



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order
Application: Request for Conditional Use Permit 2024-04
Hearing Date: October 24 , 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Conditional Use Permit with)	CUP-2024-04 with Master Site Plan
Master Site Plan to construct operate, maintain,)	
and decommission a 400-megawatt (MW))	FINDINGS OF FACT,
electricity generation and energy production)	CONCLUSIONS OF LAW,
facility to include wind turbine generators, solar)	AND ORDER
arrays, a battery energy storage system (BESS))	
a temporary laydown yard, Operation and)	
Maintenance (O&M) facility, access roads,)	
temporary crane paths, and associated facilities.)	

In Re: Conditional Use Permit 2024-04: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on September 26th, 2024, for a public hearing held pursuant to public notice as required by law, and the continued public hearing on October 24, 2024, on a request from Appaloosa Wind and Solar LLC (c/o) North Renew Energy Partners, LLC (“**Applicant**”), for a Conditional Use Permit 2024-11 with Master Site Plan (the “**CUP**”) in the Agriculture (AG) zoned property (the “**Application**”) on portions of 3S 8E Section 36, 3S 9E Section 31, 4S 8E Sections 1, 11-14, 23-24, 4S 9E Sections 5-10, 16-18, 20-21 (wind locations) and 4S 8E Sections 22-27, 36, 5S 8E Sections 1,11-13 (solar locations) (the “**Site**”). The Application to construct operate, maintain, and decommission a 400-megawatt (MW) electricity generation and energy production facility to include wind turbine generators, solar arrays, a battery energy storage system (BESS) a temporary laydown yard, Operation and Maintenance (O&M) facility, access roads, temporary crane paths, and associated facilities (“**Project**”). Elmore County Zoning Ordinance Table §7-2-26(B) requires an approved conditional use permit prior to commencing these uses in the Agriculture (AG) base zone. The Commission heard from staff and the Applicant in support of the Application. One person testified in opposition, one in neutral and none in favor of the proposal during the September 26, 2024, hearing. Upon conclusion of the public hearing on October 24, 2024, 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 a CUP-2024-04 with Master Site Plan; 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**”) of the Department or the Commission in connection with Application to the Commission.

2) The Commission finds that the Applicant is:

Appaloosa Wind and Solar, LLC
C/O North Renew Energy Partners, LLC
31 Rosner Ln
PO Box 588
Beckett, MA 01223

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**”), the Applicant completed a pre-application conference with the Department on October 13th, 2023, 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 November 7th, 2022, June 2, 2023, and again on October 17th, 2023 to neighboring property owners within a 5-mile radius, giving notice of the time, date, and location of the meetings.
- III. In accordance with section § 7-3-3 of the Zoning Ordinance, the Applicant conducted the required neighborhood meetings on November 17th, 2022, June 13th, 2023, and October 27th, 2023.
- IV. On November 20th, 2023, the Department received a Conditional Use Permit application packet per § 7-3-2 of the Zoning Ordinance along with the \$400.00 application fee.
- V. On February 6th, 2024, the Department received DA-2024-02 application along with the required fees.
- VI. On March 14th, 2024, A Public Workshop was conducted with the Planning and Zoning Commission (the “Commission”) to introduce the Project and discuss the outstanding technical information with the applicant and additional information needed.
- VII. Since the workshop, the additional information for visual impact, Floodplain Development Permits and Hillside Data (ADD-2024-25-29) was developed and submitted by the Applicant to the Department on July 7th, 2024, as requested. In addition, the Master Site Plan was submitted on July 15th, 2024
- VIII. On July 15th, 2024, the Department deemed the Conditional Use application complete and set the matter for a Public Hearing on September 26th, 2024.
- IX. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to surrounding landowners on September 5th, 2024.

- X. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on September 5th, 2024.
- XI. 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 September 11th, 2024.
- XII. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on September 18th, 2024.
- XIII. The Commission opened the public hearing on September 26th, 2024, and received verbal and written information regarding the Application.
- XIV. At the conclusion of the testimony, the Chairperson continued the public hearing to a date certain, October 24, 2024, to allow the Applicant to work with The Idaho Department of Fish and Game as well as the Idaho National Guard regarding the language in some conditions of approval, as well as allowing ZOA-2024-02 to be considered by the Board of County Commissioners. This motion was approved unanimously by a roll call vote.
- XV. The Commission opened the continuation of the public hearing for CUP-2024-04 with a Master Site Plan on October 24th, 2024.
- XVI. Thereafter, the Commission moved to recommend approval of the Conditional Use Permit with thirty-three (33) 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 with a Master Site Plan is requested to construct operate, maintain, and decommission a 400-megawatt (MW) electricity generation and energy production facility to include wind turbine generators, solar arrays, a battery energy storage system (BESS) a temporary laydown yard, Operation and Maintenance (O&M) facility, access roads, temporary crane paths, and associated facilities.

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

A. Legal Descriptions :

Elmore County Wind Locations:
3S 8E Section 36
3S 9E Section 31
4S 8E Sections 1, 11-14, 23-24
4S 9E Sections 5-10, 16-18, 20-21

Elmore County Solar Locations:
4S 8E Sections 22-27, 36
5S 8E Sections 1, 11-13

B. The “Owners” of the Sites are:

Elizabeth Ann Nettleton
Idaho Department of Lands
Ark Properties LLC
Carl F Reynolds and Sons

C. Applicant’s Right to the Site is:

The Applicant is leasing the Site.

D. Site Characteristics:

Property Size: 10,969 acres of private land and 1,359 acres of Idaho Department of Lands (IDL) property.
Existing Structures: 7 residences and 87 existing wind turbines.
Existing Vegetation: shrub/scrub and sagebrush-steppe habitat, slickspot peppergrass and cultivated crops.
Slope: The proposed site is not on slopes greater than 15%
Flood Zone: The Site is incised with many named and unnamed waterways.
Irrigation: N/A
Views: Large acreage parcels with some residences and existing wind turbines.

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 rural Elmore County surrounded by other 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-2024-04 with Master Site Plan, 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: I 84 EB to Old Oregon Trail Road then to NE Teapot Road to SE Ross Road.
2. Fire Protection: Wildfire Urban Interface (WUI) Overlay.
3. Sewage Disposal: N/A
4. Water Service: N/A
5. Irrigation District: King Hill Irrigation District
6. Drainage District: N/A
7. Area of Impact: Glenns Ferry

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. Zoning Ordinance § 7-9-7, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, § 67-6501; § 67-6516 et seq.; and
- D. 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. The Elmore County Planning and Zoning Ordinance is the document governing the Site.
- B. In order to approve CUP-2024-04 with Master Site Plan, the required eleven findings pursuant to § 7-9-7 shall be made.

12) The Commission finds the eleven (11) required findings pertaining to a Conditional Use per Zoning Ordinance §7-9-7(A) 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 proposed use is on 166 parcels that are zoned Agriculture in the adopted zoning map of Elmore County. The proposed use of wind turbines, solar panels, and battery energy storage system fall within the definitions of Electrical Generating Facilities and Energy Production Facilities of the Zoning Ordinance in Title 7 Chapter 1. Those uses require a conditional use permit pursuant to Table 7-2-26(B) of the Zoning Ordinance in Ag zone. Therefore, the proposed CUP Application has met this requirement.

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:

Comprehensive Plan: The proposal is in harmony and accordance with the following Electrical Power – Public Service Objectives and Goals of the 2014 Elmore County Comprehensive Plan.

Public Service Objective 2 – Encourage the enhancement of the electric system capacity and reliability.

Public Service Objective 3 – Encourage the enhancement of the capacity and reliability of renewable energy resources.

The Project will help protect and maintain Elmore County's quality of life and the goal of providing a reliable source of energy and increasing energy capacity to meet existing demands and future growth. The Project will also support existing agricultural operations that the Comprehensive Plan envisions by allowing landowners to continue farming and grazing operations within the wind farm and areas outside the fenced boundaries of the solar facility, substation, and BESS. The Project will also support existing agricultural operations by limiting development and by diversifying the revenue base of participating landowners and Elmore County as envisioned in the Comprehensive Plan.

The Applicant has met all the procedural requirements and standards for a Conditional Use Permit as identified in Title 7 Chapter 9 of the Zoning Ordinance in the following manner:

§7-9-3 (A) - The Applicant has filed a CUP Application and has paid all appropriate filing fees.

§7-9-3 (B) - The Applicant has filed a Master Site Plan and has paid all appropriate filing fees. The submitted Master Site Plan identifies accessory buildings, facilities, and other site improvement areas.

§7-9-3 (C) - The Applicant has provided information on the specific use standards, general conditional use standards, and the findings listed in the Zoning Ordinance in the CUP Application as requested by Department staff. The Applicant has also provided environmental and cultural information identified by Department staff in the pre-application meeting.

§7-9-4 (A) - The Applicant has agreed to comply with approved plans and specifications.

§7-9-4 (B) – The Applicant has agreed to comply with the proposed conditions of approval to maintain adequate housekeeping practices so as not to create a nuisance.

§7-9-4 (C) – The Applicant has agreed to annex the Site into a King Hill/Glenns Ferry Rural Fire District and/or have an agreement with the Fire District to provide fire protection as required in the proposed conditions of approval. All future building permits at the Site for a structure or facility will require a signature from the King Hill/Glenns Ferry Rural Fire District.

§7-9-4 (D) - The Applicant has provided information that the project is located in a rural and remote area of Elmore County and no Project structures or facilities will be within 20 feet of a residential district.

§7-9-4 (E) - The Applicant has provided information that the project is not open to public access and no parking areas are abutting a residential district.

§7-9-4 (F) - The Applicant has agreed to maintain sanitary practices so as not to create a nuisance and reduce noise and odor as required in the proposed conditions of approval

§7-9-4 (G) – The Applicant has provided information indicating that there are no known hazards (such as hazardous material spills, soil/water contamination, etc.) within the Site. The Applicant has also stated that if any dangerous characteristics within the Site are identified, they will provide evidence that they have been or will be eliminated or minimized in accordance with all applicable regulations so as not to create a nuisance or be detrimental to the public health, safety, or welfare.

§7-9-4 (H) – The Applicant has provided information that the project is located in a rural and remote area of Elmore County and is not abutting or within a residential district. Therefore, Department staff finds no need to limit facility hours.

§7-9-4 (I) – The Applicant has provided information that the Project is within and surrounded by an Agriculture district. The Applicant maintains that the construction and operation of the Project will support the continued use of the surrounding land for agricultural purposes by providing substantial additional revenues to the host landowners for the project facilities. For parcels hosting wind turbines, the ability for landowners to continue their agricultural and grazing activities will only be minimally impacted. For parcels hosting solar arrays, areas outside the security fence may continue agricultural activities and activities within the security fence would be temporarily ceased until the conclusion of the facility’s useful life cycle. Upon decommissioning, the solar improvements would be removed, and the area restored as required in the Decommissioning Plan.

§7-9-4 (J) –The Applicant has indicated in the CUP Application that they do not anticipate the need for additional conditions to mitigate impacts for the above-stated conditions.

Furthermore, the Applicant has applied for a Floodplain Development Application and provided hillside data, and the use is conditioned to ensure compliance with Title 8 Chapter 2 – Flood Hazard Damage Prevention and Title 7 Chapter 5 – Hillside Development Requirements of the Zoning Ordinance. Therefore, CUP-2024-04 has met this requirement.

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 2 Title 7;

Finding: 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 development is appropriate, as identified in Section 7-2-5.

“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 proposed facility is located ten (10) miles east of the city of Mountain Home and is surrounded by active and inactive agriculture grazing land. The proposal meets the intent of Ag zone and has followed all applicable procedural requirements of the Ag zone for a Conditional Use Permit.

The Applicant has provided supporting documentation to meet the requirements of the special use standards for an Electrical Generating Facility and Energy Production (Zoning Ordinance §§7-2-103 and 7-2-106) as discussed below.

§7-2-103 (A.1): The Applicant has indicated that they will only use solar arrays and wind power to produce electricity for sale.

§7-2-103 (A.2) and §7-2-106 (A.1): The Applicant has agreed to a Condition of Approval that requires compliance with all applicable Idaho Public Utility and Federal Agency rules and regulations before receiving a building permit and operating the facility in conformance with those regulations.

§7-2-103 (A.3): The Applicant provided information that the Project complies with this requirement, with the exception of five wind turbines where a residence is within 2,500 ft, for which the Applicant has obtained waivers from the landowners. Waivers are included in the lease agreements in Appendix C of the application in Exhibit 1. The proposed Electricity Generation and energy production facility will not generate radio frequency emissions. Furthermore, the proposed electricity generation and energy production facility is in a remote area of Elmore County and will have adequate setbacks from all permanent structures.

§7-2-103 (A.4): The Applicant provided information that the project complies with this requirement as certified by a licensed engineer, except in tower locations where there are existing non-project turbines interspersed within the proposed solar array. The Applicant has provided lease agreements in Exhibit 1.

§7-2-103 (A.5): The Applicant is required through Condition of Approval to provide a landscaping plan and screening details to the Department prior to building permit.

§7-2-103 (A.6) and §7-2-106 (A.3): The Applicant is conditioned and agreed to enter into an agreement with the King Hill/Glenns Ferry Rural Fire Department for providing fire protection to the site. The Applicant is required to provide evidence to Elmore County that fire protection is provided prior to commencement of construction.

§7-2-103 (A.7), (A.12) and §7-2-106 (A.7),(A.8): The Applicant has held three neighborhood meetings with the appropriate public notices to meet the requirement. In addition, the Applicant has agreed to extend the landowner notices to 5 miles for the public meetings and conducted a viewshed analysis and photo simulation assessment for the project.

§7-2-103 (A.8) and §7-2-106 (A.5): The Applicant has conducted impact assessments for many resources and concludes that additional mitigation will not be required for visual, dust and odor, noise and shadow flicker, radioactivity and electric/electromagnetic disturbance, cultural resources, or public services. Furthermore, the Applicant has agreed to the conditions of approvals to mitigate for those that Department staff has determined to have impacts for the surrounding communities.

§7-2-103 (A.9): The Applicant has met the requirement by coordinating with local, state, federal, and military aviation officials to determine that the towers and structures will be compatible with the flight operations of Mountain Home Air Force Base (MHAFB), and the cities of Mountain Home and Glenns Ferry public airport operations. In addition, the Applicant has provided a Federal Aviation Administration (FAA) letter of Determination of No Hazard in Appendix K to the CUP Application (Exhibit 1).

§7-2-103 (A.10) – The Applicant has shown that the project is not within 5 miles of MHAFB nor along depicted flight corridors; therefore, towers and structures will be compatible with the flight operations MHAFB, and no variances will be requested.

§7-2-103 (A.11) – The Applicant has shown that the project is not within the Mountain Home or Glenns Ferry airport influence areas overlay districts, as determined by the Capital Airspace Obstruction Analysis conducted. In addition, the Idaho Transportation Department Division of Aeronautics confirmed that the project would have no substantial adverse effects.

§7-2-106 (A.2) – The Applicant provided information that the project complies with this requirement; the BESS will not be located within the 2,500-foot residential setback requirements.

§7-2-106 (A.4) – The Applicant provided information that the project complies with this requirement and will not result in any noise louder than 58 decibels on the A-weighted decibel scale as measured from 750 feet from the centerline of the power producing turbine.

§7-2-106 (A.6) – The Applicant has shown it will comply with 7-2-103 (A)(4); the noise impact assessment was prepared by Westwood Inc., a surveying and engineering firm. The Applicant provided information that the solar arrays, BESS, O&M, and substation facilities will be enclosed within chain link fences.

Therefore, Department staff concludes that CUP-2024-04 has met this requirement.

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

Finding: The proposal is reviewed by Elmore County review team per standards established in Zoning Ordinance and the CUP Application was transmitted on December 19th, 2023, and September 5th, 2024, to the following County entities to ensure compliance with other County Ordinances. Their comments are incorporated in the proposed conditions of approval for this project and provided herein as a record.

- Elmore County Engineer
- Elmore County Sheriff
- Mountain Home Highway District
- Mountain Home Rural Fire Department
- Glenns Ferry Municipal Airport
- Elmore County Ambulance Service
- Elmore County Surveyor
- Elmore County Assessor
- Elmore County Treasurer
- Elmore County Rural Economic Development
- Glenns Ferry Highway District
- City of Glenns Ferry
- King Hill/Glenns Ferry Rural Fire District

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

Finding : To ensure that the Applicant has adhered to all Federal and State laws, rules, and regulations applicable to the construction, maintenance, and operation of an electricity generation and production facility, staff has transmitted this CUP Application to the following agencies on December 19th, 2023, September 5th, 2024, September 25th and October 1st, 2024.

- Bureau of Land Management
- Central District Health
- Mountain Home Air Force Base
- State Fire Marshall
- Idaho Department of Lands
- Bureau of Land Management
- Idaho Power/Public Utility Commission
- Idaho Department of Fish and Game
- Idaho Department of Transportation
- US Fish and Wildlife
- Idaho Office of Energy and Mineral Resources
- Federal Emergency Management Agency
- Idaho National Guard
- Idaho Department of Water Resources
- Marathon Pipeline/Petroleum Pipeline

As a result, the proposed Electricity Generation and Energy Production Facility is conditioned to build a perimeter fence in compliance with National Electric and National Safety codes as well as wildlife friendly fencing as requested by the Idaho Department of Fish and Game. Therefore, staff concludes that the Project will be constructed and operated in compliance with local, state, and federal standards as recommended by these agencies.

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:

Finding: The proposal is in remote location of Elmore County and surrounded by state land along with other undeveloped private properties. There are 94 existing wind turbines in and around the proposed Site. Some of those are located on three nearby wind farm projects. The Cold Springs wind farm includes 60 turbines with a total rated capacity of 138 MW. The Mountain Home wind farm includes 20 turbines with a total rated capacity of 42 MW. Both wind farms partially overlap with the solar facility (outside the fenced boundary) portion of the proposed Project. The Sawtooth wind farm, at its nearest, is about two miles east of the southernmost portion of the Project. Sawtooth includes 14 turbines with a total rated capacity of 22.4 MW. The nearby wind farms range in heights from 121 to 130.5 meters (397 to 428 feet).

The Site is crossed by several existing transmission lines of Idaho Power. The project will allow the Applicant to convert wind and solar energy into electricity and support Idaho Power's increased demand for electricity for supporting future growth in the local area. Furthermore, there is an existing off-site substation located on the southeast side of the proposal that is owned by Idaho Power. Therefore, an addition of 47 turbines with a maximum 577 ft height and solar panels for electrical generation will be in harmony with the existing and intended character of the general vicinity.

Most residential dwellings are outside the required radius of safety, with the exception of five wind turbines that have residential units within the 2,500 ft. radius, for which the Applicant has obtained waivers from the landowners. Waivers are included in the lease agreements in Exhibit 1 to this report. Furthermore, the proposed use is reviewed by Elmore County staff as well as other affected agencies on multiple occasions. As a result, the Site is conditioned so installation, operation, construction, maintenance, and decommissioning processes will ensure that proposed wind and solar electricity generation and production facility with a battery energy storage system should be harmonious in appearance with the general vicinity and character of the area. Therefore, the proposed project will have minimal impact on the existing and intended character of the general vicinity.

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

Finding: Please refer to finding # 6. The proposed facility is surrounded by active Ag land and dry grazing land with several land cover types. There are seven (7) existing residential units on the Site and those are owned by the owners of the Site that have leased land to the Applicant for the proposed Use. There are several other residences in the area and the Applicant has worked with those owners to receive waivers as required in the Zoning Ordinance. There are no planned residential developments in its surrounding area. Furthermore, the Applicant has provided information for a before and after photo simulation of the Project Area and surrounding viewsheds to the neighbors.

The Site is crossed by several existing transmission lines; however, the Applicant will maintain the required setback from the center of the existing transmission line

as required by Idaho Power. The Applicant has provided multiple safety measures that will eliminate potential risk of fire or system failure to the battery energy storage system.

The proposed use is reviewed by Department staff as well as other affected agencies on multiple occasions. As a result, the Site is conditioned so installation, operation, construction, maintenance, and decommissioning processes will ensure that proposed wind and solar electricity generation and energy production facility will not be hazardous or disturbing to existing neighboring uses or impede 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:

The proposed use is served by the following public facilities:

Highways/Roads – Applicant will build internal access roads.

Fire Protection – Wildfire Urban Interface (WUI) Overlay.

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

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

Water/Sewer –The existing parcels have no existing septic or well onsite.

The proposed facility will operate in a self-sufficient manner and the Applicant will be responsible for the establishment and decommissioning of the proposed conditional use through a series of proposed Conditions of Approval and associated development agreement (DA-2024-02).

The use and its operation will not require significant water, sewer services, or additional electrical services for the facility. However, upon completion of construction, the project will have operations and maintenance (O&M) staff of a maximum of eight (8) employees onsite during the core daytime hours, 5 days per week, with weekend shifts and extended hours as required. Those will require water, septic, and electricity within an O&M Building. This building and all other site improvements will be required to go through building permits, at which time, Central District Health will be verifying water and septic capacity of that building depending upon occupancy. In addition, the Applicant will require water for dust suppression during construction and to wash solar panels during operation. Prior to commencing any construction, the Applicant will be required to provide proof of water supply to the Department as required in Conditions of Approval.

The Project will generate significant off-site traffic during the construction and installation of the facility and minor off-site traffic during operation of the use. The Project will require the

construction of new private roads and improved ingress and egress from public roads, as well as temporary paths to provide access to the proposed turbines and affiliated workspace areas. The total length of access roads required to service all proposed wind turbine locations is approximately 16.7 miles and the total length of temporary crane paths is approximately 6.6 miles. Access roads will be constructed within the solar project area to provide access to the proposed solar arrays and affiliated workspace areas. The total length of private access roads required to service the 10 solar blocks is approximately 8.2 miles. All private roadways will be reviewed by the County Engineer prior to any construction activities at the Site as required in the Conditions of Approval.

The CUP Application was transmitted and reviewed by the Mountain Home Highway District and Glenns Ferry Highway District on multiple occasions to make sure that the necessary road-maintenance of public roads damaged by construction of the Project and installation of the facility are a responsibility of the Applicant. They have not required any additional traffic study or data from the Applicant.

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:

Finding: The Project will be privately owned and all necessary improvements, including public facilities and services necessary to support the use, will be paid for by the Applicant or any successor thereof.

The CUP Application shows that once in operation, the Project will create over 80 direct and indirect full-time, well-paying jobs. The Project will also inject an estimated \$700,000 annually to Elmore County's tax base through the Idaho Payment in Lieu of Property Tax program for wind and solar facilities. The effect of this program is that the Project will pay a 3.0% and a 3.5% gross earnings tax on wind and solar revenues respectively, 100% of which is returned to Elmore County, in lieu of paying a property tax on the real and personal property of the Project.

In addition, Elmore County collects Development Impact Fees per Title 12 of the Zoning Ordinance. Those will be collected from this Project at the time of issuance of building permits to mitigate its impact on Elmore County's facility needs for Sheriff, Jail, EMS, and Fire District. In order to mitigate on-going service impacts on Sheriff, EMS, and Fire District during the operation of the facility, Elmore County has required a development agreement with, and decommissioning plan from, the Applicant. Those are provided to the Planning and Zoning Commission for informational purposes and will be approved prior to construction and operation. As a result, Department Staff concludes that the proposed use will not create excessive additional requirements at public cost for public facilities and services, and the associated Development Agreement (DA-2024-02) will ensure that the use will not be detrimental to the economic welfare of Elmore 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;

Finding: The proposed wind and solar electricity generation and energy production facility with battery energy storage system will generate significant activities, materials, and equipment during construction that will generate noise, smoke, fumes, glare, or odors during the first five years. However, this Project is within a remote area of Elmore County, away from population centers in the City of Mountain Home and Glenns Ferry, with very few residences in and around the Site. Staff has proposed a series of Conditions of Approval to ensure those impacts are reduced during the construction phase.

The proposed facility will not generate significant amount of noise, smoke, fumes, glare, or odors during the operation of the Project. The Site will contain a battery energy storage system that contains lithium-ion batteries, which will degrade over time per information that the Applicant has submitted. Upon request from the department, the Applicant provided detailed information regarding the lithium-ion battery storage system and the proposed design for safety features. Department staff believes that the Applicant has demonstrated the integration of the sophisticated detection, monitoring, and technological solutions to mitigate a potential fire for the battery storage. Therefore, staff concludes that the proposed use will not be detrimental to any person, property or general welfare.

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

Finding : A viewshed assessment and photo simulation of viewsheds was prepared for the Project to provide visual impact information about the proposed Project's viewshed conditions to the neighboring landowners and Elmore County. The addition of 47 wind turbines with a maximum height of 577 ft. to the area will increase the density of turbines visible in the viewshed but will not add new features. Considering the height of the proposed wind turbines and the existing ground elevations, all wind turbines will be visible to the residences modeled and travelers along portions of Interstate 84 between Mountain Home and Glenns Ferry. The addition of solar arrays, being relatively low in height, will not significantly change the viewshed of this area. Therefore, staff concludes that the proposed facility will alter the natural landscape; however, the overall natural and scenic features will not be altered significantly, or the proposal will not result in the destruction, loss, or damage of a natural or scenic feature of major importance.

REQUIRED FINDINGS FOR MASTER SITE PLAN PER ZONING ORDINANCE § 10-6-7(A):

- 1. The Master Site Plan complies with the applicable Comprehensive Plan; and**

Staff Response: Please refer to findings under Zoning Ordinance §7-9-7(A)2.

2. **When applicable, the master site plan complies with Section 10-6-4 General Required Standards; in regard to:**

- a. Location of structures on the site; and
- b. Non-Vehicular Access and internal Circulation;
- c. Automobile Access and Internal Circulation; and
- d. Additional Off-street Parking Design Standards

Staff Response: The Master Site Plan is for an Electrical Generating Facility and Energy Production Facility, which will be owned by the Applicant or successors thereof and operated by 8 maximum employees once installed. It does not allow public access to the Site, and therefore, does not require non-vehicular access or internal circulation for such. The provided Master Site Plan clearly identifies placement of wind turbines, solar panels, battery energy storage system (BESS), temporary laydown yard area, Operation and Maintenance (O&M) facility, access roads, temporary crane paths, and associated facilities. The Master Site Plan establishes access from public roads as well as layout of internal private roadways as further explained in Zoning Ordinance §7-9-7(A)8 finding above.

3. **The applicant has submitted a natural features analysis compliant with section 10-6-5 indicating that the proposed development and master site plan sufficiently addresses:**

- a. Any natural constraints detected or observed; and

Staff Response: Although the Applicant has not done a formal Natural Features Analysis, much of the required information is provided with the CUP-2024-04 Application prepared by qualified professionals. All of this information is used to inform the submitted Master Site Plan, which is reviewed by the County Engineer as well as other members of Elmore County review team.

The Project Area includes many ditches and drainages. A hydrology study and floodplain analysis were conducted to determine water depths, velocities and 100-year water surface and floodplain elevations of the Project Area. Detailed information on the floodplain analysis at each facility - Wind Facility, Solar Facility, O&M Facility, BESS, and Substation - were submitted as part of the Floodplain Permit Application.

A soil analysis of the types of soil present within the Project Area including prime farmland, aquifer recharge areas, unstable soils, and soils most susceptible to erosion was submitted.

A steep slope analysis was performed to identify all areas with slopes greater than 15%.

To support the development of the Project, Westwood was engaged to conduct a variety of baseline biological surveys to identify biological resources that may occur within the Project area.

The provided data is used to develop Conditions of Approval for CUP-2024-04.

b. Historical and Cultural Resources; and

Staff response: A cultural literature review was conducted on December 29, 2020, and updated on March 8, 2023, to provide an inventory of the recorded archaeological sites, historic standing structures, and other previously recorded cultural resources within the proposed Project area and one mile radius thereof. The literature review identified 60 cultural resource sites. Of the total sites identified, 9 are located within the Site and 51 are located within the surrounding one-mile buffer; external to the defined Project area. A condition is placed for inadvertent discovery during construction if any artifacts of cultural or archaeological importance are found.

c. Sensitive Plant and Wildlife Species; and

Staff response: A Phase 1 Environmental Site Assessment (ESA) was completed on March 2, 2023. Also, a Steep Slope Analysis was performed and provided to the County under separate cover. A Hydrology Study was also performed, and Floodplain Applications submitted for the Wind Facility, Solar Facility, O&M Facility, BESS and Substation. In addition, a detailed survey of the Project Site was performed to identify the location of underground infrastructure and ensure the Project's ability to avoid these locations, or where necessary, obtain the necessary crossing agreements. The project is reviewed by the Idaho Department of Fish and Game and the Applicant has worked extensively to identify acceptable Conditions of Approval for CUP-2024-04.

d. Any impacts on Natural Features

Staff Response: The Project has been designed with the objective of avoiding, and where this is not possible, minimizing possible adverse impacts to the environment and surrounding community. Multiple studies were conducted as part of the Conditional Use Permit Application and appropriate setbacks incorporated into the Project design through Conditions of Approval.

4. **The master site plan complies with section 10-6-6 Other required standards, in regard to:**

a. Screening; and

Staff Response: The Project is located within the remote areas of unincorporated Elmore County. Furthermore, CUP-2024-04 conditions require the necessary

screening and landscaping plan for the project prior to commencing construction activities.

b. Drainage; and

Staff Response: Culverts, low water crossings and stormwater basins will be constructed to maintain drainage patterns and manage stormwater. Staff has proposed Conditions of Approval for site drainage for CUP-2024-04.

c. Water Supply and Sewage Disposal; and

Staff Response: The Project will not rely on County sewer, water, or other utilities. The Project will establish its own electrical interconnection service with Idaho Power and will obtain the necessary permits to install a well and septic system to serve the limited potable water and sewer requirements of the O&M building.

d. Filling, Excavation, and Earthmoving; and

Staff Response: During construction, one of the primary means to protect and preserve the topsoil at the Project Site will be to separate the topsoil from the other subgrade/subsoil materials when earthmoving activities, excavation or trenching are taking place during grading, road construction, cable installation, foundation installation, etc. Grading will be minimized to the extent practicable. Staff proposes Conditions of Approval for CUP-2024-04 to address any future filling or excavation in compliance with the Zoning Ordinance.

e. Irrigation Services and Delivery Systems; and

Staff Response: The Applicant anticipates the need to obtain a construction stormwater permit under the Idaho Pollutant Discharge Elimination System (IPDES). Construction storm water permits include requirements for erosion and sediment control, pollution prevention, and site stabilization. As part of the permit, a SWPPP will be prepared to document the temporary and permanent BMPs to be used on the Site to reduce or prevent the discharge of pollutants. The Project will not impact groundwater resources.

Culverts, stormwater basins, and low water crossings will be constructed to maintain drainage patterns, preserve on Site and downstream gravity flow irrigation systems and to manage stormwater. Through Conditions of Approval, the County Engineer will provide an oversight for these improvements.

f. Utilities; and

Staff Response: The Project will not rely on County sewer, water or other utilities. The Project will establish its own electrical interconnection service with Idaho Power and will obtain the permits and approvals necessary to install a well and septic system to serve the limited potable water and sewer requirements of the O&M Building.

The Project will connect to the 230 kV Boise Bench-Midpoint #2 transmission line owned by Idaho Power Company (IPC) via a short overhead utility interconnection tap line from a new POI Substation on leased private land on the west side of SE Ross Road.

- g. Maintenance; and

Staff Response: The Applicant is committed to maintaining the appearance, health, and safety of the Project. The Project will require asset management and Project planning, preventive and corrective maintenance of the wind turbines, solar arrays, BESS; preventive and corrective maintenance of the electrical collection system and substations; and direct operations dispatch to assure continuing facility and transmission system safety and reliability. Professional management staff will support planning, accounting, and other operational functions of the Site.

- h. Supplemental Information; and

Staff Response:

The Applicant has provided supplemental information as demonstrated in the Record.

- i. Alternate Site Development.

Staff Response:

The Applicant has not provided a request for Alternate Site Development.

STAFF RECOMMENDATION

Based on the evidence presented in the record, staff recommends **APPROVAL WITH THE FOLLOWING CONDITIONS OF APPROVAL** of the proposed Conditional Use Permit with Master Site Plan (CUP-2024-04).

PROPOSED CONDITIONS OF APPROVAL

1. A Conditional Use Permit (CUP-2024-04) shall be granted to Appaloosa Wind and Solar LLC (c/o) North Renew Energy Partners, LLC, to construct a 400 megawatt (MW) electricity generation and production facility that will include wind turbine generators, solar arrays, a battery storage, a temporary laydown yard, an Operations and Maintenance (O&M) facility, access roads, temporary crane paths, and associated facilities on approximately 10,969 acres of private land and 1,359 acres of IDL property.
2. Within sixty (60) days of the Planning and Zoning Commission signing the Findings of Facts, Conclusions of Law, and Order for CUP-2024-04, the Applicant shall provide a fully executed

Development Agreement to the County Land Use and Building Department (the “**Department**”).

3. All development, operation, and decommissioning of the Site shall comply with Conditions of Approval of CUP-2024-04, terms of the associated Development Agreement (DA-2024-02), Administrative Decision for Floodplain Development Permit (ADD-2024-25 through 29), Hillside Development Requirements, as well as the Elmore County Zoning and Development Ordinance adopted on May 18, 2018 (“**Zoning Ordinance**”). Any violation thereof shall result in revocation of the CUP-2024-04 Title 7 Chapter 16 of the Zoning Ordinance.
4. All Conditions of Approval of CUP-2024-04 and terms of DA-2024-02 shall be appurtenant to and run with the Site and shall be binding upon Appaloosa Wind and Solar LLC, the parties hereto, their heirs, transferee, successors, and assignees. Appaloosa Wind and Solar LLC may assign or transfer all or any portion of the Project to any person or entity (successor in interest) as defined in DA-2024-02.
5. The Applicant shall commence construction of the Project within two years of approval of CUP-2024-04 and complete construction within five years of approval of CUP-2024-04.
6. The Applicant shall commit to a maximum tower height of five hundred and seventy-seven (577) feet for the development of wind turbines with a ten percent (10%) margin not to exceed six hundred and thirty-four (634) feet in height.
7. The Applicant shall install low glare solar panels with anti-reflection technology to help minimize glare.
8. Once the construction commences, the Applicant shall provide proof of a surety in compliance with Title 7 Chapter 11 of the Zoning Ordinance, to ensure completion of all improvements as required by the County. The requirements of such surety will be further outlined in DA-2024-02.
9. The Applicant shall submit a Periodic Written Report to the Department on every five (5) year anniversary of the CUP approval that outlines compliance with CUP-2024-04 and DA-2024-02 along with the appropriate application fee at the time of submittal.
10. Prior to commencing any construction activity, the Applicant shall obtain and provide copies of permits and approvals to the Department of all certificates, permits, and other permits/approvals required by federal, state, and local authorities.
11. The Applicant shall submit a Floodplain Development Application for all development within the mapped floodplains to ensure compliance with the National Flood Insurance Program requirements and Elmore County Zoning Ordinance Title 8, Chapter 2.

12. Prior to commencing any construction activity, the Applicant shall receive approval of the following and submit a copy to the Department:
 - a. Compliance with Idaho Administrative Rules (“IDAPA”) 58.01.01 (Air Pollution Control) from the Idaho Department of Environmental Quality (“**IDEQ**”);
 - b. Compliance with IDAPA 58.01.05 (Hazardous Waste) and 58.01.06 (Solid Waste Management) from IDEQ; and
 - c. Compliance with IDAPA 58.01.02 (Water Quality Standards), 58.01.03 (Individual Subsurface Sewage Disposal Rules), and 58.01.11 (Ground Water Quality) from IDEQ.

13. Prior to commencing any construction activity, the Applicant shall submit to the County Engineer a copy of the Project Storm Water Pollution Prevention Plan (SWPPP) submitted to IDEQ.

14. Prior to commencing any construction activity, the Applicant shall be required to provide proof of water supply for all uses within the Master Site Plan and operation of the Project to the Department.

15. Prior to commencing any construction activity, the Applicant shall annex into a Fire District and/or enter into an agreement with the King Hill/Glenns Ferry Rural Fire District for providing fire protection to the Site. The Applicant shall provide a copy of this agreement to the Department prior to applying for any development or building permit.

16. Prior to commencing any construction activity, the Applicant shall enter into an agreement with the Glenns Ferry Highway District to ensure that the proposed use and its construction activities will be conducted in compliance with the Highway District’s Standards and Development Procedures, and that impacts to existing roads from construction activity are mitigated for in accordance with the agreement. The Applicant shall provide a copy of this agreement to the Department prior to applying for any development or building permit.

17. Prior to commencing any construction activity that requires cutting or filling of areas that are steeper than fifteen percent (15%), a Hillside Development Application will be submitted and approved per Elmore County Zoning and Development Ordinance Title 7, Chapter 5. A map showing the grades and details of improvements on the Site shall be provided to the County Engineer with the Hillside Development Application.

18. Prior to commencing any construction activity, including roads, the Applicant shall submit a Private Roadway Application to the County and the Glenns Ferry Highway District for the internal roads. The private roads and associated drainage design shall meet the current standards of the County and Glenns Ferry Highway District. Approval from the County and the Highway District is required prior to construction of private roads. Upon construction of those roads, the Engineer of Record shall provide stamped as-built drawings to the Highway District and the County.

19. If a roadway goes through a mapped floodplain, the crossing shall be at existing grade with no impact to the floodplain channel. Grading plans shall be provided to the County Engineer for such crossings. The mapping shall be based on recent and accurate information approved by the County Engineer.
20. The Applicant shall submit a post-construction revegetation plan to the Department for the temporarily disturbed areas such as crane paths, construction trailers, or temporary laydown yard.
21. The Applicant shall show compliance with all applicable Idaho Public Utility and Federal Agency rules and regulations before receiving a building permit and shall operate the facility in conformance with those regulations.
22. All improvements for the Site shall be enclosed by an appropriate security fence as identified in this CUP Application and Master Site Plan.
23. The Applicant shall submit a Landscaping Plan prepared by a qualified professional to the Land Use and Building Department prior to applying for a building permit and develop the Site in accordance with an approved landscaping plan. This plan shall provide fire-wise landscaping, noxious weed-management, screening, and buffers as well as thirty feet (30') defensible space all around the Site. This defensible space shall be cleared of all vegetation on a quarterly basis to ensure that it remains an effective firebreak. The Applicant shall provide evidence to the Department on annual basis of its compliance and any time a code violation complaint is received.
24. The Applicant shall do the following to minimize or avoid potential impacts to birds, bats and natural habitat of the Site and its surrounding areas:
 - Comply with the recommendation to apply for an Eagle Take Permit with the USFWS prior to the application of the first Building Permit.
 - The Applicant will provide an updated Bird & Bat Conservation Strategy (BBCS) that provides a life-of-project framework for identifying avoidance and minimization measures to conserve birds and bats and will coordinate with IDFG on determining the most appropriate bat fatality minimization/deterrent system and how this system shall be implemented, should one be necessary, based on the collection and analysis of monitoring data and the implementation of an adaptive management program. Such information shall be submitted to the Department within 2 years of operation commencement.
 - Contact the USFWS to develop best management practices for slickspot peppergrass. Proof of this shall be provided to the Department prior to the commencement of construction.
 - Adhere to construction timing restrictions and avoid blasting activity from December 15th to April 15th annually to minimize disturbance to wintering big game in the immediate vicinity.

- Avoid creating fences that are not legally required; if livestock exclusion fences are necessary, utilize wildlife-friendly fencing.
25. The Applicant shall use NVG compliant lighting and operate within a 450 to 920 nm wavelength. Light on any turbine, MET facility or structure that exceed fifty feet (50') in height to provide visual cues for night vision goggles of Military Operations Areas.
 26. Prior to the commencement of construction, once the Applicant has the final project design, the Applicant shall meet with Marathon Pipeline to review the project design plans to ensure Marathon Pipelines safety and setback requirements are met. A written approval shall be received and submitted to the Department prior to the first Building Permit.
 27. The Applicant shall stop all construction activities within the vicinity of any findings at the Site, if any unknown subsurface cultural or archaeological finds are encountered during Project construction and the Applicant shall follow Inadvertent Discovery Guidance of a Certified Archaeologist.
 28. The Applicant shall have a continuous obligation to maintain adequate housekeeping practices so as to not create a nuisance, including quarterly maintenance of fire-wise setback.
 29. The Applicant shall obtain written approval from the appropriate fire authority, Central District Health, and Highway District with regard to any proposed structure, facility, or use identified in this Master Site Plan. The Applicant shall provide copies of all permits and approvals to Elmore County prior to submitting a building permit for those.
 30. Prior to commencing the use, the Applicant shall provide access code for gate lock to the Department, Emergency Medical Services, Elmore County Sheriff, and King Hill/Glenns Ferry Rural Fire District. If a change of Assignment and Assumption of any aspect of the CUP takes place, Elmore County shall be notified in compliance with DA-2024-02 and the Department, Emergency Medical Services, Elmore County Sheriff, and King Hill/Glenns Ferry Rural Fire District shall be provided new access codes.
 31. The Applicant shall construct, maintain, and operate the Site in compliance with all federal, state, and local regulations at all times.
 32. The Applicant shall provide a Department approved Decommissioning Plan. Such Decommissioning Plan shall include the requirements established by the Development Agreement, including but not limited to a decommissioning bond. Applicant expressly agrees to abide by the terms of Development Agreement and Decommission Plan. Any failure to abide by the terms of the Development Agreement and Decommission Plan will result in the revocation of CUP-2024-04.
 33. Failure to comply with any of the above Conditions of Approval shall result in the revocation of the CUP-2024-04.

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.