**9-16-13-F Design Standards:** Area Of City Impact: New subdivision developments, which are platted in less than five (5) acre lots that do not connect to public water facilities, shall provide a central water system (may require dry lines), designed to city standards, so at the time of annexation connecting to the public water system will be more cost effective and easily accomplished unless otherwise provided for herein. New subdivision developments that are contiguous to the city limits shall develop to city standards with dry lines, etc.

City Code

**9-16-16 Subdivision within the Area of Impact and/or Mile A/PR Agriculture/Proposed Residential:**

The purpose and intent of the comprehensive land use agriculture/proposed residential designation is to have land areas set aside that protect agricultural land use until such time as expansion of urban development is desirable, to allow rural atmosphere hobby farm development and to protect the aquifer recharge area which lies north and northeast of the city limits and is more particularly described and identified in the Elmore County comprehensive plan, zoning ordinance and maps as the Mountain Home community development overlay (CDO). Also, to provide for residential development of land which is projected to be annexed into the city in the near future.

When subdivision development in the A/PR zone occurs contiguous to city limits, it shall develop to city standards. When annexed, the property will be given a zoning classification which shall be compatible with surrounding land uses and in accordance with the comprehensive plan.

A. A/PR (Agriculture): The "A" portion of this designation excludes commercial feedlots, dairies, commercial poultry and poultry products production, pig farms, dairies, and similar intensive agriculturally related uses. The usual farm animals are allowed.

B. A/PR (Proposed Residential): The "PR" portion of this designation is to preserve and enhance predominantly single- family living areas at a low density standard. Such transition areas must be prepared to utilize a full range of municipal services upon annexation into the city.

1. Subdivision lots less than five (5) acres/development standards:



- a. Lot Size: The minimum lot area per dwelling structure shall be one-half ( $\frac{1}{2}$ ) acre.
- b. Lot Width: The minimum lot width shall be one hundred feet (100').
- c. Water System: Subdivision development requires a community water system constructed in accordance with city, county and state standards and which will be compatible with connection to city services upon future annexation. Dry lines may be required if the subdivision is in close proximity to city limits.
- d. Sewer System: One septic permitted per lot. Approval in accordance with county and state standards. Soils analysis required (see section [9-16-10](#) of this chapter). Dry lines may be required if the subdivision is in close proximity to city limits.
- e. Municipal Service: Full range of municipal services as per city standards required in preparation for annexation.
  1. Streets, sidewalks, curb and gutter which meet city standards. Streets shall be concrete or asphalt.

We have no other comments currently. IF you have any questions, please contact us at 208-580-2091.

Thank you,

Nicole Coffey  
City of Mountain Home  
City Planner