

Commissioners Minutes

August 2, 2023 – 1:30 p.m. to 2:46 p.m.

**PUBLIC HEARING – REQUEST BY JUDITH GROSS TRUST AND DOUGLAS GROSS FOR A
CONDITIONAL REZONE, CASE NO. CR2022-0029**

Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek

DSD Planning Official Dan Lister

DSD Planner III Michelle Barron

David Ferdinand

Doug Gross

Ron Amarel

John Hoadley

Keri Smith

Other interested citizens

Deputy Clerk Monica Reeves



PUBLIC HEARING – REQUEST BY JUDITH GROSS TRUST AND DOUGLAS GROSS FOR A
CONDITIONAL REZONE, CASE NO. CR2022-0029

The Board met today at 1:30 p.m. to conduct a public hearing in the matter of a request by David Ferdinand who is representing the Judith Gross Trust and Douglas Gross, for a conditional rezone of parcels R36143 and R36155, approximately 145.48 acres, from an “A” (Agriculture) to a “CR-M-1” (Conditional Rezone – Light Industrial) zone. The request includes a development agreement to limit certain uses allowed in the M-1 zone. Present were: Commissioners Brad Holton, Zach Brooks, and Leslie Van Beek, DSD Planning Official Dan Lister, DSD Planner III Michelle Barron, David Ferdinand, Doug Gross, Ron Amarel, John Hoadley, Keri Smith, other interested citizens, and Deputy Clerk Monica Reeves. Commissioner Holton disclosed that he is the Mayor of Greenleaf and part of this application is located within the Greenleaf area of city impact, and the city did submit comments, but they are not of a nature that would produce any kind of conflict of interest because of financial gain or loss. It is more about policy and those comments are in the record and have been dealt with.

DSD Planner III Michelle Barron gave the oral staff report. The applicant, David Ferdinand, representing Judith Gross Trust and Douglas Gross, is requesting a conditional rezone of parcels R36143 and R36155, approximately 145.48 acres, from an “A” (Agriculture) to a “CR-M-1” (Conditional Rezone – Light Industrial) zone. The request includes a development agreement to limit certain uses allowed in the light industrial zone. The subject property is located off Allendale Road and Peckham Road with the entire south boundary running along Simplot Boulevard between Wilder and Greenleaf. The Hearing Examiner recommended approval of the conditional rezone on April 19, 2023. Ms. Barron reviewed the site photos, surrounding land use cases, character of the area, access and traffic, facilities, essential services, and the goals and policies of

the comprehensive plan that the proposal aligns with, the potential impacts, public comments, and agency comments. The future land use designation for Wilder is commercial and industrial and the future land use designation for Greenleaf is agricultural with some commercial along the roadways. The current zoning of the majority of the property is agricultural. The northern portion of Parcel R36143 is already zoned light industrial. The property is located within an area designated for industrial development in the 2020 comprehensive plan, but the applicant plans to continue farming the ground until an industrial use can be established.

The following people testified in support of the request:

David Ferdinand testified on behalf of the applicants. The Peckham Road property is 73.29 acres and is zoned M-1 and Agricultural. The project location is summarized as on the north side of Simplot Blvd. running north bounding Peckham Road. It also includes the Boise Valley railroad easement, and they have 36 miles of track that travels two separate branches. The proposed access will have the option for an entrance on Simplot Blvd. and/or Peckham Road which will be a private road. The developer is proposing a conditional rezone from M-1/Ag to M-1 for the entire property with the purpose of making the property available for light industrial use and to provide consistent zoning for expansion of the industrial property as designated by the 2020 comprehensive plan. Mr. Gross farms 2,500 acres in the area. The following uses are prohibited because he has a plan for the future of his farming, and he wants to make sure he is part of future planning:

1. Mineral extraction, short and long-term.
2. Batch plants
3. Animal cremation services
4. Animal facilities
5. Small and large animal hospital
6. Kennels
7. Mortuaries
8. Cremation and funeral homes
9. Impound yards
10. Sale of salvaged goods
11. Mobile or manufacturing home sales
12. Rehabilitation of manufactured mobile homes
13. Utility facility
14. Rendering plan

The applicants want to make sure the property would be allowed to have fuel, but not the large bulk tanks. The property is currently being farmed; it's flat, no fencing, irrigation, structures. The concrete ditches and pivot systems are in place. The plan is to develop the property as light industrial and market the parcels for the development of agricultural processing or compatible light-industrial business. The property would continue to be under agricultural production such as time is appropriate for any light industrial project would develop the property. The applicant is

asking for access to be off Peckham Road to the north to Simplot Blvd/Highway 19 to the south for Parcel R36143 and is asking for access to Simplot Blvd./Highway 19 for the south parcel, R36155. The City of Greenleaf stated there is the possibility of connecting to a potable water source or sanitary sewer treatment if needed. They want to create new jobs that are sustainable and provide an economically viable environment that builds and maintains a diverse base of business. The applicant will include the right to farm act in the development agreement. Mr. Ferdinand review some of the existing property uses in the area that have an M-1 designation. There is a house at the end of the property and Mr. Gross is cognizant of the person who built the home there and said the project will not disturb any of the surrounding properties.

Doug Gross testified he is the landowner of the subject property along with the Judith A. Gross Trust which was established after the death of his wife in 2012. He wants to conditionally rezone the property from agricultural to light industrial with restrictions. The property sits along the railroad west of Greenleaf and borders Highway 19 on the south. It's some of the poorer quality land he has on his farm, and it lends itself to light industrial with the increasingly valuable railroad right-of-way that's adjacent to it. The use is consistent with other businesses along Peckham Road, and a portion of the subject property is already designated as M-1. His family arrived in Wilder in 1941, and 82 years later the family farms 2,500 acres raising potatoes, wheat, mint, beans, corn, corn seed, and a multitude of other crops. He and his hand-picked successors will continue to operate as farmers for many years to come. Over the last 7 years they have consolidated farms making them larger and more efficient and productive. They have at least 25 home sites in their pocket but they have no intention of developing them. The Gross family chooses to have a hand in how some of the changes occur because they care about the area they live in and work in. Their vision for this diversification is to guarantee the financial sustainability of their own farming operation. Following his testimony, Mr. Gross responded to questions from the Board.

The following people offered neutral testimony:

Ron Amarel wanted to show the Board a drone video of the area, but Commissioner Holton said he wants to abide by the policy of not viewing any videos live in a public hearing that staff has not previewed. He said Mr. Amarel could submit it for public record. (It was admitted as Exhibit F). Mr. Amarel referenced a PowerPoint presentation which contained photos of the site/area. Overall, he supports agriculture, but he wants to make sure people are well informed and make the right decision. The area is predominately agriculture, and it fits within 81% of the best ag land in the area. The specific use has not been determined yet and without knowing the impact or existing infrastructure we should talk about what we do know. It's his understanding that the Canyon Soil Conservation District does not recommend this zone change and said the use does not support Idaho Code title 67 in the protection of agriculture. We have to think about the sustainability of the area in terms of agriculture, the economy, and the society. It has been determined that agriculture is favorable to the impact of the CO2 emissions which offset 15%, not to say how much one-acre of corn provides in oxygen.

Keri Smith, who arrived after the hearing had started, asked if Commissioner Holton disclosed that he is the Mayor of Greenleaf and whether he had anything to do with the letter that was sent from the City of Greenleaf. Commissioner Holton said he made the disclosure. Ms. Smith said she is supportive of the County following the 2020 and the 2030 comprehensive plans that support industrial growth in the area especially with access to the rail line. However, she represents a developer with existing M-1 zoned property within the Greenleaf impact area, approximately four miles of the subject property, and there is not enough power in the area to serve that development. The City of Greenleaf stated in its letter that water and sewer were available if the developer extended, but without an identified user how do we know what capacity is needed. Can Greenleaf serve a development that is 47 acres larger in size than Sky Ranch Business Park in Caldwell? Urban renewal areas in Caldwell, Middleton, Nampa already established with correct zoning with significant facilities and services provided to these developable areas. She recommends that if the area is developed into industrial the City of Greenleaf or the County's team should work with the property owners in the area to establish a plan that will address available service, capacities, and uses. There is a lot of pressure for this type of speculative development in the Greenleaf impact area. There are currently over 220.81 acres of proposed CR-M-1 zoning within the Greenleaf area of city impact and existing M-1 zones already exist to fulfill the needs that exist. She referenced other cases that have been denied in the past two years. This is a conditional rezone, and the zoning ordinance requires that commencement start within 2 years, and she is not sure on this type of development what will constitute commencement, and she asked if one warehouse that is constructed on 147 acres is perpetual? Ms. Smith is in a neutral position on this case because she supports development in accordance with the comprehensive plan, but she said we need a full plan to understand what those services are. The Idaho Power website shows planned developments of this size that take a lot of effort into understanding what the required demand on services is. The developers should work with other developers on a plan for this area that's been identified for growth, but right now we are not ready.

Commissioner Holton said Ms. Smith has made a determination about Idaho Power serviceability and he asked if she is basing that off of their website? Ms. Smith said no, she represents a developer on Pinto Road and they are only allowed to build one structure right now until Idaho Power is able to expand their capabilities. Commissioner Holton asked if she is basing electrical availability off of her experience on a different parcel? Ms. Smith said that is correct.

The following people testified in opposition to the request:

John Hoadley gave testimony about the seed industry and the history of seed farming. Agriculture has enabled the existence of civilization, and agricultural lands are pieces of a global puzzle we are facing and trying to answer the question of how do we continue to feed a global community? Canyon County is a critical growing region to help meet the demand. Idaho ranks as the 5th largest seed producing area in the world and over the past several years we have imported more food into the United States than ever in the history of the U.S. Annual revenue generates approximately

\$300 million for the County alone; diversity is needed, and growth will come. The influx of growth into our seed production areas has resulted in fewer acres and a bigger challenge to maintain isolations between crops and we fail to recognize the bigger picture which is our food. Approving a conditional rezone in this area is dangerous. He is not opposed to personal property rights, however, rezoning that could potentially do more harm than good does not make sense.

Rebuttal testimony was offered by David Ferdinand who said Doug Gross is attempting to do future planning which complies with the requirements of the City of Wilder, City of Greenleaf and Canyon County. The property will continue to be farmed and there will not be houses on this farm. They have received several inquiries from interested individuals who believe this would be a great place to bring commerce and industry and until they know who will be there, the applicant may be working with Greenleaf to supply those needs. He is not aware of the project Keri Smith mentioned. The most important thing is to give an opportunity to the property owner and those responsible for making commerce in this area the opportunity to make those plans for the future. This area is light industrial, and they believe the time is right. The developer is proposing a conditional rezone to make sure he can plan for the future and not disturb the area so that anyone that wants to continue to farm will be able to do so. The protection of the area is just as important as the industry they bring to town. Following his testimony, Mr. Ferdinand responded to questions from Commissioner Van Beek. Staff had follow-up comments regarding commencement of use.

Upon the motion of Commissioner Brooks and the second by Commissioner Van Beek, the Board voted unanimously to close public testimony. Commissioner Van Beek said this area is zoned for light industrial, but it was more restrictive a year ago on what could not go into that area than what is being proposed today. It would allow for an airport, bulk storage, a CAFO, ethanol plant, a ministorage facility, or a refinery, so there are things that would be allowed with a conditional use permit and that's a discussion the Board needs to have. There is a demand for industrial. She referenced the Robinson property which is a case that came to a previous Board. Dan Lister said the Board denied it because it was too speculative and the transition between the agricultural and industrial areas. There were no plans of use, and there were so many conditions added they decided there were too many and it would be better to wait until there was an understanding of what was going to be there and how impactful it would be to the surrounding neighborhood. Commissioner Brooks is in favor of the request as it meets all the criteria and it's in an area zoned industrial. Commissioner Holton recognized the testimony of John Hoadley and said the 2020 comprehensive plan has put him in a frustrating position because it substantiated that this is the plan, this is industrial along the corridor and because of the size of the properties and how they are connected between Peckham Road and Highway 19 we have to honor the plan. The application fits the plan, and all eight of the criteria are met. Commissioner Van Beek asked how the Board would feel if a ministorage facility were placed on the property which would change the area. Commissioner Holton said it would be a waste of a good location and good soil, but he doesn't think the applicant's long-range plan is into ministorage because it doesn't fit with the agricultural basis of their operation. There was discussion about a ministorage facility where we don't have definitive use and we could exclude things that could potentially change that, and

whether to require the applicant connect to city services. Commissioner Holton agreed to having a ministorage facility as an additional exclusion. He prefers community systems for water and on sewer it doesn't take much to make it cheaper to have a municipal system than an independent septic system. They need to negotiate and work with the respective municipality for city services. Commissioner Van Beek said that would be a great way to make sure there is adequate flow and availability for crop irrigation in what is remaining. Mr. Lister said the applicant agrees to ministorage and RV storage facilities being prohibited uses. Staff added all the conditions the City of Greenleaf requested and one of them is to work with the city regarding connection and it will be up to them to see if it is feasible. Either the applicant has to connect to services or have evidence why they cannot connect and it is agreed to by the city at that point. Commissioner Van Beek made a motion to approve Case No. CR2022-0029 for a conditional rezone of Parcels R36143 and R36155, approximately 145.48 acres, from an "A" (Agriculture) to a "CR-M-1" (Conditional Rezone – Light Industrial) zone, subject to the conditions of a development agreement and adding the exclusion of a ministorage facility, and to sign the development agreement and ordinance. The motion was seconded by Commissioner Brooks and carried unanimously. (Ordinance No. 23-006 and Agreement No. 23-093). Upon the motion of Commissioner Brooks and the second by Commissioner Holton, the Board voted unanimously to adjourn. The hearing concluded at 2:46 p.m. An audio recording is on file in the Commissioners' Office.