

## **FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS OF THE MADISON COUNTY PLANNING AND ZONING COMMISSION**

### ***RE: Scott Jacobson Conditional Use Permit***

The Madison County Planning and Zoning Commission held a public hearing on May 10, 2012 at 7:30 p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho to consider the Scott Jacobson request for a Conditional Use Permit to have a small car dealership in a Transitional Agriculture Two zone. This building would be located at approximately 4330 W. 3800 S. on 2.08 acres in the Burton area.

The entire meeting was recorded to allow for preparation of a transcribable verbatim record of the hearing. No media were in attendance at the meeting.

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Chairman Bill Squires, Ed Williams, Jolene Sutton, Dean Peterson, Doug Sakota, Kevin Willmore, Matt Hartline, Mike Munns and Millie Andrus. Those unable to attend were: Vice Chairman Anthony Merrill, Kay Burrell and Rick Robertson. Planning and Zoning Administrator Brent G. McFadden, Coordinator Shauna J. Ringel and Legal Counsel Troy Evans also attended.

The public hearing was called to order by Chairman Squires. Shauna J. Ringel acted as clerk for the meeting. Chairman Squires questioned Mr. McFadden as to whether or not notices of the hearing had been properly published, posted and provided. Mr. McFadden stated all required legal notices had been given. The Chairman asked if there were any conflicts of interest. None were stated.

A summary of this discussion at the hearing is attached hereto and incorporated herein.

Scott Jacobson, 4330 W. 3800 S., Rexburg gave the presentation on behalf of his Conditional Use Permit. The presenter was asked questions by the Commission.

After hearing the presentation by the Planning and Zoning staff, and from the applicant on behalf of the Scott Jacobson Conditional Use Permit, the Chairman asked for those in favor, in neutral, or opposed to the proposal to come forward and be heard. Chairman Squires reminded

the citizens in attendance that they must sign up on the appropriate lists if they wished to speak.

Those in favor were: None

Those in neutral were: None

Those opposed were: None

No written correspondence was received.

There being no further comments, the public hearing was closed. The Planning and Zoning Commission noted that any recommendations they would make would be tentative, pending final approval from the Board of County Commissioners. The Commission then deliberated the Scott Jacobson request for a Conditional Use Permit to have a car dealership in a Transitional Agriculture Two zone.

Having given due consideration to the application and evidence presented, the Planning and Zoning Commission hereby makes the following findings of fact:

#### FINDINGS OF FACT

- 1) A public hearing was held May 10, 2012 to take the testimony on a requested Conditional Use Permit. This proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.
- 2) Notice was published in the legal County newspaper, the Standard Journal, April 21, 2012 as required. The published notice included an appropriate and accurate summary of the issues to be heard. Copies of the notices were made available as requested and were provided to political subdivisions within the planning jurisdiction at least 15 days prior to the hearings. Copies of the notice were sent to all residents within the 350 feet, as required, on April 27, 2012.
- 3) At the beginning of the hearing, Chairman Squires asked whether proper notice of the hearing had been provided. The Planning and Zoning staff answered in the affirmative, discussing what notices had been provided.
- 4) The Public hearing was scheduled at 7:30 p.m. all as set out in the published notice, as described above.
- 5) The meeting agenda was available prior to the meeting, and the public hearing followed the order of events listed on the agenda.

The Planning and Zoning Administrator gave an explanation of the subject of the public hearing. An opportunity was provided for the applicant and members of the public to present testimony, which was followed by members of the Planning and Zoning Commission. Public testimony was closed after all present had been given an opportunity to submit oral or written testimony. Reasonable time limit was imposed on oral testimony.

- 6) Unified Development Code, Chapter 1 General Provisions, Section 1.4.3. outlines the purposes of a Conditional Use Permit standards as follows:
- A. Will, in fact, constitute a conditional use as established in this Title for the zoning designations involved, in that it is not already defined as a permitted use.
  - B. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and the Unified Development Code.
  - C. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
  - D. Will not be hazardous or disturbing to existing or future neighboring allowed uses.
  - E. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
  - F. Will not create excessive additional requirements at public cost for public facilities or services, and will not be detrimental to the economic welfare of the community.
  - G. Will not involve uses, activities, processes, materials, equipment or 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.
  - H. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
  - I. Will not result in the destruction, loss or damage of a natural scenic or historical feature of major importance.

- 7) The following points were factors in the recommendation of approval by the Planning and Zoning Commission to the County Commissioners.
  - Mr. Jacobson has a fairly large driveway and would not be crowded.
  - Other home businesses are operating as his neighbors.
- 8) Approval of the proposed Conditional Use Permit change is in the best interests of the people of Madison County.

### **CONCLUSIONS AND RECOMMENDATIONS**

1. Notice of the Public Hearing held to consider approval of the Conditional Use Permit was published and provided as is required by Idaho Code §§ 67-6509 and 67-6511.
2. The Public Hearing was held to consider approval of the proposed Conditional Use Permit and was conducted in accordance with the requirements of Idaho Code §§ 67-6509 and 6511 as well as Unified Development Code, Chapter 1 General Provisions, Section 1.4 Conditional Use Permit.
3. A transcribable verbatim record was made and kept of the Public Hearing held to consider approval of the Conditional Use Permit, in accordance with the requirements of Idaho Code §§ 67-6536.
4. The proposed Conditional Use Permit is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et. seg.*
5. Approval of the proposed Conditional Use Permit change is in the best interest of the people of Madison County, Idaho.
6. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

**Commission member Jolene Sutton made the motion to approve the request for a conditional use permit with the following conditions:**

- 1. Must be licensed by the State**
- 2. No more than 3 cars for sale at a time**

3. Hours of operation would be eight a.m. until nine p.m., Monday through Saturday
4. Must have annual review and pay the review fee
5. No lighted signage

**Commission member Matt Hartline seconded the motion. The vote was unanimous.**

### CONCLUSION

Based upon the foregoing Findings of Fact, Conclusions and Recommendations, the planning and zoning procedures conducted throughout the county, the comments received at the public hearing held hereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends approval of the requested Conditional Use Permit.

The applicant may appeal, in writing, this decision of the Commission relative to the decision taken by the Commission, as long as the appeal is submitted to the Board of County Commissioners within twenty-eight (28) days from such Commission action, per the Unified Development Code, Chapter 1 General Provisions, Section 1.6 Appeals.

Dated this 16th day of May, 2012.

PLANNING AND ZONING COMMISSION  
MADISON COUNTY, IDAHO

Bill Squires, Chairman

ATTEST: Brent G. McFadden, Planning and Zoning Administrator

**Adoption of Findings of Fact by  
Madison County Board of County Commissioners**

Based upon the foregoing Findings of Fact, Conclusions and Recommendation of the Planning and Zoning Commission, and based upon the Board of County Commissioners' (Board) review thereon, pursuant to Unified Development Code, Chapter 1 General Provisions, Section 1.4, and Idaho State Code §§ 67-6509, 67-6511, *et seq.*, the Board hereby approves the Findings of Fact and Conclusions of Law presented by the Commission and approves this action based thereon. The applicant is hereby given notice that it has the right to request a regulatory taking analysis pursuant to Idaho Code §67-8003.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012.

BOARD OF COMMISSIONERS  
MADISON COUNTY, IDAHO

\_\_\_\_\_  
Kimber Ricks, Chairman

\_\_\_\_\_  
Jon Weber, Commissioner

\_\_\_\_\_  
Todd Smith, Commissioner

ATTEST:

\_\_\_\_\_  
Kim H. Muir, Clerk

**CLERK'S CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this \_\_\_ day of \_\_\_\_\_, 2012, I mailed a true and correct copy of the foregoing to the parties named below, by the means shown, and addressed as follows:

Scott Jacobson  
Property Owner  
401 Maple Drive  
Rexburg, Idaho 83440

Hand Delivery  
 Facsimile  
 U.S. Mail

Others, if any, please see attached sheet.

/s/ Kim H. Muir  
Clerk

Shauna J. Ringel, Deputy Clerk