



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

In the matter of the application of:

Judith A. Gross Trust – CR2022-0029

The Canyon County Hearing considers the following:

- 1) Conditional Rezone of the subject parcels, approximately 145.48 acres, from “A” (Agricultural) to a “CR-M-1” (Conditional Rezone – Light Industrial) zone, and
- 2) Development Agreement with conditions that restricts the uses and development within the “M-1” zone.

[CR2022-0029, 0 Allendale Road & 0 Peckham Road, Wilder (Parcel Number: R36143 & R36155), a portion of the NW¹/₄ and the NE ¹/₄ of Section 19, T4N, R4W, 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 CR2022-0029.

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)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and Canyon County Code §09-03-07 and 09-17-19 (Area of City Impact Agreement).
 - 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 the 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 §07-05-01
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 Hearing Examiner’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).

The application CR2022-0029 was presented at a public hearing before the Canyon County Board of County Commissioners on August 2, 2023. 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 generally consistent with the comprehensive plan.

- Findings:**
- (1) The subject parcels are designated as Industrial in the 2020 Canyon County Comprehensive Plan Future Land Use Map (Attachment 5d).
 - (2) The request aligns with the following goals and policies of the 2020 Canyon County Comprehensive Plan:

Chapter 1: Property Rights	
Goal 1.	Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.
Policy 1.	No person should 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.
Chapter 2: Population	
Goal 2.	To encourage economic expansion and population growth throughout the county plus increase economic diversity for continued enhancement of our quality of life to meet citizen needs.
Chapter 4: Economic Development	
Goal 3.	Create new jobs that are sustainable and lasting.
Goal 4.	Provide an economically viable environment that builds and maintains a diverse base of business.
Goal 5.	To ensure that land use policies, ordinances and processes allow for a viably economic environment for development.
Policy 3.	Encourage broad-based economic development programs that include: c. Industrial development
Policy 9.	Encourage and support agricultural & industrial development to locate in the vicinity of Simplot Boulevard.
Policy 12.	Establish appropriate industrial and commercial zones to further increase business and economic development in various areas of Canyon County.
Chapter 5: Land Use	
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 3.	Encourage and support commercial and industrial development and guidelines to create jobs and expand the tax base. Create commercial, residential and industrial zoning districts to help attract development.
Policy 11.	Coordinate planning and development with applicable highway district and health officials.

The applicant is being given due process of law through the hearing process. The conditions of the Development Agreement (Exhibit B) will reduce the allowed uses to those that are compatible with the area. The conditions of the agreement also allow for appropriate uses that do not interfere with existing agricultural uses in the area. The parcels are located along Simplot Boulevard and will provide an avenue to increase business and economic development in Canyon County. This zone change will allow the opportunity for providing more jobs in the County.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.

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

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

Findings: (1) The subject parcels are currently zoned "A" (Agricultural). Surrounding parcels are mostly zoned "A" (Attachment 5c).

- (2) The subject parcels are located along Simplot Boulevard and Peckham Road which supports similar industrial commercial uses (Attachment 5b and 8). The collector roads currently support existing industrial uses and agricultural support facilities (Attachment 5a and 8). Idaho Northern and Pacific Railroad tracks exist adjacent to Parcel R36143 along Peckham Road (Attachment 5a).
- (3) The subject parcels are located in the area designated for industrial in the 2020 Comprehensive Plan Future Land Use Map (Attachment 5d). The City of Greenleaf also designates the area for industrial use in the city's Comprehensive Plan (Attachment 6f).
- (4) Uses and development will be limited through conditions of the development agreement (Exhibit B). As conditioned, the request is appropriate for the area, aligns with the County's vision of the area, and is supported by comments received by affected agencies (Attachment 6).
- (5) Evidence includes findings and conclusions supported within this document under criteria 3.

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

Conclusion: As conditioned, the request is compatible with the surrounding land uses.

Findings: (1) The subject parcels are located near other "M-1" Zones (Attachment 5c and 8). The subject parcels are located near the following zones:

- Parcel R36172 (east of the subject property): The 42.36-acre parcel (Valley Agronomics LLC) was zoned "M-1" in 2011.
- Parcel R36172011 (east of the subject property): The 29.75-acre parcel (Lansing Trade Group LLC) was zoned "M-1" in 2011.
- Parcel R36158 (east of the subject property): The 36-acre parcel (Takasugi Seed Farms LLC) was partially zoned "M-1" in 2011 (approximately 17.9 acres).
- Parcel R37077 (west of the subject property): The 75-acre parcel (RHG LLC) was partially zoned "M-1" in 2011 (approximately 35.6 acres).

- (2) The area is predominantly agricultural containing best-suited soils/prime farmland (Attachment 5c and 6e). Through the conditions imposed in the Development Agreement limit certain allowed or

conditionally allowed uses, the request is found to be compatible with the surrounding land use and can potentially support the agricultural uses nearby (Exhibit B).

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.

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

Conclusion: As conditioned by the development agreement (Exhibit B), the request will not negatively affect the character of the area.

- Findings:**
- (1) The area is predominantly agricultural containing best-suited soils prime farmland (Attachment 5e). Canyon County Soils Conservation District does not recommend the zone change (Attachment 6e).
 - (2) Whereas the area is predominantly zoned "A" – Agricultural (Attachment 5c), there are light industrial uses and nearby parcels that are zoned as "M-1" (Light Industrial; Attachment 5a and 8).
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Newspaper notice was published on March 9, 2023. Property owners within 600' were notified by mail on March 9, 2023. The property was posted on March 16, 2023.
 - a. Paul Calverley, a neighbor located north of the subject parcels, requests the conditional rezone be denied due to the impact on the viable agricultural ground, the impact on the agricultural character of the area, and that the request is speculative and impacts unknown (Attachment 7).
 - i. The 2020 Canyon County Comprehensive Plan designated the subject parcel and area as "industrial" (Attachment 5d). The applicant agrees to conditions that limit uses that fit the industrial needs of the area, a 100-buffer along the property boundaries, exterior lighting shielded downward and additional review by the City of Greenleaf for water and sewer utilities, Boise Project Board of Control for irrigation, and ITD/Golden Gate Highway District regarding traffic impact and access. (Exhibit B).
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.
 - (5) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: As conditioned, 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) The subject parcels, depending on the extent of the use could apply for domestic well and septic from the Idaho Department of Water Resources and Southwest District Health to service the light industrial use.
 - (2) The City of Greenleaf stated that there is a possibility of connecting to a potable water supply and sanitary sewer treatment if needed in quantity requiring a municipal source from the City of Greenleaf. The City of Greenleaf also states that there is the availability of natural gas hook-up and power hook-up within a reasonable distance if those services are needed (Attachment 6f). See related conditions of approval (Exhibit B).
 - (3) Boise Project Board of Control requires easements for the Soper Lateral, Soper Sub Lateral, Mayhugh Lateral, and Mayhugh Drain that are on the referenced parcels. There are several instances where the developer would need to seek further permissions and fill out applications. (Attachment 6b).

- (4) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on June 22, 2023. Full political notice was provided on June 22, 2023.
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.
- (6) Evidence includes the area of city impact findings and evidence supported within this document.

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

Conclusion: Legal access exists. Access may change at the time of development with approval from jurisdictional agencies.

- Findings:**
- (1) Legal access exists to parcel R36143 on Peckham Road to the North and parcel R36155 on Allendale Road to the West. (Attachment 5b)
 - (2) Legal access may be requested by application to jurisdictional agencies onto Simplot Boulevard or Peckham Road at the time of development (Attachments 6a and 6g). ITD (Idaho Transportation Department) and Golden Gate Highway District both request additional review prior to the development of the properties to determine access/approach requirements, if a traffic impact study is required and mitigate measures (if applicable) are required to reduce impacts to Peckham Road and SH-19. Both agencies' conditions are included as part of the development agreement conditions of approval (Exhibit B).
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on June 22, 2023. Full political notice was provided on June 22, 2023.
 - a. The City of Greenleaf commented stating without a specific use, impacts are unknown. Therefore, a traffic impact study is required prior to development (Attachment 6f). See findings for the area of city impact below.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.
 - (5) Evidence includes the area of city impact findings and evidence supported within this document.

7. 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: The request may require public street improvements to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns. Conditions of the development agreement require additional review prior to the commencement of any use (Exhibit B).

- Findings:**
- (1) The subject properties have frontage along Peckham Road and SH-19. Access currently exists on Peckham Road and Allendale Road.
 - (2) Due to the list of uses requested by the applicant (Exhibit B) traffic impacts are unknown a development is proposed. ITD (Idaho Transportation Department) and Golden Gate Highway District both request additional review prior to the development of the properties to determine if a traffic impact study is necessary and mitigate measures (if necessary) to reduce impacts to Peckham Road and SH-19 (Attachment 6a & 6g).
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on June 22, 2023. Full political notice was provided on June 22, 2023

a. City of Greenleaf commented stating without a specific use, impacts are unknown. Therefore, a traffic impact study is required prior to development (Attachment 6f). See findings for the area of city impact below.

(4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.

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) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on June 22, 2023. Full political notice was provided on June 22, 2023. No comments were received from essential services.

a. City of Greenleaf commented stating without a specific use impacts to essential services are unknown (Attachment 6f). See findings for the area of city impact below and Exhibit B for conditions of the development agreement.

(2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.

Canyon County Code §09-03-07 and 09-17-19 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The property is located within the Greenleaf and Wilder Area of City Impact. A notice was sent to the City of Greenleaf per Canyon County Code Section 09-03-07. A notice was sent to the City of Wilder per Canyon County Code Section 09-1-19. No comments were received from the City of Wilder. Comments provided by the City of Greenleaf have been addressed in the development agreement conditions (Exhibit B).

Findings: (1) The City of Greenleaf was provided notice on June 22, 2023, pursuant to Canyon County Code Section 09-03-07. The City of Wilder was provided notice on June 22, 2023, pursuant to Canyon County Code Section 09-17-19. No comment was received from the City of Wilder.

(2) A comment letter was received from the City of Greenleaf (Attachment 6f) stating Findings 5, 6 & 8 cannot be supported without the following conditions:

- a. Prior to the commencement of use or establishment of use, the applicant shall work with the City of Greenleaf to provide connection to city water and sewer. If not applicable, the applicant shall work with the Idaho Department of Environmental Quality and Southwest District Health to ensure adequate facilities are provided. Evidence shall be a letter from the stated agencies.
- b. Prior to the commencement of use or establishment of use on the subject parcels, the applicant/development shall work with Golden Gate Highway District and ITD to ensure adequate access meets required standards and traffic impacts are addressed via a traffic impact study and mitigation measures are established and met.
 - i. ITD and Golden Gate Highway District have requested the same condition (Attachment 6a and 6g).
- c. Prior to the commencement of use or establishment of use, the applicant/developer shall contact in writing all political subdivisions with essential public service jurisdiction to request an analysis of potential impacts to essential services. All conditions and mitigation measures shall be met prior to commencement of use.
- d. "Utility Facility" shall be included as prohibited.
The conditions have been incorporated into the development agreement conditions (Exhibit B).

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0029.

Order


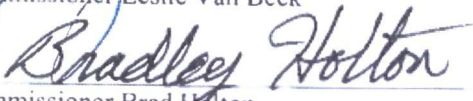
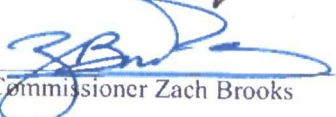
Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approves** Case # CR2022-0029, a conditional rezone of the subject parcels (R36143 & R36155), approximately 145.48 acres, from "A" (Agricultural) to a "CR-M-1" (Conditional Rezone - Light Industrial) zone subject to conditions of the development agreement (Exhibit B).

Pursuant to Section 67-6535 of the Idaho Code, the applicant has 14 days from the date of the final decision to seek reconsideration before seeking judicial review.

DATED this 2 day of August, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

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

	Yes	No	Did Not Vote
 Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Chris Yamamoto, Clerk

By: 
Deputy

Date: 8-2-23

DEVELOPMENT AGREEMENT CONDITIONS OF APPROVAL

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the properties including, but not limited to:
 - a. Golden Gate Highway District (See letter and conditions of approval dated February 28, 2023, Attachment 6a)
 - b. Idaho Transportation Department (See letter and conditions of approval dated March 29, 2023, Attachment 6g)
 - c. Boise Project Board of Control (See letter dated February 28, 2023, Attachment 6b)
 - d. Idaho Department of Environmental Quality (See letter dated March 10, 2023, Attachment 6c)
 - e. The City of Greenleaf (See letter dated March 22, 2023, Attachment 6f)
 - i. Prior to the commencement of use or establishment of use, the applicant/developer shall work with the City of Greenleaf to provide connection to city water and sewer. If not applicable, the applicant shall work with the Idaho Department of Environmental Quality and Southwest District Health to ensure adequate facilities are provided. Evidence shall be a letter from the stated agencies.
 - ii. Prior to the commencement of use or establishment of use on the subject parcels, the applicant/development shall work with Golden Gate Highway District and ITD to ensure adequate access meets required standards, and traffic impacts are addressed via a traffic impact study, and mitigation measures are established and met.
 - iii. Resulting from these analyses, prior to the commencement of use or establishment of use, the applicant/developer shall contact in writing all political subdivisions with essential public service jurisdiction to request an analysis of potential impacts to essential services. All conditions and mitigation measures shall be met prior to commencement of use.
2. The subject parcels, R36143 and R3155, approximately 145 acres, are subject to the uses, standards, and requirements of the "M-1" Zone subject to the following ongoing conditions:
 - a. The following uses are prohibited:
 - i. Mineral extraction (short and long-term),
 - ii. Batch plants,
 - iii. Animal cremation services,
 - iv. Animal facility (small and large),
 - v. Animal Hospital,
 - vi. Kennels,
 - vii. Mortuaries, cremation, and funeral home,
 - viii. Impound yard,
 - ix. Sale of salvage goods,
 - x. Mobile or manufactured home sales,
 - xi. Rehabilitation of manufactured/mobile homes, and
 - xii. Utility Facility
 - xiii. Rendering Plant
 - xiv. Mini Storage/RV Storage
 - b. The subject properties shall remain in agricultural use until the time an "M-1" Zone use is established.
 - c. Development shall maintain a 100-foot buffer along all property boundaries that abut property zoned "A" (Agricultural) until such time the adjacent properties are zoned similarly.
 - d. All exterior lighting shall use light fixtures that are shielded downward and shall be directed away from the adjacent properties.
 - e. Provisions of the Idaho Right to Farm Act (Idaho Code §22-4503) applies to this land use decision.
3. 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." The land designations would revert back to the original zoning if timeframe is not met.