



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Request for Conditional Use Permit 2025-07

Hearing Date: April 24, 2025

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to allow
8-lot Subdivision in an Agriculture (AG) Zone in
the Area of City Impact of Mountain Home per
Elmore County Zoning Ordinance §7-2-26(B)
Located at TOWNSHIP 4 SOUTH, RANGE6
EAST SECTION 11 in Elmore County.

) CUP-2025-07
)
) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND ORDER
)
)
)

In Re: Conditional Use Permit 2025-07: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on April 24, 2025, for a public hearing held pursuant to public notice as required by law, on a request from Justin Latchu (“**Applicant**”), for a Conditional Use Permit 2025-07 (the “**CUP**”) in the Agriculture (AG) zoned property (the “**Application**”) on Parcel RP04S06E113600. The Application is for a subdivision of a parcel. Elmore County Zoning Ordinance §10-1-2(A)(3) requires an approved conditional use permit prior to the subdivision of a parcel in the Agriculture (AG) base zone. The property consists of 40 acres located at TOWNSHIP 4 SOUTH, RANGE6 EAST SECTION 11 (the “**Site**”). The Commission heard from staff that was 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-2025-07; 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 this Application to the Commission.

2) The Commission finds that the Applicant is:

Justin Latchu
1222 S 14th 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 September 18, 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 October 16, 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 November 4, 2024.
- IV. On November 12, 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 March 17, 2025, the Department deemed the Conditional Use application complete and set the matter for a Public Hearing on April 4, 2025.
- 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 March 17, 2025.
- VII. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on March 17, 2025.
- 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 April 9, 2025.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on April 17, 2025.
- X. The Commission opened the public hearing on April 24, 2025, 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 Permit with seventeen (17) 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 40-acre parcel into an

8-lot subdivision.

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

A. Assessors' Parcel Number: RP04S06E113600

B. The "Owner" of the Site is:

Justin Latchu

C. Applicants' Right to the Site is:

The Applicant is the owner of the property.

D. Site Characteristics:

Property Size: 40-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 not located in any designated flood zone.

Irrigation: N/A

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-2025-07, 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 Hwy 51 that is a public road maintained by the Idaho Transportation Department.
2. Fire Protection: The property is within the Mountain Home Rural Fire District.
3. Sewage Disposal: Septic Leech Field approved by Central District Health
4. Water Service: Private Wells
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.** Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C.** The Local Land Use Planning Act, § 67-6501et 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-2025-07, 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(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:

The Commission finds that the parcel is zoned AG. Elmore County Zoning Ordinance Title 10 Chapter 1 Section 10-1-2 (A)(3) requires a Conditional Use Permit to be approved 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 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.

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.

The Commission finds that as per the currently negotiated Area of Impact Agreement with the City of Mountain Home at Title 11, Chapter 1 of the Zoning Ordinance, the proposed subdivision lies within the City's area of impact but is not a contiguous parcel to the City of Mountain Home. The proposed subdivision is reviewed per standards established in the City of Mountain Home Zoning Ordinance section 9-16-16 which states that "Subdivision Within the Area of Impact states that when subdivision development in the A/P zone occurs contiguous to city limits it shall develop to city standards". This parcel is not contiguous to the city limits of Mountain Home.

The Commission finds that the county staff have invited the City of Mountain Home staff to all important meetings regarding this proposal. The City of Mountain Home staff has provided comments on CUP-2025-07 stating that the proposed lots will have private septic and private wells on property. 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 the Conditional Use Permit standards. The proposal is conditioned to ensure compliance with requirements for each jurisdiction.

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).

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 Ordinance §§ 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 Application was transmitted to the following Elmore County agencies to ensure compliance with applicable County Ordinances. Their comments are incorporated in 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 the State and Federal agencies were notified of this Application. Their comments are integrated in the conditions 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 proposal is surrounded by private residential, active agriculture lots. Surrounding the proposed Site are primarily agriculture/ residential lots whereas, lots have varying sizes. Therefore, this area is surrounded by low-density housing development and is suitable for such 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 of Approval, 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 units as existing neighboring uses. Furthermore, the subsequent preliminary plat application will require additional construction protocols that the Applicant will need to adhere to ensure that the construction of the proposed residential subdivision is not hazardous or disturbing to existing neighboring uses.

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 – Hwy 51 is maintained by the Idaho Transportation Department (ITD)

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

Drainage Structures – Drainage from road are proposed use are planned or required at this time of preliminary plat application.

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).

The proposed CUP has been transmitted to all applicable agencies. Their comments are integrated into the proposed conditions to ensure that this Application meets all applicable standards and requirement. 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 these Application have been notified; at this time there have not been any notable comments submitted to the Department. The Applicant of the proposed subdivision will be financially responsible for developing the Site as indicated in the Application. The proposed use shall be developed in a manner that will 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 during construction of the subdivision and residential units. However, the Conditions of Approval associated with this CUP as well as the subsequent 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 the Application, and due to lack of any public comments for destruction, loss, or damage to a natural or scenic feature.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that CUP-2025-07 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.** Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and

C. The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.

ORDER – CONDITIONS OF APPROVAL

Based on the Findings of Fact and Conclusion of Law, the Commission orders to APPROVE CUP-2025-07 with a unanimous vote with the following conditions of approval.

1. A Conditional Use Permit (CUP-2025-07) shall be granted to the Applicant, Justin Latchu, to subdivide a 40-acre Agriculture (Ag) property on assessor's parcel RP04S06E113600 in to eight (8) five-acre lots.
2. The CUP approval shall be limited to one (1) year, in which the Applicant shall apply for a Preliminary Plat. If a Preliminary Plat is not applied for within that year, then the Applicant will be required to reapply for the Conditional Use Permit.
3. CUP-2025-07 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.
4. The approval shall be contingent upon the Applicant obtaining all certificates, permits, and other approvals required by Federal, State, or Local authorities.
5. Prior to any construction activity at the Site, the Applicant shall complete a Preliminary Plat application process and receive approval from the Elmore County Planning and Zoning Commission.
6. Prior to applying for a Preliminary Plat, the Applicant shall identify clear access from Highway 51 and internal and external traffic circulation for the subdivision and receive approval from ITD for it. ITD may be able to grant only one access from Highway 51 to access this and other parcels and the Applicant may be required to create an easement or shared access agreement to use the single approach. An ITD encroachment permit will be required.
7. The Applicant shall develop a Private Road for ingress and egress. Road shall be improved per the Mountain Home Highway District Standards.
 - a. The proposed private road shall comply with Title 10 Chapter 5 ("Public and Private Roads") of Elmore County Zoning Ordinance.
 - b. Applications for private roads must be submitted to the Land Use Building Department.
8. Prior to applying for a Preliminary Plat, the Applicant shall have a written agreement with the Mountain Home Highway District for maintenance of all public roads.
9. The Applicant shall submit a Private Road and Driveway Application with the Preliminary Plat for the County Engineer's review and approval.
10. Prior to applying for a Preliminary Plat, the Applicant shall hire a licensed engineer to prepare a Drainage Plan. This plan shall at least include a discussion on details of existing and proposed site drainage and irrigation features, types of soils, existing and proposed grading, location of wells and septic, driveway improvements, etc.

11. Prior to applying for a Preliminary Plat, the Applicant shall provide an engineering report and test holes data to Central District Health and determine well and septic location.
12. Prior to applying for a Preliminary Plat, 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 protection and suppression.
13. Prior to any site improvement, the Applicant shall obtain applicable permits for structures and/or other improvements from the Land Use and Building Department and County Engineer.
14. The Applicant shall construct, maintain, and operate the project site in compliance with all federal, state, and local regulations at all times.
15. The Applicant shall submit the proposed Covenant, Conditions, and Restrictions (CC&Rs) with the Preliminary Plat application.
16. The Applicant shall ensure that all property taxes are kept current.
17. Failure to comply with any of the above conditions of approval and any local, state, and federal laws may result in the revocation of the approval.

Dated this _____ day of _____ 2025

COMMISSION VOTE:

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

Patti Osborn, Chairperson

ATTEST:

James Roddin, Interim 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.

4900-1624-3552, v. 1