

Commissioner Minutes

November 13, 2025 – 1:36 p.m. to 3:02 p.m.

PUBLIC HEARING TO CONSIDER A REQUEST BY WILLIAM AND GENA WERHANE FOR A CONDITIONAL REZONE TO AMEND THE COUNTY ZONING MAP FROM AN "A" (AGRICULTURAL) ZONE TO A "CR-C-1" (CONDITIONAL REZONE – NEIGHBORHOOD COMMERCIAL) ZONE; CASE NO. CR2022-0031

Commissioners Leslie Van Beek, Brad Holton and Zach Brooks

Principal Planner Michelle Barron

Planning Supervisor Dan Lister

Elizabeth Allen

Bill Werhane

Connor Gray

Gerri Smith

Carl Anderson

Jeff Fletcher

Kirby Cook

Rob Sturgill

Deputy Clerk Jenen Ross_____

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The Board met today at 1:36 p.m. for a public hearing to consider a request by William and Gena Werhane for a conditional rezone to amend the county zoning map from an "A" (agricultural) zone to a "CR-C-1" (conditional rezone – neighborhood commercial) zone, case no. CR2022-0031. Present were: Commissioners Leslie Van Beek, Brad Holton and Zach Brooks, Principal Planner Michelle Barron, Planning Supervisor Dan Lister, Elizabeth Allen, Bill Werhane, Connor Gray, Gerri Smith, Carl Anderson, Jeff Fletcher, Kirby Cook, Rob Sturgill, and Deputy Clerk Jenen Ross.

Elizabeth Allen offered testimony on behalf of the applicant and reviewed a PowerPoint presentation (this can be found as exhibit A.6.4 within the staff report) with the Board. The presentation covered the following areas:

- Property location

- History of the site
- Public outreach
- Proposed development agreement conditions

Ms. Allen said that traffic will be addressed at the time the site develops as this is a concern of everyone. The types of uses they are proposing would be low traffic, there would not be large commercial development that would generate heavy traffic in the area. The uses would be to serve the community, not necessarily the valley as a whole. Access to Hwy 55 would be restricted and the main access point would be where Churruca Lane provides access to Marsing Rd.

- Residential: This would not be a great area for residential development and would be inconsistent with the comprehensive plan.
- Industrial: This is not appropriate as it does not have the nearby resources or services that industrial would require, such as heavy use power and water. Additionally, this is not what the public wanted, same with residential.
- Agricultural: This would be challenging due to the parcel shape as well as the fill dirt on the site. The cost to level the ground would not be feasible. In speaking with farmers, they had concerns about getting irrigation updated as well as removing all the fill dirt. Additionally, the soils on the property are not suitable for farming. If the property remains agricultural there would be no traffic mitigation so moving equipment would be challenging.

Based on this information it was deemed that neighborhood commercial would be the most appropriate, especially considering the history of the Churruca service station. There is also a yarn shop nearby, other commercial establishments up Hwy 55, commercial use properties in Marsing, and area wineries. Commercial has uses that would be appropriate for the community and what was desirable through the community outreach.

Two community polls were conducted, and 4 open houses were held at Marsing City Hall over the past two years, which received a combined total of 355 responses. The polls were shared on the Marsing community Facebook page and distributed in local businesses. This data was used to restrict the type of commercial uses on the property and ensure development on the site aligns with the community's desires. There were 40 uses removed that would have otherwise been allowed in the neighborhood commercial zone.

Ms. Allen reviewed the polling data which indicates the community would be favorable to a restaurant, microbrewery, and animal hospital but are not in favor of personal services shops, farm supply sales, ministorage, auction establishment, or a vehicle service facility.

Conditions have been proposed that would limit the types of uses on the property: those limited uses would include a restaurant, microbrewery/tasting room, animal hospital, farm supply sales, farm implement sales/service, financial institution, and retail. They also intend to incorporate a historical theme when the site develops.

Michelle Barron gave the staff report which reviewed the following:

This is a conditional rezone of parcels R33590012B and R33590012C which is approximately 8.93 acres total. The applicant is requesting a Conditional Rezone to Neighborhood Commercial from Agricultural. The request also includes a development agreement limiting development to the specific uses of restaurant, microbrewer/tasting room, animal hospital, farm supply sales, farm implement sales/service, financial institution and retail.

General Background:

Parcel R33590012B was deemed an original parcel according to county records (PI2013-274). Parcel R33590012C is Churruca Lane which was abandoned by Idaho Transportation Department when Highway 55 was improved. Although zoned agricultural, the parcel has been used for depositing and storing excess fill from the Highway 55 road and bridge project for several years. The applicant has had a Phase One Environmental Assessment and a Geotechnical Investigation completed. (Exhibit III A6.1 and 6.2).

Planning and Zoning Commission Recommendation – Denial

- The Planning and Zoning Commission heard the case on May 15, 2025. The vote was tied.
- The P & Z Commission held a continued hearing on July 3, 2025. This allowed the Chairman to review the record and participate in the deliberation.
- The P & Z Commission found the case not consistent with the Conditional Rezone Criteria #2-#4.
- Pursuant to Idaho Code 67-6519, the applicant can resubmit with a refined list of allowed uses. No retail or financial institutions and limited restaurant venues as per the FCOs from the P&Z commission.

P & Z Commission Basis for Denial:

1. Is the proposed conditional rezone generally consistent with the comprehensive plan?
The proposed conditional rezone change is generally consistent with the Comprehensive plan as shown on page 3 of the Staff Report in Exhibit III. The Future Land Use Map indicates that the parcels are in the Agritourism Business Use/Agritourism Farm Use overlay, however there is no specific zoning 6 designation for this use. The applicant is proposing uses that fall into alignment with Agritourism Business Use or Agritourism Farm Use. (Exhibit IIIA3 and A3.1).
2. When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?
3. Is the proposed conditional rezone compatible with surrounding land uses?
4. Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts? The parcel is located between a production agriculture use and a state highway. The surrounding land use is predominantly agriculture with a downtown commercial area across the river in Marsing. The size and location of the parcel as well as the topography of the parcel would be a challenge to utilize this parcel as an agriculture operation. The parcels are at the entrance into Canyon County from Marsing's commercial district and is set apart from agriculture by roads on all sides. The character of the area is agricultural that leads into the fruit production and winery area of Sunny Slope Road. Further analysis can be found on pages 4-6 of the staff report in Exhibit III. The P&Z Commission found the proposed rezone is not more appropriate than the current zone, is not compatible with surrounding land uses and will negatively affect the character of the area. The basis for the findings are that a commercial use in the agricultural zone is inappropriate, and the uses proposed are way too broad. The complete findings can be found in the P&Z FCOs in Exhibit I.
5. Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate proposed conditional rezone?
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 measure have been taken to mitigate traffic impacts?
7. Does legal access to the subject property for the conditional rezone exist or will it exist at the time of development?
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? The applicant met with Southwest District Health regarding water and sewer requirements. Prior to building permit, the developer

will need to meet requirements from Southwest District Health and DEQ depending on the use of the parcel with the potential of a public water system if the use requires it. The rezone may require public street improvements. Highway District 4 does not object but may require a Traffic Impact Study at the time of access permitting if one is needed. Idaho Transportation Department will require a Traffic Generation and Distribution report and potentially require a TIS upon submission of building permits. Mitigation for the use that is established will be determined by the authority and will be required to build out any required improvements. Legal access does exist at Churruca Lane and Marsing Road. Any other access will need to be established through the jurisdictional agency after the use is determined. The Commercial designation would not impact schools. Police, fire, and EMS were notified. Fire commented that response time should be 5 to 8 minutes. Full analysis can be seen on pages 6-9 of the staff report in Exhibit III.

Notification

Property owners within 600 feet of the existing property boundaries were notified of the upcoming hearing. A newspaper notice was published, and a physical sign posting was made at the property location on October 14, 2025. A total of 5 written comments and a drone video were submitted in opposition to the proposal.

The following testimony was received:

Bill Werhane is in favor of the application speaking to his vision for the property which is to compliment the area.

Connor Gray is in favor of the project and believes the applicant and his representative have shown this is the highest and best use of the property. The Werhane's have listened to the community in what they want and don't want for uses of this property and have eliminated the unwanted uses. The ground has not been farmed in many years, if it remains in agricultural zoning there won't be anything anyone can do with the land.

Gerri Smith read a letter from Growing Together who originally opposed this but since the uses have been limited they are now in support. They feel that the proposal to C-1 neighborhood commercial with a limited set of allowed uses is appropriate and better aligns with the intent of the C-1 zone to serve nearby residents with low-intensity, neighborhood scale services while maintaining compatibility with the surrounding agricultural area. They are prepared to support this application with two additional provisions – remove financial institutions as an allowed use

and refine retail to exclude the following: convenient store, gas station, fuel sales, electronic or phone stores, pharmacies, big box general merchandise, shops not tied to farming, agriculture, or agritourism, dollar store, sporting goods, hardware, home improvement, retail not tied to farm operations, specialty gift shops not tied to agriculture, boutiques unrelated to farm products or agritourism. Retail could be appropriate only where it is clearly related to agritourism. Growing Together would recommend that any agritourism-related retail be specifically defined in the conditions of approval and subject to staff review and approval to ensure consistency with the purpose of the C-1 zone and the character of the surrounding areas.

Carl Anderson is in support of the project. He believes the joint access will be beneficial to the property and ease some of the traffic making it safer with the appropriate speed limits. He is in favor of commercial activity as the land is not suitable for anything else. He is not concerned about large commercial development in the area as it just doesn't have the services to support anything too large.

Jeff Fletcher is in opposition of the project. He lives within a mile of the property and has concerns about preserving ag, traffic issues (specifically ingress/egress), wildlife, and lighting in the area.

Kirby Cook spoke on behalf of the City of Marsing. He is worried about changing this location to commercial which he views as spot zoning and may set a precedence. He said the city was not aware of the development agreement limiting the uses which is one of the ways they'd like to see this area rezoned or possibly a joint gateway/river corridor/ State Highway 55 corridor plan. He indicated that the City of Marsing would like to grow on that side of the river and has plans to do so. The city understands that this probably will be commercial, but they want to see development done orderly and in a way that the city would also like as they may eventually be taking over whatever goes in this location. From the city standpoint, they are asking the Board to deny the rezone or defer until the city and county can get together to create a plan or the city is able to work with the applicant on the rezone.

Commissioner Brooks doesn't understand why there would be a continuance for discussion between the city and county as this is a city in a different county that doesn't have an area of impact within Canyon County. This is the first he's heard of the City of Marsing having any thoughts of crossing the county line which is a whole process in and of itself and wonders why the Board would delay for a property on the Canyon County side of the river.

Commissioner Holton explained his reasoning in that if this property ever plans to develop into something larger it will eventually need city services. Otherwise, it will remain small scale due to being on a private well and drain field which will limit foot traffic for potential uses. The city has had a full opportunity to submit an AOI plan notifying the public of anticipated use of this area, but they haven't chosen to do that.

Nicholas Salaver is in favor of smart growth but is concerned that although some items have been eliminated from the list, this will be the first thing anyone sees when they come over the bridge headed into the Snake River Wine Region. He doesn't like the financial institution still being included but loves the idea of restaurants and many of the other suggestions on the list.

Elizabeth Allen offered rebuttal comments on the following:

- Spot zoning was discussed in the staff report and explained why this request would not be considered spot zoning.
- It is recognized that Marsing is in Owyhee County and does not have an area of impact in Canyon County. She is willing to discuss the design with the city, but the property owner did meet with them this week. He met with the mayor, engineer and the clerk to discuss the proposal and two of the open houses were held at Marsing City Hall. Additionally, the surveys were left at city hall as well as area businesses. Information was provided to the city. The property owner did speak with the city about extending services across the river, it's not a feasible option nor desirable by the city. The property owner has been very collaborative with the City of Marsing, so they were surprised by the letter received.
- They are not proposing city services. They intend to use systems on-site with the intent being to keep the format of the use small to fit with the community.
- Removal of the 40 uses was to align with the community vision of the site. The C-1 neighborhood commercial zone is already more restrictive than other commercial zones that are in the county and further reducing would be challenging. At this time, they've chosen to keep financial institutions because Marsing does not have a bank. The design of the building could be done to appropriately blend in with the character of the area.
- The site can't support a big box store; they are really looking for small format commercial use which is restricted by services and the site itself. They envision being a local use with ag product being sold. Restricting the uses may be difficult but they are open to discussing conditions.
- Traffic will be improved with the development of the site. ITD will not permit left-turn access so access onto Sunnyslope Rd. will be extremely restricted. The intersection will

be improved, whether it's realigning the curve on the site, or stop signs, or different types of turn lanes. There is a lot that can be done by engineers to improve the safety. It will improve the safety, otherwise it will just stay as it is right now.

- They are Interested in a condition for dark-sky lighting.

Discussion ensued regarding a financial institution on the site with the main concerns being ingress/egress, consistency of the area, and esthetic of the building. The applicant is in favor eliminating a financial institution as a use. At the suggestion of Elizabeth Allen, Commissioner Van Beek agreed an ATM within a commercial business may be a better fit.

Elizabeth Allen proposed language as follows: *The building shall be designed and constructed in a manner consistent with established rural agricultural character of the surrounding area... at a minimum the structure shall incorporate agricultural compatible form and materials such as muted earth tone colors, non-reflective siding and roof forms typical of agricultural and rural outbuildings, building scale and massing that is compatible with nearby agricultural uses and avoiding urban or suburban commercial architectural styles.* The Board is in favor of this language.

Discussion ensued regarding the conditions and the wording of the conditions, specifically related to retail.

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. The development shall comply with any requirements for an approach permit, commission any required Traffic Impact Studies, and install any necessary mitigation for traffic impacts identified by the TIS as required by the Idaho Transportation Department and/or Highway District 4 and/or Golden Gate Highway District No. 3.
3. The subject parcel shall only be used for the following, as allowed in the "C-1" (Neighborhood Commercial) zoning district: Restaurant, Microbrewery/Tasting Room, Animal Hospital, Farm Supply Sales, Farm Implement Sales/Service, Financial Institution, and Retail.
4. Incorporate a historical theme into the project, to be developed and designed by the developer. The theme can be a specific orientation, such as Lizard Butte, Oregon Trail, POW Internment Camp, Snake River Corridor, Agricultural significance of the area (soil, irrigation, seed production, wine production), or an overview of all aspects of the region. To sustain the historical significance, future development would include a specific display or commentary. The display would include an outside plaque or signage pertaining to the subject, along with interior pictures and displays. For example, if a Microbrewery is planned, an obvious IPA could be LIZARD BUTTE IPA with a label designed with a drawing of Lizard Butte and a description of the feature. This would segue into demonstrating the geographical significance of Lizard Butte during the mid-1800s.
5. The developer shall comply with CCZO §07-06-07 (4): Time Requirements: "All conditional rezones for a land use shall commence within two (2) years of the approval of the board."

Commissioner Holton would like additional time to think through the restrictions and feels like he is trying to rush to a decision that will have long-term effects. He is requesting a continuance for conditions to be drafted based on what has been discussed today and brought back as first draft.

Commissioner Holton made a motion to continue the hearing with testimony limited specifically to conditions to be applied in the development agreement to December 2, 2025, at 3:30 p.m. The motion was seconded by Commissioner Brooks and carried unanimously. Upon the motion of Commissioner Van Beek and second by Commissioner Brooks the Board voted unanimously to adjourn the hearing. The hearing concluded at 3:02 p.m. and an audio recording is on file in the Commissioners' Office.