

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

***Re: Boyd Baggett - Conditional Use Permit***

The Madison County Planning and Zoning Commission held a public hearing on September 8, 2016, at 7:00 p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho to consider the request of Boyd Baggett for a Conditional Use Permit for the purpose of having a duplex dwelling located on property zoned Transitional Agriculture. This duplex dwelling would be located at approximately 1071 South 7<sup>th</sup> East on 4.319 acres in the Sugar City, Idaho area. The legal description of this property is as follows:

Parcel 1: Lot 2 of Aldo Park Subdivision, Madison County, Idaho, as shown on the Plat recorded March 27, 2000, Instrument No. 283244. Excepting the East 20 feet.

Parcel 2: The East 20 feet of Lot 2 of Aldo Park Subdivision, Madison County, Idaho, as per the recorded plat thereof for a bridal path.

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

The following members of the Madison County Planning and Zoning Commission ("Commission") were present at the public hearing: Arlene Anderson, Matt Hartline, Anthony Merrill, Doug Sakota, Bill Squires, Shane Sutton, Aaron Swenson, and Ed Williams. Those excused were Mark Hansen, Mike Munns, Rick Robertson and Christy Swenson. Planning and Zoning administrator Brent McFadden, legal counsel Troy Evans, and coordinator Judy Coy also attended. In the absence of Chairman Rick Robertson, Vice Chairman Aaron Swenson conducted the meeting.

The public hearing was called to order by Vice-Chairman Aaron Swenson at 7:06 p.m. Judy Coy acted as clerk for the meeting. Vice-Chairman Swenson questioned Judy Coy as to whether or not notices of the hearing had been properly published, posted and provided. She stated that all required legal notices had been given. Vice-Chairman Swenson asked if there were any conflicts of interest. Anthony Merrill disclosed that the applicant had contacted him regarding this because they were neighbors. Mr. Merrill told him to come prepared to the hearing and that he had not made up his mind on this matter until after hearing all the facts. Mr. Merrill discussed this with legal counsel and both determined it was fine for him to participate in this matter. As such, no conflicts existed in the Commission members.

Boyd Baggett gave the presentation on behalf of his Conditional Use Permit application. He was asked questions by the Commission.

After hearing the presentation by the Planning and Zoning staff, and from the applicant on behalf of the Boyd Baggett Conditional Use Permit, Vice-Chairman Swenson asked for those members of the public in favor, in neutral, or opposed to the proposal to come forward and be heard. Vice-Chairman Swenson 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 neutral were – Kirsten Ruebush  
Those opposed were - None

There was no written correspondence received regarding the Conditional Use Permit application.

A summary of the discussion at the hearing is attached hereto and incorporated herein. See the attached September 8, 2016 public hearing record attached hereto and incorporated by this reference herein.

There being no further comments, the public hearing portion was closed at approximately 7:19 p.m. 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 Boyd Baggett request for a Conditional Use Permit to construct a duplex dwelling on transitional agricultural zoned property, taking into consideration the hearing factors contained in Madison County Unified Development Code, Part II, Chapter 102-1(3) regarding conditional use permits.

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 September 8, 2016 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, on August 26, 2016 and again on September 2, 2016 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 foot buffer zone, as required, on August 25, 2016.
3. At the beginning of the hearing, Vice-Chairman Aaron Swenson 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. No conflicts of interest were reported.

4. The public hearing was scheduled at 7:00 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.

### **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 Madison County Code Book, Unified Development Code, Part II, Article V, Chapter 101, sections 101-135, Conditional Use Permit. Pursuant to Madison County's Unified Development Code, section 117-51, duplex dwellings are not allowed in transitional agriculture zones without obtaining a conditional use permit first which was the purpose of this hearing.

3. Madison County Code Book, Unified Development Code, Part II, Article V, section 101-137, and Conditional Use Permit standards and the Hearing Factors contained in Madison County Code Book, Unified Development Code, Part II, Chapter 102, section 102-3, were reviewed by the Commission as follows:

- A. Will, in fact, constitute a conditional use 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. Particulars of the environmental planning instrument or planning proposal applicable to the land and how it will facilitate to the land and how it will facilitate the proposed planning purpose.
- J. Details of a development plan prepared for the land.
- K. Any provisions of the development plan that would modify or display the provisions of uniform development code.
- L. Whether the requisite land owners' consents to the proposed development plan, and the public input obtained on the proposed subdivision.

4. 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.

5. The proposed Conditional Use Permit is an appropriate exercise of the planning and zoning responsibilities established by Idaho Code §§ 67-6501 *et seq.*

6. Approval of the proposed Conditional Use Permit change is in the best interests of the people of Madison County, Idaho.

7. These Findings of Fact and Conclusions of Law are maintained and submitted in accordance with Idaho Code § 67-6509.

**Matt Hartline made a motion to approve the Conditional Use Permit application with the following conditions:**

- 1. An annual review and annual fee of \$25.00 will be required of the applicant.**

**The motion was seconded by Ed Williams and the voting by roll call vote was unanimous in favor. The motion carried.**

### 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 thereon, and the deliberation of the Planning and Zoning Commission, the Commission hereby recommends **approval** of the request for a Conditional Use Permit to the Madison County Commissioners.

Dated this 22nd day of September, 2016.

Planning and Zoning Commission  
Madison County, Idaho



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Aaron Swenson, Vice-Chairman

Attest:



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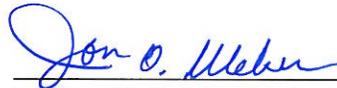
Brent G. McFadden  
Planning and Zoning Administrator

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

Based upon the foregoing Findings of Fact, Conclusions and Recommendations of the Planning and Zoning Commission, and based upon the Madison County Board of County Commissioners (Board) review thereon, pursuant to Unified Development Code, Part II, Chapter 101, section 101-105 through 101-141 and Idaho State Code § 67-6509, 67-5511 *et seq.*, the Board hereby **approves** the Findings of Fact and Conclusion of Law presented by the Commission and approves the action based thereon.

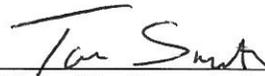
Dated this 11th day of Oct., 2016.

Board of Madison County Commissioners



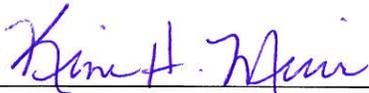
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Jon O. Weber, Commission Chairman

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Kimber O. Ricks, Commissioner



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Todd Smith, Commissioner

Attest:



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Kim H. Muir, County Clerk

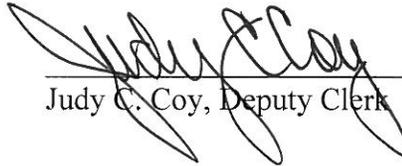
**CLERK'S CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 11<sup>th</sup> day of October, 2016, I mailed a true and correct copy of the foregoing to the parties named below, by the means shown, and addressed as follows:

Boyd Baggett  
1071 South 7<sup>th</sup> East  
Sugar City, ID 83448

( ) Hand Delivered  
( ) Facsimile  
(xx) U.S. Mail

/s/ Kim H. Muir

  
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Judy C. Coy, Deputy Clerk