



MaLand Use and Building Department

Findings of Fact, Conclusions of Law, and Order

Application: Conditional Use Permit-2024-16

Hearing Date: July 25, 2024

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of a conditional use permit to)	CUP-2024-16
allow a Vehicle Impound Yard in the General)	
Agriculture (AG) Zone per Elmore County)	FINDINGS OF FACT,
Zoning Ordinance §7-2-214 Located at TAX)	CONCLUSIONS OF LAW,
1 in Lot 7 Desert Edge Ranch (7079 SW Old)	AND ORDER
Grand View Highway) in Elmore County.)	
)	
)	

In Re: Conditional Use Permit 2024-16: This matter having come before the Planning and Zoning Commission of Elmore County, Idaho (the “**Commission**”), on July 25, 2024, for a public hearing held pursuant to public notice as required by law, on a request for a Conditional Use Permit 2024-16 (the “**CUP**”) in an AG or General Agricultural zoned property (the “**Application**”) on Parcel RP0004400007B. The Application is for a Vehicle Impound Yard. Elmore County Zoning Ordinance §7-2-214 allows for a Vehicle Impound Yard with a conditional use permit in the General Agricultural (AG) base zone. The property consists of 4 acres located at TAX 1 in Lot 7 Desert Edge Ranch (7079 SW Old Grand View Highway) and is zoned General Agricultural (AG) (the “**Site**”). The Commission heard from staff and the applicant in support of the Application. There were two (2) citizens that signed up to comment in favor of CUP. Staff received five (5) letters with four (4) being in favor of the CUP and one (1) that asked questions of the Applicant. 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 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 and the analysis and recommendations of the Elmore County Land Use and Building Department (the “**Department**”) record.

I. The Commission finds that Application is comprised of:

1. Application form prepared and submitted by William Geib/Boise Off-Road

Towing (the “**Applicant**”) for the Conditional Use Permit; and

2. Payment of Application Fee of \$400.00 was waived by the Board of County Commissioners on June 21, 2024.

II. The Commission finds that the Applicant is:

William Geib/Boise Off-Road Towing
7079 SW Old Grand View Highway
Mountain Home, ID 83647

III. 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 May 24, 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 May 24, 2024, to neighboring property owners within three hundred (300’) foot radius, 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 June 3, 2024.
- IV. On June 25, 2024, the Land Use and Building Department accepted a Conditional Use Permit application, and the required fees per § 7-9-3 (A) (B) (fees were waived Board of County Commissioners June 21, 2024) of the Zoning Ordinance.
- V. On July 2, 2024, the Department deemed the Application complete and set the matter for a Public Hearing on July 25, 2024.
- VI. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to landowners within the required three hundred (300’) foot radius of the property on July 3, 2024.
- VII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Department mailed Public Hearing Notices to agencies on July 3, 2024.
- VIII. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on July 10, 2024.
- IX. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on July 17, 2024.

- X. The Commission opened the public hearing on July 25, 2024. There were five (5) written notifications and two (2) verbal notifications 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 approved the Conditional Use Permit to allow a Vehicle Impound Yard in the General Agriculture (AG) base zone and is the Commission's decision on the application is as set forth on the signature page below.

IV. The Commission finds the proposed use of the Application as follows:

The submitted Conditional Use Permit application for a Vehicle Impound Yard in the General Agriculture (AG) base zone in Elmore County.

V. The Commission finds the following facts and circumstances pertaining to the Site:

A. Site Description: TAX 1 in Lot 7 Desert Edge Ranch

Parcel Number: RP00044000007B

B. The "Owner" of the Site is:

Rose Geib
7079 SW Old Grand View Highway
Mountain Home, ID 83647

C. Applicant's Right to the Site is: Owner of the Property

D. Site Characteristics:

Property Size: 4 acres

Existing Structures: 40'L X 45'W sea container with cover
56'L X 30'W residential

Existing Vegetation: Gravel

Slope: None

Flood Zone Status: Not in a Flood Zone

Irrigation: No irrigation lines on site

Views: Desert

VI. The Commission finds the current zoning of the Site is as follows:

Based on the officially adopted Elmore County land use maps 2017-01, the Comprehensive Plan, and the Zoning Ordinance, the current zoning for the site is General Agricultural (AG).

VII. The Commission finds the surrounding land use and zoning designations are as follows:

- A. Based on the officially adopted Elmore County land use maps, the Comprehensive Plan, and the Zoning Ordinance, the surrounding land use and zoning are as follows:
 - a) North: Desert; Zoned AG General Agricultural
 - b) East: Residential; Zoned AG General Agricultural
 - c) South: Out building Zoned AG General Agricultural
 - d) West: Residential; Zoned AG General Agricultural

VIII. The Commission finds the existing services and access to the proposed site are as follows:

- A. Based on the officially adopted Elmore County land use map 2017-01 and materials found in the Department's file for Application, CUP-2024-16, the following facts concerning services and infrastructure, are not in dispute and are adopted as finding of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):
 - a) Access Street and Designation: Old Grand View Highway
 - b) Highway District: Mountain Home Highway District
 - c) Fire Protection: Mountain Home Rural Fire Department
 - d) Sewage Disposal: Existing structure has a private septic system
 - e) Water Service: Existing structure has a private well.
 - f) Refuse Disposal: Applicant will be responsible for obtaining and maintaining appropriate refuse disposal.
 - g) Drainage Structures: No drainage structures for the proposed use are planned or required at this time.

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.

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

- a) Comprehensive Plan, Elmore County 2014 Comprehensive Plan, adopted as Resolution 562-15 on January 20, 2014 (the “Comprehensive Plan”); and
- b) Zoning Ordinance, adopted May 18, 2018, as Ordinance 2018-03; and
- c) The Local Land Use Planning Act, Idaho Code § 67-6501 et seq.

X. The Commission finds the following regarding the Comprehensive Plan.

A. That the Comprehensive Plan Future Land Use Map (Map 4) has the proposed property classified as Highway/Interstate Commercial.

B. The Application is in conformance with the Comprehensive Plan vision and policies for property owner rights.

XI. The Commission finds the following regarding the Zoning Ordinance.

A. The Elmore County Zoning Ordinance is the document governing the Site.

B. In order to approve a Conditional Use Permit application, the Zoning Ordinance provides that the Planning and Zoning Commission make a decision on allowing a vehicle impound yard in an AG zoned property. The Conditional Use Permit standards are found in Section 7-9-7 of the Zoning Ordinance.

REQUIRED FINDINGS FOR CONDITIONAL USE PERMITS PER ZONING ORDINANCE SECTION 7-9-7:

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

Commission Finds: The parcel is Zoned AG and Table 7-2-26(B) requires a conditional use permit for a vehicle impound yard in AG Zone. The Applicant has met this condition by applying for CUP-2024-16.

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:

Commission Finds – Comprehensive Plan: Staff analyzed sections of the Comprehensive Plan for a Conditional Use Permit and with as many county roads, highways, and an interstate going through Elmore County, it would be in the best interest to have another towing company with a laydown yard in Elmore County. Applicant will be removing vehicles that have been in accidents or disabled on the highways, roads, and interstate and transport these vehicles to a proper place or take them to his laydown yard on his property Zoned AG. The Comprehensive Plan Community Service Goal 1 states to protect and maintain Elmore County's quality lifestyle by enhancing existing public safety. Keeping abandoned and wrecked vehicles off the roadway. These four (4) acres parcel is desert land with sagebrush, except where the Applicant has put up a fence, graded property, and put gravel on the property. The Comprehensive Plan Agriculture Objective states to: 1) Avoid encroachment of incompatible land uses near agricultural lands. There is no agricultural land near this parcel. 2) Support the expansion of existing agricultural operations within the County. There is no agricultural land near this parcel. 3) Support programs that diversify agricultural operations within the County, including but not limited to timber production. Furthermore, the proposed use and proposed conditions are consistent with the relevant Comprehensive Plan goals and objectives for private property rights. As discussed further below, the proposed use will maintain the property consistent with surrounding lands in the base zone.

Commission Finds – Zoning and Development Ordinance: As stated above, the proposal complies with Agriculture (AG) zone and allowed use with a conditional use permit. The Applicant has met all the pre-application and application requirements for a conditional use permit and the proposed use complies with the Special Use Standards for Vehicle Impound Yard pursuant to Zoning Ordinance § 7-2-214 as discussed below.

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:

Commission Finds: The purpose statement for the General Agricultural base zone AG is found in Zoning Ordinance 2018-03. Section 7-2-5(A), providing:

General Agriculture: 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 "Ag" land use designation is the base zone throughout Elmore County. It contains areas of productive irrigated croplands, grazing lands, forestland, mining lands, public lands as well as rangeland and ground of lesser agricultural value.

The General Agriculture zone AG allows a variety of uses that may require a Conditional Use Permit. The proposed Vehicle Impound Yard is consistent with CUP uses in the applicable base zone with the required conditions staff proposes. The proposed use complies with the Special Use Standards for a Vehicle Impound Yard pursuant to Zoning Ordinance § 7-2-214 as discussed below.

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

Commission Finds: If approved, staff has proposed conditions to ensure this application meets all applicable County Ordinances. The six (6') foot high fence has already been installed with a locking gate, ordinance says fence is supposed to be a ten-foot high (10') The vehicle impound yard is approximately four hundred thirty-five feet (435') from road right-of-way of Old Grand View Highway, ordinance says the yard must be one-thousand feet from highway. Compliance will be followed by law enforcement when going out to property to inspect vehicles or investigate the vehicle. Furthermore, the application was transmitted to, and reviewed by affected agencies.

- Mountain Home Highway District
- Mountain Home Rural Fire District
- Elmore County Sheriff Department

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

Commission Finds: The use, subject to the conditions, will ensure the use meets all state and federal requirements. In addition, the Application was transmitted to, and reviewed by affected agencies.

- Department of Environmental Quality
- Central District Health

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:

Commission Finds: The project site is off Old Grandview Highway and is predominantly General Agricultural. The property is zoned Agriculture. Staff believes the proposed use does not present significant impacts or substantial changes to the essential character of the said area.

Aesthetically, the proposed use will not change existing views from the west, east, north, or south. The site plan shows the vehicle impound yard is in the back corner of the property out of sight from the road. The area is fenced in and locked. The Application, with the proposed Conditions, will be operated and maintained in such a way as to be harmonious and appropriate in appearance with the existing and intended character of the general vicinity and will not change the essential character of the area. The Applicant mentions that the wrecked vehicles will usually be removed from the site within a month of showing up.

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

Commission Finds: The proposed use will not impede normal development within the area. This is zoned Agriculture which allows a series of uses, similar to this one, with a condition use permit. Staff provides the Commission with conditions of approval to ensure that the proposed use does not become 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:

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

Highways/Roads – Old Grandview Highway is maintained by the Mountain Home Highway District

Fire Protection – The Applicant’s property is in the Mountain Home Rural Fire District.

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 structure has a private well and septic system.

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:

Commission Finds: All on-site improvements will be funded by the Applicant. Agencies that could potentially be impacted by this Conditional Use have been notified; at this time there have not been any notable comments submitted to the Department.

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:

Commission Finds: There will be nothing out of the everyday sights, sounds, and smells that rival the current truck, tractors, and animals of nearby neighbors sounds and odors.

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

Commission Finds: The property is not on or near a scenic feature of major importance.

In addition to the findings required for a conditional use approval, the Commission shall make the following findings to grant approval of a Vehicle Impound Yard, the required findings are as follows:

REQUIRED FINDINGS FOR VEHICLE IMPOUND YARD PER ZONING ORDINANCE 7-2-214:

1. Screening:

- a. Outdoor storage and outdoor activity areas shall comply with this Chapter. The fence or wall and screening materials shall be a minimum of ten (10') feet in height.
- b. No portion of the vehicle impound yard outdoor storage areas and/or outdoor activity areas may be visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined.

- c. All materials or parts shall be stored and located within the fenced or walled area. No vehicles or materials shall be stored so they exceed the height of the fence or wall.

Commission Finds:

- a. The Applicant's current property fence is six (6') feet high. In order to ensure compliance with this Screening Standard, the Commission has reviewed and recommended approval for a Variance to the Board and required its approval as a Condition of Approval for this CUP, that the Applicant receive a Variance to allow them to use a six (6') fence as opposed to ten (10') as herein required.
- b. The proposed Vehicle impound yard is set at the back of the property and can hardly be noticed from Old Grandview Highway (Exhibit H).
- c. The Applicant will have materials, vehicles, and parts located inside the locked fenced in area.

2. Related Standards:

- a. All structures or outdoor activity areas shall be located a minimum of three hundred (300') feet from any property line. The use shall be located a minimum of one thousand feet (1,000') from any residential district.
- b. No person shall establish, operate, or maintain a vehicle impound yard, any portion of which is within one thousand (1,000') feet of the nearest edge of the right of way and visible from any "highway", "interstate", "principal arterial", or "minor arterial" as herein defined.
- c. The use shall comply with the flood hazard overlay as set forth in this Title.

Commission Finds:

- a. The zoning is Agricultural (AG) and there are no residential districts within the thousand (1,000) feet of this vehicle impound yard. There are no outdoor activity area or structure within the three hundred (300') feet.
- b. The impound yard is approximately four hundred thirty-two (432) feet from the road right-of-way. In order to ensure compliance with this Standard, the Commission has reviewed and recommended approval for a Variance to the Board and required its approval as a Condition of Approval of this CUP, that the Applicant receive an approval of a Variance from this standard.
- c. Property is not located in a FEMA mapped floodplain (Exhibit G).

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that the proposed CUP-2024-16 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

Based on evidence presented at the July 25, 2024, public hearing, the Commission APPROVED CUP-2024-16 with the following conditions of approval:

1. Conditional Use Permit 2024-16 shall be granted for a Vehicle Impound Yard to Mr. William Geib, Boise Off-Road Towing, in Agriculture (AG) zone on Parcel RP00044000007B.
2. The Applicant shall commence operations within a year of the CUP approval; otherwise, the Condition Use Permit approval expires and is null and void.
3. The use shall comply with all requirements of Title 7, Chapter 2, Section 214, and Title 7, Chapter 9 of the Elmore County Zoning and Development Ordinance 2018-03 at all times.
4. The Vehicle Impound Yard shall not have any employees except the Applicant of the CUP at the site. The vehicle impound yard shall not have any customers on the site except the owner of the vehicle or insurance company employees.
5. Storage of excessive vehicles is not permissible. At any given point in time, the property shall not have more than 50 vehicles on the site.
6. Any wrecked vehicle shall be removed from the site within 90 days of its arrival. Unless there is an ongoing investigation of the vehicle by any State, County, or City law enforcement. The Applicant must keep a letter from that agency that there is an ongoing investigation with a vehicle requiring it to stay beyond 90 days for showing the Land Use and Building Department upon request.
7. The Applicant shall obtain a building permit for an Office Building/Shop and a Private Driveway Application prior to commencement of the use as well as any other permits for structures and/or improvements on the property.

8. Prior to commencement of the use, the Applicant shall receive an approval of Variance for the screening fence as required by Zoning Ordinance 7-2-214(A)(1).
9. Prior to commencement of any construction within 1000' of the road right-of-way of Old Grandview Highway, the Applicant shall receive an approval of a Variance for the setback requirement of Zoning Ordinance 7-2-214(A)(B)(2).
10. The Applicant shall maintain the property in a manner that uses, activities, processes, materials, equipment, and conditions of operation are not detrimental to any persons or property.
11. The Applicant shall operate the use in compliance with all local, state, and federal regulations and requirements.
12. Salvaging of vehicles shall not be permitted onsite.
13. All stormwater runoffs shall be retained onsite. Any leakage from the vehicle impound yard must be contained by an absorbent agent and disposed of at an Idaho Department of Environmental Quality approved site.
14. The Applicant shall ensure all property taxes are kept current.
15. The hours of operation for the use are 24 hours for towing on-call. However, when the towing is done after 10pm or before 6am, the Applicant shall ensure that the surrounding homes or uses are not disturbed.
16. The private driveway and access into the vehicle impound yard must be maintained by the Applicant as required by the local fire district.
17. The lighting for the use shall be downward facing and shall not use floodlights creating light pollution for the surrounding homes and properties. The towing truck lights must be turned off as soon as the vehicle has been safely loaded or unloaded from the tow truck.
18. Vehicle alarms shall be turned off between 10pm and 6 am. Any warning alarms that are used while loading or unloading shall be turned off as soon as it is safe too.
19. Any electric vehicle must be placed fifty (50') feet from any other vehicle, building, or anything combustible. There can be no vegetation underneath the vehicle while being stored.
20. Failure to comply with any of the above conditions of approval may result in the revocation of the Conditional Use Permit

Dated this _____ day of _____ 2024

COMMISSION VOTE:

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

