

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

***Re: Byron Bates - Conditional Use Permit for a Hardship Dwelling***

The Madison County Planning and Zoning Commission held a public hearing on March 24, 2016 at 7:00 p.m. at the Commissioner's Room in the Madison County Courthouse, Rexburg, Idaho, to consider the request of Byron Bates for a Conditional Use Permit for a Hardship Dwelling in a Transitional Agriculture zone and located in the Lyman Townsite. This building would be located at approximately 5896 South 2000 West on .88 acres in the Rexburg, Idaho area.

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: Chairman Rick Robertson, Vice-Chairman Aaron Swenson, Ed Williams, Bill Squires, Mike Munns, Christy Swenson, Arlene Anderson, Shane Sutton and Doug Sakota. Anthony Merrill was the only excused member of the commission. Planning and Zoning Administrator Brent G. McFadden, Legal Counsel Troy Evans, and Coordinator Judy C. Coy also attended.

The public hearing was called to order by Chairman Rick Robertson. Judy Coy acted as clerk for the meeting. Chairman Robertson questioned Judy Coy as to whether or not notices of the hearing had been properly published, posted and provided. Judy Coy and Brent McFadden stated all required legal notices had been given and the property was posted. The Chairman asked if there were any conflicts of interest and none were noted.

Byron Bates 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 Byron Bates Conditional Use Permit for a Hardship Dwelling, the Chairman asked for those in favor, in neutral, or opposed to the proposal to come forward and be heard. Chairman Robertson reminded the citizens in attendance that they must sign up on the appropriate lists if they wished to speak.

Those in favor were: Ted M. Erickson, Elvira Erickson, Aneita Weeks, Erica Bates Alldredge, Byron R. Bates, Leta Bates, Adam L. Alldredge, Janette Clark, Mark R. Alldredge, Ron Lagerstrom, Mark Mortenson and Mel Mortenson.

Those neutral were: David Munns

Those opposed were: Carla Clark, Shawn Clark, Melissa Clark, Kyler Clark, Ryan Clark, Tracy Clark, Jamie Clark, Tiffanie Clark and Kirsten Ruebush.

Written correspondence was received from Aneita Weeks, and Jeffrey and Lori Andersen which are attached hereto..

A summary of the public testimony from the public hearing is attached hereto and incorporated herein. See the attached March 24, 2016 meeting minutes.

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 Byron Bates request for a Conditional Use Permit for a Hardship Dwelling in a Transitional Agriculture zone and located in the Lyman Townsite.

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 March 24, 2016 to take the testimony on a requested Conditional Use Permit.
2. Notice was published in the legal County newspaper, the Standard Journal, March 11th and 18th, 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 feet, as required, on March 9, 2016.
3. At the beginning of the hearing, Chairman Robertson 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 7:00 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, sections 101-135, Conditional Use Permit.
3. This application was for a nonconforming use, under Madison County Code Book, Unified Development Code, Part II, Article I, sections 101-11(h), nonconforming use for hardship dwelling.
4. Madison County Code Book, Unified Development Code, Part II, Article V, section 101-137, Conditional Use Permit standards 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 throughfares.

I. Will not result in the destruction, loss or damage of a natural scenic or historical feature of major importance.

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. seg.*

6. Denial 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.

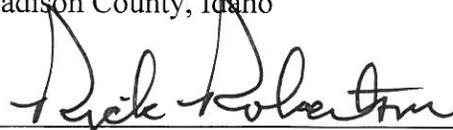
**Mike Munns made a motion to deny the Byron Bates Conditional Use because it did not meet a hardship dwelling per Madison County Code. Aaron Swenson seconded the motion. The vote was unanimous in favor of denying the Conditional Use Permit request for a Hardship Dwelling.**

### 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 **denial** of the request for a Conditional Use Permit for a Hardship Dwelling.

Dated this 14th day of April, 2016.

Planning and Zoning Commission  
Madison County, Idaho



Rick Robertson, Chairman

Attest:



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 25<sup>th</sup> day of April, 2016

Board of County Commissioners



Jon O. Weber Chairman, Commissioner



Kimber O. Ricks, Commissioner



Todd Smith, Commissioner

Attest:



Kim H. Muir, County Clerk

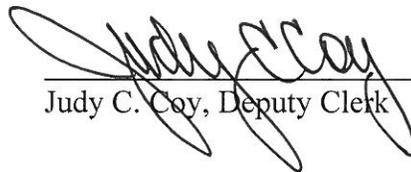
**CLERK'S CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 25<sup>th</sup> day of April, 2016, I mailed a true and correct copy of the foregoing to the parties named below, by the means shown, and addressed as follows:

Byron Bates  
5896 South 2000 West  
Rexburg, ID 83440

Hand Delivered  
 Facsimile  
 U.S. Mail

/s/ Kim H. Muir

  
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Judy C. Coy, Deputy Clerk