



Land Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Request for EOA-2024-01

Hearing Date: May 23rd, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of an Extension of Approval for)	EOA-2024-01
a Preliminary Plat PP-2022-02 on 27.420)	
acres parcel (RP002290010040) in Trails End)	FINDINGS OF FACT,
Amended Subdivision (Lot 4 Block 1))	CONCLUSIONS OF LAW,
)	AND ORDER
)	
)	

In Re: Extension of Approval: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on May 23rd, 2024, for a public hearing held pursuant to public notice as required by law, on a request from Cory Swain, CS2, LLC (“**Applicant**”), for an Extension of Approval for a Preliminary Plat on a portion of 27.420 acres parcel in Elmore County, Idaho (“**Application**”) that was approved by the Commission on April 25, 2023. The property is zoned Agriculture, with assessors’ parcel number RP002290010040 (“**Site**”). The extension would allow for a one-time one-year extension. The extension is requested to allow the Applicant time to complete road compaction testing for the private road accessing the subdivision parcel as it’s a condition of approval for the preliminary plat. The Commission heard from the Applicant in support of the extension and there was no public testimony in support, in neutral or in opposition to the extension. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Application. After making findings and conclusions in accordance with the applicable law, the Commission approved the Application with conditions, 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 EOA-2024-01; 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:

Cory Swain, CS2, LLC.
3363 E Presidential Drive STE 210
Meridian, ID 83642

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

- I. On April 24th, 2024, the Department accepted an Extension of Approval application per § 7-3-17(A) of the Zoning Ordinance along with the \$250.00 application fee.
- II. On May 3rd, 2024, the Department deemed the Application complete and set the matter for a Public Hearing May 23rd, 2024.
- III. 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 3rd, 2024.
- IV. In accordance with section §§ 7-3-4 (A) and 7-3-17(A)(2) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on May 3rd, 2024.
- V. 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 May 8th, 2024.
- VI. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on May 15th, 2024.
- VII. The Commission opened the public hearing on May 23rd, 2024, and received verbal and written information regarding the Application.
- VIII. At the conclusion of the testimony, the Chairperson closed the public hearing.
- IX. The Commission commenced deliberations on the Application.
- X. Thereafter, the Commission moved to approve the Application with six (6) conditions of approval and the Commission’s decision on the Application is as set forth below.

4) The Commission finds the proposed extension request as follows:

The extension is requested to allow the Applicant time complete road compaction testing for the private road accessing the subdivision parcel as it’s a condition of

approval for the preliminary plat.

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

A. Assessors' Parcel Number: RP002290010040A

B. The "Owner" of the Site is:

Cory Swain, CS2, LLC

C. Applicant's Right to the Site is:

The Applicant is the legal owner of the parcel.

D. Site Characteristics:

Property Size: 27.420 acres

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 EOA-2024-01, 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 unpaved drives maintained by the parcel owners.

2. Fire Protection: The property is not within any fire protection district ; Wildfire and Wildland Urban Interface (WUI) applies.
3. Sewage Disposal: Septic Leech Field arrival by Central District Health
4. Water Service: Private Well
5. Irrigation District: N/A
6. Drainage District: N/A

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 § 7-3-17, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, § 67-6501 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 EOA-2024-01, the required three findings pursuant to § 7-3-17 shall be made.

12) The Commission finds the two (2) required findings pertaining to an Extension of Approval per Zoning Ordinance §7-3-17(C) are met.

1. **The Extension of Approval meets the standards that an applicant or owner for an approved development may apply for one (1) time extension for a period not to exceed one (1) year, unless some other period of time is specified in the application and subsequently approved by the Director, Commission, and/or Board. ; and**

Staff Response:

The Extension of Approval request does not exceed the one (1) year limit for an extension of approval. The Applicant has not previously applied for a one (1) time extension.

2. The applicant and/or owner have adequately justified the need for a time extension.

Staff Response:

The proposed site is located in Featherville which in an unincorporated community in Elmore County and is a higher elevation area. The weather conditions have prevented the road compaction testing and submittal of the required completion documents.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that EOA-2024-01 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 et seq.

ORDER – CONDITIONS OF APPROVAL

Based on evidence presented at the May 23rd, 2024, public hearing, the Commission unanimously moved to approve EOA-2024-01 with the following conditions of approval:

- 1. The Extension of Approval (EOA-2024-01) for a Preliminary Plat (PP-2022-02) shall be granted to Cory Swain, CS2, LLC on 27.420 acres of Agriculture (AG) land on parcel RP002290010040.
- 2. The extension of approval shall not exceed the one (1) year time limit that ends on April 15th, 2025.
- 3. The applicant shall submit all required completion documents within the one (1) year time limit that ends on April 15th, 2025.
- 4. The Extension of Approval shall comply with the standards set forth in Elmore County Zoning Ordinance §7-3-17.

5. The Applicant shall keep the property up to date with all taxes related to the uses of the property.
6. Failure to comply with any of the above conditions of approval may result in the revocation of the extension of approval for PP-2022-02.

Dated this _____ day of _____ 2024

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:

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.