



BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Ryan and Heidi Walker – Case CR2021-0012

The Canyon County Board of County Commissioners considers the following:

- Conditional Rezone of the subject parcel, approximately 14.906 acres, from A (Agricultural) zone to CR-RR (Conditional Rezone - Rural Residential) zone, and
- Development Agreement with conditions that restricts the development to 3 residential lots.

0 Goodson Rd., (Parcel Number: R37921011), a portion of the NW¼ of Section 32, T4N, R3W, BM, Canyon County, Idaho

Summary of the Record

1. The record is comprised of the following:

- A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2021-0012.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-06-01 (Initiation of Proceedings), Canyon County Code §07-06-07 (Conditional Rezones), Canyon County Code §07-10-27 (Land Use Regulations (Matrix), and Idaho Code §67-6511 (Zoning Map Amendments and Procedures).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
 - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
 - c. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See* CCZO §07-06-07.
2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6511.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504, 67-6509 & 67-6511.
4. The Board can sustain, modify or reject the Planning and Zoning Commission’s recommendations. *See* CCZO §07-05-03

5. The burden of persuasion is upon the applicant to prove that all criteria, including whether the proposed use is essential or desirable to the public welfare, are satisfied. CCZO §07-05-03.
6. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).
7. Notice of the public hearing was provided per CCZO 07-05-01:
 - Affected agencies were noticed on August 30, 2024.
 - Newspaper notice was published on September 17, 2024.
 - Property owners within 600' were notified by mail on August 30, 2024.
 - Full political notice was provided on May 26, 2022.
 - The property was posted on September 16, 2024.

The application CR2021-0012 was presented at a public hearing before the Canyon County Board of Commissioners on October 22, 2024. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)

1. Is the proposed conditional rezone generally consistent with the comprehensive plan?

Conclusion: The proposed conditional rezone is consistent with the comprehensive plan.

Findings: (1) The parcel's future land use in the 2020 comprehensive plan is residential.

(2) The proposed conditional rezone is consistent with the six (6) policies and five (5) goals:

Chapter 1. Property Rights:

Policy 1. No person shall be deprived of private property without due process of law.

Policy 8. Promote orderly development that benefits the public good and protects the individual with a minimum of conflict.

Policy 11. Property owners shall not use their property in a manner that negatively impacts the surrounding neighbors or neighborhoods.

Chapter 2. Population:

Goal 1. Consider population growth trends when making land use decisions.

Chapter 5. Land Use:

Goal 2. To provide for the orderly growth and accompanying development of the resources within the county that is compatible with the surrounding area.

Goal 3. Use appropriate techniques to mitigate incompatible land uses.

Goal 5. Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.

Policy 1. Review all residential, commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.

Policy 2. Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.

Chapter 8. Public Services, Facilities and Utilities Component:

Policy 3. Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.

Chapter 11. Housing:

Goal 1. Encourage opportunities for a diversity of housing choices in Canyon County.

The applicant is being given due process of law through the hearing process. The conditions of the Development Agreement (Exhibit A) will limit the number of residential lots to 3.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?

Conclusion: As conditioned the requested is more appropriate than the current zoning designation.

- Findings:** (1) Per the 2020 Comprehensive plan the proposed project aligns with the future land use designation of the area. (Exhibit G5j)
- (2) As conditioned, development would be limited to the three residential lots with an average minimum lot size of 4.71-acres.
- (3) There are 10 platted subdivisions within the vicinity with the average lot size 4.84-acre, see Exhibit G5d. As an update since the case maps were produced, the Stadium Subdivision No. 2 Preliminary Plat has been approved and the Phase 1 and Phase 2 Final Plats have been submitted for approval. Taking that into account, the average lot size would be 1.89 acres
- (4) This property is transitional in nature from the prime agricultural area to that of a rural residential neighborhood that runs along Goodson Road.
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

3. Is the proposed conditional rezone compatible with surrounding land uses?

Conclusion: The proposed development as conditioned, is compatible with the surrounding land uses.

- Findings:** (1) Per the 2020 Comprehensive plan the proposed project aligns with the future designation of the area (Exhibit G5j).
- (2) There is rural residential development adjacent to the east, as well as further to the northwest, and north. The surrounding area consists of residential and agricultural uses. As conditioned, development of the site is limited to three residential lots with an average minimum lots size of 4.71 acres.
- (3) There are 10 platted subdivisions within the vicinity with the average lot size 4.84-acre, see Exhibit G5d. As an update since the case maps were produced, the Stadium Subdivision No. 2 Preliminary Plat has been approved and the Phase 1 and Phase 2 Final Plats have been submitted for approval. Taking that into account, the average lot size would be 1.89 acres.
- (4) The parcels adjacent to the West of this parcel has been rezoned to CR-RR. (Exhibit G5c)
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: As conditioned, the request will not negatively affect the character of the area.

- Findings:** (1) The proposed zoning has a minimum average lot size of two acres. Uses surrounding the site include agricultural and residential uses (Exhibit D Attachment 6c)
- (2) As conditioned, the development of the site will be restricted to three (3) residential lots and one (1) private road lot. No additional splits will be available. (Attachment A, Condition 4)
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

5. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate proposed conditional rezone?

Conclusion: Adequate sewer, drainage, irrigation, and stormwater drainage facilities and utility systems will be provided to accommodate the proposed zoning map amendment at the time of any development.

- Findings:** (1) Individual domestic wells and individual septic systems are proposed for the development of the parcel. Development will adhere to Southwest District Health and Idaho Department of Environmental Quality regulations and standards for new wells and septic systems.
- (2) The property has water rights from Black Canyon Irrigation District. As conditioned, historic irrigation laterals, drain and ditch flow patterns shall be maintained unless approved in writing by the local irrigation district or ditch company. Black Canyon Irrigation District provided requirements for the development. The requirements are all met with the exception of the newly created easement for the Conway Gulch, which will be recorded and added to the face of the Final Plat. (Exhibit D3)
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

Conclusion: Legal access exists and no public street improvements need to be made to provide adequate access to and from the subject property.

- Findings:** (1) The subject property has an existing 60' ingress/egress easement off of Goodson Rd and a private road is proposed to serve the lots. Access shall be developed in accordance with Notus-Parma Highway District requirements in Exhibit G4b.
- (2) No concerns were stated by Idaho Transportation Department (Exhibit D4).
- (3) Canyon County Development Services Engineering Department provided approval of the width of the private road and the street sign placement at a site visit on March 4, 2024. (Exhibit D2)
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

7. Does legal access to the subject property for the conditional rezone exist or will it exist at the time of development?

Conclusion: The proposed development for the conditional rezone does have legal access.

- Findings:** (1) The subject property has an existing 60' ingress/egress easement off of Goodson Rd and a private road is proposed to serve the lots. Access shall be developed in accordance with Notus-

Parma Highway District requirements in Exhibit G4b. No concerns were stated by Idaho Transportation Department (Exhibit D4).

- (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?

Conclusion: As conditioned, essential services will not be impacted.

- Findings: (1) All affected agencies were notified per CCZO §07-05-01, and only the Middleton Fire District responded. The proposed development will be serviced by Middleton School District, Canyon County Sheriff, Middleton Fire and Canyon Ambulance District.
(2) Middleton Fire has accepted a modified turn around and a 24 foot all weather drivable surface. (Exhibit D1)
(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2021-0012.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners recommends approves Case #CR2021-0012, a conditional rezone of R37921011 subject to conditions of the development agreement (Attachment A).

CANYON COUNTY BOARD OF COMMISSIONERS

- Motion Carried Unanimously
Motion Carried/Split Vote Below
Motion Defeated/Split Vote Below

Table with 4 columns: Commissioner Name, Yes, No, Did Not Vote. Includes signatures for Leslie Van Beek, Brad Holton, Zach Brooks, and Rick Hogaboam. Date: 12-11-21.

ATTACHMENT A
CONDITIONS OF APPROVAL

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. The subject parcel shall be in subjection to the Canyon County Zoning Ordinance Chapter 7, Article 17 for platting with a maximum of 3 buildable lots with an average lot size of 4.71 acres.
3. The development shall comply with all applicable federal, state, and county laws, ordinances, rules and regulations that pertain to the property, including but not limited to:
 - a. Notus Parma Highway District No. 2
 - b. Idaho Department of Environmental Quality (DEQ)
 - c. Southwest District Health
 - d. Middleton Rural Fire District
 - e. Black Canyon Irrigation District.
4. The subject property, R37921011, containing approximately 14.91 acres shall be developed into no more than three lots, as depicted in Attachment B. No additional splits are available. Development of more than three (3) residential lots are prohibited unless approved by subsequent comprehensive plan amendment, rezone, and platting applications.
5. Historic irrigation lateral, drain and ditch flow pattern shall be maintained and protected.
6. The developer shall comply with CCZO §07-06-07 (4): Time Requirements: "All conditional rezone for a land use shall commence within two (2) years of the approval of the board." Commencement is the submission of a Preliminary Plat.

