



Board of County Commissioners
Knife River – CU2025-0011-APL

Decision on Request for Reconsideration

Request received from David T. Krueck of Hawley Troxell, on behalf of Knife River Corporation – Mountain West (Knife River) on April 28, 2026.

Summary of the Record

1. The record for this request is comprised of the following:
 - A. Testimony and evidence offered at the hearings before the Canyon County Board of County Commissioners (“Board”), including the staff report and exhibits entered into the record. Audio records of the hearings have been made and preserved.
 - B. Finding of Fact, Conclusions of Law and Order issued April 14, 2026.
 - C. Request for reconsideration filed by David Krueck of Hawley Troxell on behalf of Knife River on April 28, 2026.

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 § 07-07 (Conditional Use Permits), Canyon County Code § 07-02-03 (Definitions), Canyon County Code § 07-10-27 (Land Use Regulations (Matrix)), Canyon County Code § 07-14 (Use Standards) and Idaho Code § 67-6512 (Special Use Permits, Conditions, and Procedures).
2. The Board can sustain, modify or reject the Director’s recommendations. *See* Canyon County Code § 07-05-07(2).
3. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code § 67-6512.

4. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. Idaho Code § 67-6512.
5. The Board shall answer the following questions: (1) Is the proposed use permitted in the zone by conditional use permit; (2) What is the nature of the request; (3) Is the proposed use consistent with the comprehensive plan; (4) Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area; (5) Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use; (6) Does legal access to the subject property for the development exist or will it exist at the time of final plat; (7) Will there be undue interference with existing or future traffic patterns; and (8) Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use? *See Canyon County Code § 07-07-05.*
6. Board shall consider the following in regards to a conditional use permit regarding mineral extraction: A) The uses of the surrounding properties in the determination of the compatibility of the proposed application with such uses; B) Duration of the proposed use; C) Setbacks from surrounding uses; D) Reclamation plan as approved by Idaho Department of Lands; E) The locations of all proposed pits and any accessory uses; and F) Recommendations from applicable government agencies. Canyon County Code § 07-14-19.
7. 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.
8. 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. Canyon County Code § 07-05-03(1)(I).

9. The burden of persuasion is upon the applicant to prove that all criteria are satisfied, including whether the proposed use is essential or desirable to the public welfare. Canyon County Code § 07-05-03.

Request for Reconsideration

Mr. Krueck on behalf of the property owners, filed a request for reconsideration, on April 28, 2026, asking the Board to reconsider findings made by the Board in its written decision. Mr. Krueck asserts the written findings are not supported by substantial evidence and fails to comply with Idaho law, as he states, the Board's denial was based on two findings: 1) that the proposed use will be injurious to surrounding properties and alter the character of the area due to dust, noise, lighting, and traffic; and 2) that the project will unduly interfere with traffic patterns. He asserts these two findings are not supported by substantial, project-specific evidence in the record. In considering this request, the Board reviewed its written findings, the testimony, and evidence in the existing records.

In again reviewing the written decision and record, it is clear that during the hearing the Board understood the appellant's arguments and the evidence offered. The Board correctly considered the requirements of Canyon County Code § 07-07-05. There is no dispute that the appellant has met parts (1), (2), (5), (6), and (8). However, criteria (3), (4), and (7) were determined by the board to not meet the requirements of County Ordinance with appellant contesting the findings pertaining to (4) and (7).

The Board also correctly considered the requirements of Canyon County Code § 07-14-19, in making its decision. There is no dispute that the appellant has met parts (1)(A), (1)(A.2)(B-F). The Board additionally determined that criteria (1)(A.2)(A) was not met as the appellant's proposed use was not compatible with the uses of the surrounding properties.

In this review, the Board did not find a compelling basis to alter its ultimate conclusion on the application; however, the Board will provide a written evaluation of the Canyon County Code § 07-07-05(4), and (7) as well as (1)(A.2)(A) criteria here to supplement its initial written decision.

Canyon County Code § 07-07-05 (4): The presiding party shall consider each conditional use permit application by finding adequate evidence to answer the following questions in its FCOs: (4) Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

In their application, the appellant seeks to obtain a conditional use permit on two parcels consisting of approximately 58 combined acres as a source for a new gravel pit. The parcels are 35968010 and 35973010. Both parcels are zoned agriculture.

The appellant supports its argument that the parcels will not be injurious to other property in the immediate vicinity, nor will the use negatively change the essential character of the area as the surrounding area already contains numerous mineral extraction operations. Appellant also asserts that the Board's findings rely heavily on generalized lay testimony from neighboring property owners who provided generalized, lay testimony rather than competent evidence sufficient to support denial.

A number of neighboring property owners, especially those immediately adjacent to the concerned property, oppose the division. The neighbors cite their observations, some over decades, of the property in agricultural production and their own agricultural successes on what they view as similarly situated land. The concerns were numerous and included obstruction of views, road safety, noxious weed control, impacts to culverts and ditches, potential negative impact to residential wells, rocks falling out of trucks, excessive noise, damage to roads due to high impact of loaded trucks, vibration impact, decreased land/home values, and overall quality of life diminution.

Appellant accurately states that the surrounding area already contains numerous mineral extraction operations, many of which have been approved within the last year. Appellant also accurately states that there are extraction operations within one to two miles of the subject property. Appellant argues that these uses are similarly situated and would not alter the essential character of the area. However, that is not the standard the Board is to consider. The question the Board is to consider is whether the proposed use will be injurious to other property in the *immediate vicinity* and/or negatively change the essential character of the area. This is a two-part analysis. The Board agrees with appellant that the proposed use will not change the essential character of the broader area.

However, the Board notes that there are significant differences between the subject property and other mineral extraction operations in the area. Most significantly, Appellant has another site nearby which did have its conditional use permit recently approved for mineral extraction. On that property, there is one residential house which Appellant owns. Furthermore, there is not a single residential house immediately adjacent to that property. For the reasons noted within this decision, the Board does not find it persuasive that mineral extraction should be allowed at this site for the sole reason that there are other approved operations within this general area.

The Board also takes into consideration the ample testimony provided by land and homeowners that are immediately adjacent to the subject property. The Board finds that the testimony by these multiple individuals constitutes substantial, competent evidence to support denial which is consistent with the findings of the Planning and Zoning Commission, which specifically found that the noise from the rock crushing would create noise that could not be mitigated for the neighbors, especially those immediately adjacent to the subject property. This Board agrees.

The Board found several statements by those providing testimony particularly persuasive. Mr. Cliff Carlisle, who lives immediately adjacent to the subject property, testified that the proposed use is going to significantly impact the sleep of those living immediately adjacent. Especially of concern were those who work late shifts and who generally sleep during the day. Mr. Shane Garbarino, who has lived next door to the subject property for forty years testified that the proposed use will destroy the quality of life that he has come to expect from his property specifically noting that the increased traffic of large, heavy trucks pose a significant risk to the young children living next door to the subject property. Additionally, he noted concerns that the proposed use significantly changes the immediate area from historical family farms to a loud, rock crushing use.

Testimony continued as Ms. Megan Taylor, whose property is surrounded on three sides by the subject property raised additional concerns that the proposed use could affect her well and irrigation system. Specifically, she raised concerns with the seepage of chemicals into her pond and well. Commissioner Van Beek asked if the applicant submitted well log reports, which staff indicated such reports were not provided. Mr. Chris Taylor, another adjacent neighbor, discussed the proposed use and stated that this use is, “just is not the way of living that I was planning on having,” as he discussed how the proposed use would be injurious to the pattern of living they have become accustomed to in this immediate area. Mr. Doug Sanders specifically testified to the decibel levels, which industrial rock crushing can create, and testified that “absolutely no berm will make the noise tolerable,” especially for those who do live immediately adjacent to the subject property.

Interested landowners raised additional concerns as Mr. David Sanders testified that a rock crushing operation in close proximity to residential dwellings not only affects the public health, safety and welfare of those homeowners, but such close proximity also creates an on-going, private nuisance. That the persistent excess in noise, fumes, and other contaminants would significantly interfere with the current use and enjoyment of surrounding properties. Finally, Mr. Sam Shaw, whose family has been enjoying the immediate area going on five generations testified that the proposed use would significantly impact his family’s historic use of this area to run cattle, and he has not been informed, nor has an agreement been formally made that would allow these uses to co-exist.

As noted elsewhere, the burden of persuasion is on the applicant to demonstrate that this criterion is met. Appellant has not met its burden showing that the proposed use would not be injurious to other property in the immediate vicinity. Appellant argues that the lay testimony is insufficient and that it has sufficiently shown the proposed use will not be injurious to other property in the immediate vicinity. This Board disagrees as most of Appellant’s presented evidence and testimony focused solely on the second portion of the question: Will the proposed use negatively change the essential character of the area? Appellant did not adequately address whether the proposed use would be injurious to other property in the immediate vicinity nor how its mitigation efforts would address those injuries.

Therefore, the Board finds that the evidence overwhelmingly shows the proposed use would be injurious to the other property in the immediate vicinity and that Appellant has not met its burden.

Canyon County Code § 07-07-05 (7): The presiding party shall consider each conditional use permit application by finding adequate evidence to answer the following questions in its FCOs: (7) Will there be undue interference with existing or future traffic patterns?

As previously noted, the burden of persuasion is on the applicant to demonstrate that this criterion has been met. Appellant argues that the Board's reasoning is improper as it claims the Board based its findings largely due to the lack of improvements conditioned on other gravel operations and that Appellant has adequately demonstrated that appropriate mitigation measures have been taken.

While the FCOs did refer to previous approved conditional use applications, the Board's main concern is the same of that as the Planning and Zoning Commission where they found, "Without the studies requested, such as the Traffic Impact Study for the surrounding area, the Commissioners find that, as of now, there is not enough evidence to suggest the proposed use will not interfere with the existing or future traffic patterns." Appellant did provide proposed mitigation measures, but the Board has no information that such mitigation measures are sufficient, or even possibly overly burdensome to the Appellant without having the appropriate studies to address this criteria.

The Board does have testimony from neighbors regarding their concerns and the lack of infrastructure that currently exists and their concerns over the additional use gravel trucks will bring. Appellant did provide evidence that the Golden Gate Highway District also requested a traffic impact study be performed, but provided nothing beyond that. Given the lack of evidence from Appellant, the Board finds that Appellant has not met its burden to show there will not be undue interference with existing or future traffic patterns.

Conclusion and Order

The Canyon County Board of County Commissioners does hereby **amend** its written Findings of Fact, Conclusions of Law, and Order of Case No. CU2025-0011-APL to incorporate the decision above for the reasons stated. The Canyon County Board of County Commissioners does hereby further **affirm** its **amended** written Findings of Fact, Conclusions of Law, and Order of Case No. CU2025-0011-APL.

DATED this 2nd day of July, 2026.

CANYON COUNTY BOARD OF COMMISSIONERS

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

	Yes	No	Did Not Vote
 _____ Commissioner Leslie Van Beek	<u> ✓ </u>	<u> </u>	<u> </u>
 _____ Commissioner Brad Holton	<u> X </u>	<u> </u>	<u> </u>
 _____ Commissioner Zach Brooks	<u> X </u>	<u> </u>	<u> </u>

ATTEST: JESS URRESTI, CLERK

By: 

Deputy Clerk