



# Elmore County Land Use and Building Department

520 East 2nd South Street  
Mountain Home, Id. 83647  
Phone: (208) 587-2142 ext. 1254  
Fax: (208) 587-2120  
www.elmorecounty.org

**Vacant**  
*Director*

**David**  
**Abrahamson**  
*Planner*

**Vacant**  
*Planner*

**Vacant**  
*Planner*

**Johnny**  
**Hernandez**  
*Building Official*  
*Interim Director*

**Colton**  
**Janousek**  
*Building*  
*Inspector*

**James Roddin**  
*Administrative*  
*Manager*  
*Interim Director*

**Matt Gochnour**  
*Code*  
*Enforcement*

**Sandra Nuner**  
*Permit*  
*Technician*

**Alyssa Nieto**  
*Administrative*  
*Assistant*

## ***\*Supplemental Staff Memo***

### **Findings of Fact, Conclusion of Law, and Order**

**Meeting Date:** April 24, 2025

**Date Supplemental Memo Compiled:** April 23, 2025

**Agenda Item:** Findings of Fact, Conclusions of Law, and Order, (FCOs) for Conditional Use Permit

**Applicant:** Crimson Orchard Solar LLC

**Case Number:** CUP-2024-18

**Staff:** David Abrahamson, Planner

**Zoning:** AG, General Agriculture/Grazing/Forest

**Parcel Numbers:**

RP03S06E081890  
RP03S06E090080A  
RP03S06E103040  
RP03S06E034810  
RP03S06E033600

**Property Size:** 1,060

### **SUMMARY:**

\*This Supplemental Staff Memo makes necessary corrections (~~red-strikethrough~~ means removed text and red underlined means added text) to the draft FCOs provided to the Planning and Zoning Commission and the Applicant on April 17, 2025. These changes are not substantive changes, but to correct clerical errors. All information not otherwise amended or supplemented herein and conditions of approval shall remain unchanged and continue to remain on record. Exhibit A to this memo is the draft FCOs that corrects the

following and the staff submits to the Planning and Zoning Commission for approval and signature.

### **SUPPLEMENTAL INFORMATION:**

1. In the matter introduction removed comma in Applicant: Crimson Orchard Solar, LLC
2. Finding of Fact (2): Zip code changed from 83701 to 83702
3. Finding of Fact 3 XIV: Changed ~~Clonera~~ to Applicant
4. Finding of Fact 3 XIV: Changed ~~pound~~ to pile drive
5. Finding of Fact 5 B: Removed A from parcel number - RP03S06E090080A.
6. Finding of Fact 5 B: Removed extra letters and number - RP~~6ERP~~03S06E034810
7. Finding of Fact 5 C: Corrected missing a tilde above name: c/o Clēnera.
8. Finding of Fact 5 E: Existing Vegetation: Shrub/scrub and sagebrush-steppe habitat, Slickspot Peppergrass habitat on 0.25 acres, and cultivated crops.
9. Finding of Fact 12 G: Corrected to state, "There will be a ~~Battery Energy Storage Systems (BESS)~~ Project Substation on east side of project that will connect to the Danskin substation".
10. Finding of Fact Section 7-2-103 - Electrical Generating Facilities G: Two public hearing dates corrected from ~~2025~~ to 2024.
11. Finding of Fact Section 7-2-103 - Electrical Generating Facilities H: Corrected finding to state, "A glint glare study (Exhibit 9), a visual impact analysis (Exhibit 14), on 3/3/2025, and an economic impact analysis (Exhibit 10) was sent to the County via email on 10/15/2024, ~~and~~ amended and sent via email on 12/12/2024, and amended and sent via email on 3/12/2025. The Floodplain Development Application is in progress with only minor comments from the Elmore County Engineer.
12. Finding of Fact Section 10-6-4 A: Added "gen-tie" after O&M facilities.

EXHIBIT A  
REVISED CLEAN  
FCO



## Land Use and Building Department

### Findings of Fact, Conclusions of Law, and Order

Application: Request for Conditional Use Permit 2024-18

Hearing Date: March 13, 2025

### BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a Conditional Use Permit	)	CUP-2024-18 with Master Site
with Master Site Plan to construct, operate,	)	Plan
maintain, and decommission a 100-	)	
megawatt (MW) electricity generation and	)	FINDINGS OF FACT,
energy production facility to include, solar	)	CONCLUSIONS OF LAW,
arrays, a battery energy storage system	)	AND ORDER
(BESS) a temporary laydown yard,		
Operation and Maintenance (O&M) facility,		
access roads, temporary crane paths, and		
associated facilities.		

**In Re:** Conditional Use Permit 2024-18: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on March 13, 2025, for a public hearing held pursuant to public notice as required by law, for Crimson Orchard Solar LLC (“**Applicant**”), for a Conditional Use Permit 2024-18 with Master Site Plan (the “**CUP**”) in the Agriculture (AG) zoned property (the “**Application**”) on portions of RP03S06E081890; S2N2 N2SW4 N of OSLLR SE4 LESS TAX 1&2 SEC 8 T3S R6E, RP03S06E090080A; N2 N2SW4 N OF I-84 SECTION 9 T3S R6E, RP03S06E103040; W2NW4 LESS TAX 14 SECTION 10 T3S R6E, RP03S06E034810; SW4 SEC3 T3S R6E, RP03S06E033600; S2NW4 SEC3 T3S R6E, (the “**Site**”). The Application is to construct operate, maintain, and decommission a 100-megawatt (MW) electricity generation and energy production facility to include 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 the Applicant in support of the Application and Elmore County Land Use and Building Department (“**Department**”). Three people testified in opposition, two in neutral and five in favor of the proposal during the March 13, 2025, hearing. Upon conclusion of

the public hearing on March 13, 2025, 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 and 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-2024-18 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 of the Department or the Commission in connection with Application to the Commission.

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

Crimson Orchard Solar LLC (Applicant)  
c/o Clēnera  
999 W. Main St, STE 800  
Boise Idaho 83702

### **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 April 8, 2024, and July 21, 2024, 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 June 28, 2024, to neighboring property owners within a 1-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 July 8, 2024, and July 9, 2024.

- IV. On August 8, 2024, 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 January 9, 2025, Department received a Development Application DA-2025-02 along with the required fees.
- VI. On December 19, 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. Following the workshop, additional information was needed, and an agreement with Mountain Home Rural Fire District for fire protection at the Site is also required. Staff is working to complete the Development Agreement (DA-2025-02).
- VIII. On January 9, 2025, the Department deemed the Conditional Use application complete and set the matter for a Public Hearing on March 13, 2025.
- 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 March 3, 2025.
- X. In accordance with section § 7-3-4 (A) of the Zoning Ordinance, the Department emailed Public Hearing Notices to agencies on March 3, 2025.
- 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 February 26, 2025.
- XII. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on February 26, 2025.
- XIII. The Commission opened the public hearing on March 13, 2025, and received verbal and written information regarding the Application.
- XIV. At the conclusion of the testimony, the Chairperson called for any discussion. The Commissioners debated about the noise of pile driving H-post for solar inverters into the ground and possibility of blasting. There were concerns of the big game and other wildlife being scared off by the noise. Clēnera agreed to not pound or blast from Dec 15 thru April 15 as to not bother the wildlife. The Chairperson called for a vote, and the motion was made and seconded for approval with amended conditions of approval, with five AYE and one NAY by a roll call vote.

**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 100-megawatt (MW) electricity generation and energy production facility to include 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 Solar Locations:

RP03S06E081890; S2N2 N2SW4 N of OSLLR SE4 LESS TAX 1&2 SEC 8 T3S R6E, RP03S06E090080A; N2 N2SW4 N OF I-84 SECTION 9 T3S R6E, RP03S06E103040; W2NW4 LESS TAX 14 SECTION 10 T3S R6E, RP03S06E034810; SW4 SEC3 T3S R6E, RP03S06E033600; S2NW4 SEC3 T3S R6E,

**B. The “Owners” of the Sites are:**

JR Simplot Company  
PO Box 27  
Boise, ID 83707  
RP03S06E081890  
RP03S06E090080A  
RP03S06E103040  
RP03S06E034810  
RP03S06E033600

These parcels have been recorded as a First Amendment Memorandum of Land Lease Agreement with Elmore County, Recorded on July 30, 2024, Instrument # 0000511265

**C. The “Applicant/Developer**

Crimson Orchard LLC (Applicant)  
Clēnera  
999 W. Main St, STE 800  
Boise Idaho 83702

**D. Applicant’s Right to the Site is:**

The Applicant is leasing the Site. Recorded on July 30, 2024, Instrument # 0000511265

## **E. Site Characteristics:**

Property Size: 1060 acres of private land.

Existing Structures: None

Existing Vegetation: shrub/scrub and sagebrush-steppe habitat, slickspot peppergrass habitat on 0.25 acres and cultivated crops.

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

Flood Zone: The Site does have a floodplain through the properties

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).

### **7) The Commission finds the Site is within rural Elmore County surrounded by other parcels of similar size.**

The parcels surrounding the applicants parcel are similar to the size of the applicants and is desert and is owned by Bureau of Land Management (BLM).

### **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-2024-18 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: Mashburn Road, which is a private road maintained by Mountain Home Highway District.
2. Fire Protection: Mountain Home Rural Fire District/Wildfire Urban Interface (WUI) Overlay.
3. Sewage Disposal: N/A Portable toilets will be on site. Must have 1 portable toilet for 10 employees per 8-hour shift.
4. Water Service: N/A
5. Irrigation District: Elmore County
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 § 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-2024-18 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.**

- A.** The proposed use shall, in fact, constitute a Conditional Use as determined in Ordinance, Table §7-2-26 (B), Elmore County Land Use Table, as contained in this Ordinance

**Commission Finds:** The Applicant has provided information in the Application that the proposed Project is on land that is zoned General Agricultural; the proposed uses constitute a Conditional Use pursuant to Table 7-2-26 (B) of the Zoning Ordinance.

- B.** Table 7-2-26 (B), Elmore County Land Use Table, as contained in Elmore County Zoning and Development Ordinance 2018-03:

**Commission Finds:** The proposed use is on 5 parcels that are zoned Agriculture in the adopted zoning map of Elmore County. The proposed use of 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.

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

**Commission Finds (Comprehensive Plan):** The applicant has provided information in the application that the project is in harmony and in accordance with the Elmore County 2014 Comprehensive Plan; specifically, multiple public service objectives and economic development objectives. The Project would provide a new, reliable source of electricity and would increase energy capacity to meet existing demands and future growth.

The proposed Project 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.*

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

This is a solar generation facility and energy storage system which will increase the capacity and reliability of renewable energy onto the grid.

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

This is a solar generation facility and energy storage system which will increase the capacity and reliability of renewable energy onto the grid.

*Land Use Goal 1 – Provide for the orderly growth and accompanying development of the resources within the County that is compatible with a rural lifestyle.*

The operation of the proposed facility is minimally staffed with low traffic impact during operations. The facility itself is quiet and will emit no odors or generate harmful byproducts.

*Economic Objective 12 – Encourage Idaho Power to make additions to and improvements of electric utility facilities that provide adequate capacity for projected growth.*

This Project is located adjacent to the existing Idaho Power Danskin Substation and will interconnect into this facility. Before the Project can interconnect, Idaho Power will upgrade the facility to accommodate the new solar resource.

*Water Objective 4 – Encourage the use of natural landscaping in order to conserve water. Encourage re-vegetation in disturbed areas.*

During operations, the facility will utilize minimal water if any. This will be a significant reduction in water from the current irrigated agricultural use. Disturbed areas on the solar generation facility that do not contain infrastructure, or roads will be reseeded with dry land seed mix.

### **Commission Finds (Zoning Ordinance):**

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 paid the required fees.

§7-9-3 (B) - The Applicant has filed a Master Site Plan and paid the required 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 an Environmental Checklist identified by Department staff in the pre-application meeting.

§7-9-3 (D) The Applicant has provided the necessary documents for operation of the Site to include a draft Development Agreement. The Applicant and Staff have worked with agencies to ensure that the necessary documents are developed and approved in a timely manner through the proposed Conditions of Approval.

§7-9-3 (E) The application is conditioned to start operations within a reasonable timeline.

§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 Site is located within the Mountain Home Rural Fire District and would have fire protection.

§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 structures or facilities will be within 20 feet of a residential district.

§7-9-4 (E) – The Applicant has provided sufficient information to meet this finding.

§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 adequate information for solar panels and battery storage to ensure that they do not become dangerous or create nuisance.

§7-9-4 (H) – The Application is reviewed to ensure that the facility does not become a nuisance for the surrounding residential properties – either during construction or mainly during operations.

§7-9-4 (I) – The Applicant has provided information that the site is within an Ag District and is owned by a large agricultural operation - Simplot LLC.

§7-9-4 (J) – The Applicant has agreed to comply with any Conditions of Approval required by the decision-making body.

***D. The proposed use complies with the purpose statement of the applicable base zone of Ordinance Section 7-2-5 and with the specific use standards as set forth in this Chapter;***

**Commission Finds:** The Applicant has provided information in the Application to show that the Project complies with the purpose statement for General Agriculture, as defined in Ordinance Section 7-2-5. Electrical generation is compatible with described use of General Agriculture because after decommissioning, the land can be returned to agricultural use. This also serves to protect land for agricultural use in the future. Furthermore, as discussed below, specific use standards outlined in Section 7-2-103 for Electrical Generating Facility, and Section 7-2-106 for Energy Production Facilities are met.

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

**Commission Finds:** The proposal is reviewed by Elmore County review team per standards established in Zoning Ordinance and the CUP Application was transmitted on August 9, 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 District  
Elmore County Ambulance Service  
Elmore County Surveyor  
Elmore County Assessor  
Elmore County Treasure  
Elmore County Economic Development  
City of Mountain Home

***F. The proposed use shall comply with all applicable State and Federal laws, rules and/or regulations.***

***Commission Finds:*** The proposal is reviewed by Elmore County review team per standards established in Zoning Ordinance and the CUP Application was transmitted on August 9, 2024, to the following local, State and Federal 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.

Bureau of Land Management  
Central District Health  
Mountain Home Air Force Base  
State Fire Marshall  
Idaho Department of Lands  
Idaho Power  
Idaho Department of Fish and Game  
Idaho Department of Transportation  
Idaho Department of Agricultural  
Union Pacific Railroad  
Idaho Department of Environmental Quality  
Idaho Air National Guard  
Idaho National Guard  
Idaho Governor's Office of Energy and Mineral Resources

***G. 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 the said area.***

***Commission Finds:*** The proposal from the Applicant shows that the property they want to develop into a solar array farm is located in Elmore County, north and south of Interstate 84 by Exit 90. It is surrounded by public lands to the north and west of project and to the east is Danskin substation and to the south is Interstate 84 and private lands. There will be over 200,000 solar

arrays that will be fenced in with big game corridors through the area to allow animals to move through the properties. There will be a Project Substation on the east side of project that will connect to the Danskin substation.

The project will allow the Applicant to convert solar energy into electricity and support Idaho Power's increasing demand for electricity for supporting future growth in the local area.

There are no residential dwellings within 2,500 ft radius from the project. The Site is conditioned so installation, operation, construction, maintenance, and decommissioning process will ensure that proposed solar electricity generation and production facility with a BESS should be somewhat harmonious in appearance with the general vicinity and character of the area. The area will have some impact on the existing and intended character of the general vicinity.

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

**Commission Finds:** As conditioned, the proposed use will be protected by perimeter fencing to keep people and big game out of solar inverter areas. Noise of solar panels will be under 58 decibels. There are strenuous conditions for reducing construction noise. Therefore, neighboring parcels next to the project (refer to finding #6.) will not be affected by this use. The project will be able to conserve water usage since it will not be using as much water as a farming agricultural property. Therefore, the proposed use will not be hazardous

**I. *The proposed use shall be served adequately by available public facilities and services such as highways, streets, police protections, 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;***

**Commission Finds:** The project is located within Mountain Home Rural Fire District and will not need any special agreement. The Applicant will have to have a fuels management plan and to require and ensure that the site is safe during construction and then after completion as per written response by Fire Marshall Brian Reed.

**J. *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;***

**Commission Finds:** Operation of the facility will not require running water, sewage, under normal operating conditions. Applicant will have portable

toilet service for employees. EMS, fire, and county sheriff will be available if needed. The applicant will be required to enter into a Development Agreement with the County and will be required to pay impact fees.

- K. 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;***

***Commission Finds:*** The Applicant has provided information in the Application that the proposed electric generating facilities, electric transmission line, and production facility will not generate excessive noise or glare, smoke, fumes, or odors during the construction and operation of the facility. The Project is in a rural area of the county and is not near residential facilities as to be a burden to people and businesses. Most of the wildlife may be pushed to the foothills as construction goes on.

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

***Commission Finds:*** The Applicant has provided information in the Application that there will be minimal alterations to the natural landscape and that there are no natural or scenic features of major importance located on the site.

### **Section 7-2-103: Electrical Generating Facilities**

- A. The facility shall use only natural gas, solar cells, water (hydroelectric) or wind power to produce electricity for sale. The use of diesel fuel is allowed only for emergency generation of electricity for fire suppression or winding down turbines.***

***Commission Finds:*** The Applicant provided an Application for a Project that only uses solar energy for power generation. Therefore, the application complies with this requirement.

- B. The owner or operator of the facility shall show compliance with all applicable Idaho Public Utility, and Federal Agency rules and regulations before receiving a zoning permit and shall operate the facility in conformance with those same regulations.***

***Commission Finds:*** The Applicant will comply with all applicable rules and regulations and obtain all required permits and approvals before commencing construction activities. The applicant should provide copies of all permits and approvals to Elmore County prior to commencing construction activities as required in Conditions of Approval.

- C. Facility improvements shall be at least 2,500 feet away from any residence existing at the time of the application for permit. This distance shall be measured from the centerline of the power producing turbine to the closest edge of the residence. The distance may be shortened if the applicant applies for and is granted a waiver using the standards and procedures contained in this ordinance. A distance waiver shall be granted by the Commission provided, the owner(s) of affected residence(s) waive, in writing, the two thousand five hundred (2,500') foot setback requirements. If such waiver(s) are submitted to the Administrator for each residence within the two thousand five hundred (2,500') foot setback no variance approval shall be required.**

**Commission Finds:** There are no residences within the 2,500-foot setback

- D. Operation of the facility shall 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. A higher decibel reading would require a variance unless the Commission grants a noise waiver. The Commission may grant a noise waiver provided the owner(s) of affected property waive in writing the 58Db noise requirement.**

**Commission Finds:** The applicant indicates that the noise from the operating facility is limited to the inverters which have an ambient hum indiscernible outside the fence line; therefore, the facility will be under the 58-decibel level when measured from 750 feet from the edge of the facility.

- E. The applicant, with its building permit application, shall submit and thereafter follow a landscaping, screening and noise control plan to comply with section 4 above. The plan's ability to comply with section 4 shall be certified by a licensed engineer employed by the applicant. All improvements on the facility shall be enclosed by an appropriate security fence.**

**Commission Finds:** The applicant will provide a landscaping plan and post-construction revegetation plan, screening, and noise control plan with its building permit application.

- F. The applicant shall demonstrate and maintain an adequate fire protection and fire-fighting capacity, including entering into an agreement with a public firefighting agency when the applicant's project is within the jurisdiction of such an agency.**

**Commission Finds:** Exhibit 8 is an email correspondence with Fire Marshall Brian Reed where he confirms that since the Project is located within the



Mountain Home Fire District no special agreement is required. Will have to have a fuels management plan to require and ensure that the site is safe during construction and then after completion per written response by Brian Reed.

- G. Before a zoning approval is granted, the applicant shall hold at least two (2) public meetings. Notice of those meetings shall be by publication in local newspaper and by mail to property owners within one (1) mile of the proposed facility.***

***Commission Finds:*** The applicant has held two public meetings, July 8, 2024, and July 9, 2024, and provided proof of public notice.

- H. The Director shall cause the applicant to provide information detailing possible adverse impacts and require mitigation of same.***

***Commission Finds:*** A glint glare study (Exhibit 9), a visual impact analysis (Exhibit 14), on 3/3/2025, and an economic impact analysis (Exhibit 10) was sent to the County via email on 10/15/2024 amended and sent via email on 12/12/2024 and amended and sent via email on 3/12/2025. The Floodplain Development Application is in progress with only minor comments from the Elmore County Engineer.

- I. Towers and structures that seek to exceed the building height restrictions from Table 6-8-11 (C) must be compatible with the flight operations of MHAFFB and the City of Mountain Home and Glenns Ferry public airport operations. The proposed plan should be coordinated and approved by local, state, federal and military aviation officials.***

***Commission Finds:*** Please see correspondence from Capitol Aerospace in Exhibit 11. That confirms there are no military training routes or airspace in proximity to the solar project.

- J. Towers and height variances shall not be granted within 5 miles of Mountain Home AFB or along depicted flight corridors.***

***Commission Finds:*** Structures are not within 5 miles of Mountain Home AFB or along depicted flight corridors, therefore a variance will not be requested.

- K. Within the Mountain Home or Glenns Ferry airport influence areas overlay district, the height limits on the tower or facility structures shall be as required by the Code of Federal Regulations 14 CFR 77.***

***Commission Finds:*** The project is not within the Mountain Home or Glenns Ferry airport influence overlay districts.

***L. Notification distance shall be increased at the discretion of the Director to accommodate for visual impacts.***

**Commission Finds:** The Director requested a notification distance of one mile; the applicant used the notification distance of one mile during the outreach process.

## **REQUIRED FINDINGS FOR MASTER SITE PLAN PER ZONING ORDINANCE § 10-6-4**

### ***Section 10-6-4 General Required Standards:***

#### ***A. Location of Structures on the site;***

**Commission Finds:** The Master Site Plan identifies the placement of solar modules, battery energy storage system ("BESS"), temporary laydown yard, operation and maintenance ("O&M") gen-tie facilities, and access roads.

#### ***B. Non-Vehicular Access and Internal Circulation;***

**Commission Finds:** The Project does not allow public access to the site.

#### ***C. Automobile Access and Internal Circulation;***

**Commission Finds:** The Master Site Plan identifies access from public roads and shows the internal roads within the Project.

#### ***D. Additional - Street Parking Design Standards:***

**Commission Finds: Staff Response:** The project does not allow public access to the site.

### ***Section 10-6-5 Natural Features Analysis:***

**Commission Finds:** See Exhibit 13 that includes the reports completed for the Site.

### ***Section 10-6-6 Other required standards, in regard to:***

#### ***A Screening:***

**Commission Finds:** In accordance with Section 7-2-103 Crimson Orchard will submit with it building permit application, a landscaping, screening and noise control plan.

### ***B. Drainage:***

**Commission Finds:** Crimson Orchard will need to obtain a construction stormwater permit under the Idaho Pollutant Discharge Elimination System. A Storm Water Pollution Prevention Plan ("SWPPP") will be prepared as part of the permit.

### ***C. Water Supply and Sewage Disposal:***

**Commission Finds:** The Project will not rely on County utilities and will obtain necessary permits to install any wells or septic system to serve the water and sewer requirements of the O&M building.

### ***D. Filling, Excavation, and Earthmoving:***

**Commission Finds:** Grading will be minimized to the greatest extent practical. Crimson Orchard will need to obtain a construction stormwater permit under the Idaho Pollutant Discharge Elimination System which will include requirements for erosion and sediment control. A Storm Water Pollution Prevention Plan ("SWPPP") will be prepared as part of the permit and will include the temporary and permanent Best Management Practices ("BMP") to protect and preserve the topsoil at the Project Site when earthmoving activities, excavation or trenching are taking place during grading, road construction, cable installation, foundation installation. Grading will be minimized to the extent practicable.

### ***E. Irrigation Services and Delivery Systems:***

**Commission Finds:** No irrigation services are required at the site.

### ***F. Utilities:***

**Commission Finds:** The Project will not rely on County utilities and will obtain necessary permits to install any wells or septic system to serve the water and sewer requirements of the O&M buildings. The Project will connect to the existing 230kV Danskin Substation via a short overhead generation transmission line from the new Project Substation located within the Project boundary to the west.

### ***G. Maintenance:***

**Commission Finds:** The Project will require asset management which will include staff onsite to monitor the site and do preventative and corrective maintenance as well as other operational functions.

## **COMMISSION RECOMMENDATION**

The proposed use, along with proposed Master Site Plan and proposed Conditions of Approval, complies with the requirements of the Elmore County Zoning Ordinance. Based on the evidence presented at the public workshop, agency meetings, and Applicant meetings. Staff recommends approval of the proposed Conditional Use Permit (CUP-2024-18) with a Master Site Plan, Decommission Plan, and Development Agreement DA-2025-02.

## **PROPOSED CONDITIONS OF APPROVAL (29)**

1. A Conditional Use Permit (CUP-2024-18) shall be granted to Crimson Orchard Solar LLC, to construct and operate a 100-megawatt alternating current (MWac) utility scale solar generation facility and a 100MWac Battery Energy Storage System that will include solar arrays, a battery storage, a temporary laydown yard, Operations and Maintenance (O&M) facilities, access roads, and associated facilities.
2. Within ninety (90) days of the Planning and Zoning Commission signing the Findings of Facts, Conclusions of Law, and Order for CUP-2024-18, the Applicant shall provide a fully executed Development Agreement to the County Land Use and Building Department (the “**Department**”). The Applicant may request an extension of this requirement, should failure to execute the Development Agreement be caused by delay outside of the Applicant’s control.
3. All development, operation, and decommissioning of the Site shall comply with Conditions of Approval of CUP-2024-18, terms of the associated Development Mitigation Agreement (DA-2025-02), Administrative Decision for Floodplain Development Permit (ADD-2024-17 through 19), 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-2024-18 Title 7 Chapter 16 of the Zoning Ordinance
4. All Conditions of Approval of CUP-2024-18 and terms of DA-2025-02 shall be appurtenant to and run with the Site and shall be binding upon Crimson Orchard Solar LLC, the parties hereto, their heirs, transferee, successors, and assignees. Crimson Orchard 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-2025-02.
5. The Applicant shall commence construction of the Project within two years of approval of CUP-2024-18 and complete construction within five years of approval of CUP-2024-18.

6. The Applicant shall install low glare solar panels with anti-reflection technology to help minimize glare.
7. Once the construction commences, the Applicant shall provide proof of a surety, to ensure completion of all improvements as required by the County and this Conditional Use Permit. The requirements of such surety will be further outlined in DA-2025-02.
8. 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-2024-18 and DA-2025-02 along with the appropriate application fee at the time of submittal.
9. 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.
10. 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. Applications must be approved before Building Permits are issued.
11. Prior to commencing any construction activity, the Applicant shall comply with 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.
12. Prior to commencing any construction activity, the Applicant shall submit to the County Engineer a copy of the Storm Water Pollution Prevention Plan (SWPPP) submitted to IDEQ.
13. Prior to commencing any construction activity, the Applicant shall be required to provide proof of water supply, if applicable, for all uses within the Master Site Plan and operation of the Project to the Department.
14. Prior to commencing any construction activity, the Applicant will either enter into an agreement with the Mountain Home Highway District or provide evidence that the Mountain Home Highway District is not requiring such an

agreement. The Applicant shall provide a copy of this agreement, or proof that no such agreement is required, to the Department prior to applying for any development or building permit.

15. 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.
  16. Prior to commencing any construction activity, including roads, the Applicant shall submit a Private Roadway Application to the County for the internal roads. The private roads and associated drainage design shall meet the current standards of the County and Mountain Home Highway District. Approval from the County 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 County. The purpose of this condition is to ensure access for emergency services and project employees. Pursuant to Zoning Ordinance 10-5-4(F), the County Engineer may approve alternative road standards considering the non-public access nature of this Site and the limited need for emergency services access.
  17. 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 topographic information approved by the County Engineer.
- [Prior Condition No. 18 deleted and incorporated into Condition No. 20]
18. 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.
  19. All improvements for the Site shall be enclosed by an appropriate security fence as identified in this CUP Application and Master Site Plan.
  20. The Applicant shall submit a Landscaping Plan for the Site 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 recommended seed mixture for revegetation during and post-construction, fire-wise landscaping, continuous noxious weed-management, 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 an annual basis of its compliance and any time a code violation complaint is received.

21. Applicant shall comply with all State and Federal laws as it relates to impacts to protected species and plants. The Applicant shall do the following to minimize or avoid potential impacts to birds, bats, game, and natural habitat of the Site and its surrounding areas:
  - Continue to engage and share information with the County, on Project programs implemented to minimize impacts to wildlife and natural habitat.
  - Applicant shall not construct or maintain any facilities on the area where suitable habitat for slick spotted peppergrass is present.
  - Applicant shall not conduct pile driving or blasting activity from December 15<sup>th</sup> to April 15<sup>th</sup> 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.
  - Make sure big game corridors are kept clear of debris.
22. The Applicant shall stop all construction activities within the vicinity of any finds at the Site, if any unknown subsurface cultural or archaeological finds are encountered during Project construction the Applicant shall follow Inadvertent Discovery Guidance and have a Certified Archaeologist study the area.
23. 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.
24. The Applicant shall obtain written approval from Mountain Home Rural Fire District, Central District Health, and Mountain Home 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.
25. Prior to commencing the use, the Applicant shall provide access code for gate lock to the Department, Emergency Medical Services, Elmore County Sheriff, and Mountain Home 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-2025-02 and the Department, Emergency Medical Services, Elmore County Sheriff, and Mountain Home Rural Fire District shall be provided new access codes.
26. The Applicant shall construct, maintain, and operate the Site in compliance with all federal, state, and local regulations at all times.

27. The Applicant shall provide a Decommissioning Plan that meets the requirements of the Development Agreement and this Conditional Use Permit. Any failure to abide by the terms of the Development Agreement and Decommissioning Plan will result in the revocation of CUP-2024-18.
28. Failure to comply with any of the above Conditions of Approval, the terms of the Development Agreement, and the terms Decommissioning Plan, shall result in the revocation of the CUP-2024-18, after compliance with applicable state law and county code requirements.
29. Applicant shall comply with requirements with Mountain Home Rural Fire Department as detailed by correspondence from Brian Reed dated 06/24/2024, which includes the requirement to maintain a fuels management plan.

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	NAY

\_\_\_\_\_  
Patti Osborn, Chairman

**ATTEST:**

\_\_\_\_\_  
James Roddin, Co-Interim Director

\_\_\_\_\_  
Johnny Hernandez, Co-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.