



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

In the matter of the application of:

Black Summit, LLC - RZ2021-0059

The Canyon County Board of Commissioners considers the following:

- Conditional Rezone of the subject parcel, approximately 10.15 acres, from A (Agricultural) zone to CR-R1 (Conditional Rezone – Single Family Residential) zone, and
- Development Agreement with conditions that restricts the development to 13 residential lots.

Case RZ2021-0059, 7722 E Victory Rd, Nampa (Parcel Number: R30566), a portion of the SE¼ of Section 20, T3N, R1W, 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 RZ2021-0059.

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 §09-01-25 (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 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).

The application RZ2021-0059 was presented at a public hearing before the Canyon County Board of Commissioners on October 4, 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 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 eight (8) policies and four (4) 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 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.

Policy 2. Encourage future high-density development to locate within incorporated cities and/or areas of city impact.

Policy 3. Encourage future populations to locate in areas that population for residential living and that do not pose an incompatible land use to other land uses.

Chapter 4. Economic Development:

Policy 7. Canyon County should identify areas of the county suitable for commercial, industrial, and residential development. New development should be located in close proximity to existing infrastructure and in areas where agricultural uses are not diminished.

Chapter 5. Land Use:

Goal 4. To encourage development in those areas of the county which provide the most favorable conditions for future community services.

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

Goal 8. Consider adjacent county land uses when reviewing county-line development proposals.

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.

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 13.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.

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 F, Attachment 6e) as well as being located within the City of Nampa Area of City Impact.
 - (2) City of Nampa supports this application and has entered a pre-annexation agreement as seen in Exhibit F, Attachment 7e.
 - (3) There are 28 platted subdivisions within the vicinity, see Exhibit F, Attachment 6c.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.
 - (5) Evidence includes associated findings and evidence supported within this document.

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 F, Attachment 6e) as well as the property is located within the City of Nampa Area of City Impact.
 - (2) The typical land use in the area is residential. (Exhibit F, Attachment 6c). The soil type doesn't lend itself to agriculture production. (Exhibit F, Attachment 6k)
 - (3) There are 28 platted subdivisions within a mile radius (Exhibit F, Attachment 6c).
 - (4) The applicant has entered into a pre-annexation agreement with the City of Nampa and is proposing using public water and sewer for the lots. (Exhibit F, Attachment 7e)
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.
 - (6) Evidence includes associated findings and evidence supported within this document.

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 character of the area is primarily residential with 28 platted subdivisions within the vicinity (Exhibit F, Attachment 6c).

- (2) The zoning in the surrounding vicinity is primarily “A” agricultural, however, the use is predominantly residential. The rezone is aligned with the surrounding area use of residential (Exhibit F, Attachment 6c).
- (3) The applicant has entered into an agreement with the City of Nampa to hook into the public water and sewer systems. (Exhibit F, Attachment 7e) This will mitigate the impact of adding additional private wells and septic systems in the area.
- (4) Notice of the public hearing was provided per CCZO §07-05-01.
Affected agencies were noticed on August 24, 2023.
Newspaper notice was published on August 24, 2023.
Property owners within 600’ were notified by mail on August 24, 2023.
Full political notice was provided on August 24, 2023.
The property was posted on August 31, 2023.
- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.
- (6) 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: 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 parcel has a pre-annexation agreement with the City of Nampa and the development will be tying into the public water and sewer system provided by the City. (Exhibit F Attachment 7e)
 - (2) Nampa & Meridian Irrigation District will require a Land Use Change Application be filled out and coordination with their office to install pressurized water irrigation system.
 - (3) Notice of the public hearing was provided per CCZO §07-05-01.
Affected agencies were noticed on August 24, 2023.
Newspaper notice was published on August 24, 2023.
Property owners within 600’ were notified by mail on August 24, 2023.
Full political notice was provided on August 24, 2023.
The property was posted on August 31, 2023.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.
 - (5) Evidence includes associated findings and evidence supported within this document.

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 frontage off of E Victory Road. Nampa Highway District #1 has no objections to this rezone, but, will require a variance request be submitted to as well as a formal review application. (Exhibit F, Attachment 7h) No concerns were stated by Idaho Transportation Department (Exhibit F, Attachment 7g).

- (2) Future Right of Way dedication along E Victory Road will be required at time of platting.
- (3) Notice of the public hearing was provided per CCZO §07-05-01.
Affected agencies were noticed on August 24, 2023.
Newspaper notice was published on August 24, 2023.
Property owners within 600' were notified by mail on August 24, 2023.
Full political notice was provided on August 24, 2023.
The property was posted on August 31, 2023.
- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-00.

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 frontage off of E Victory Road. Nampa Highway District #1 has no objections to this rezone, but, will require a variance request be submitted to as well as a formal review application. (Exhibit F, Attachment 7h) No concerns were stated by Idaho Transportation Department (Exhibit F, Attachment 7g).
 - (2)
Notice of the public hearing was provided per CCZO §07-05-01.
Affected agencies were noticed on August 24, 2023.
Newspaper notice was published on August 24, 2023.
Property owners within 600' were notified by mail on August 24, 2023.
Full political notice was provided on August 24, 2023.
The property was posted on August 31, 2023.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.
 - (4) Evidence includes associated findings and evidence supported within this document.

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 no comments of concern were received. The proposed development will be serviced by Kuna School District, Canyon County Sheriff, Nampa Rural Fire and Canyon Ambulance District.

Notice of the public hearing was provided per CCZO §07-05-01.
Affected agencies were noticed on August 24, 2023.
Newspaper notice was published on August 24, 2023.
Property owners within 600' were notified by mail on August 24, 2023.
Full political notice was provided on August 24, 2023.
The property was posted on August 31, 2023.
 - 2) A letter submitted by the Kuna School District was submitted prior to the Canyon County Board of Commissioners hearing indicating that they would not be able to serve this development. They proposed mitigation possibilities such as donation of land, money or

in-kind facility work. They would also like to discuss a bus stop area for the development. (Exhibit B, Attachment B1) The Planning and Zoning Commission did not have this information for the public hearing on July 20, 2023. A condition is added to work with the Kuna School District on a form of mitigation prior to approval of the Preliminary Plat that will follow this rezone. (Exhibit A)

- 3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.

Canyon County Code §09-01-25 Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The property is located within the Nampa Area of City Impact. A notice was sent to the City of Nampa per Canyon County Code Section 09-01-25.

- Findings:**
- (1) The City of Nampa was provided notice on August 24, 2023, pursuant to Canyon County Code Section 09-01-25. The City of Nampa stated they are in support of this rezone since the applicant has signed a pre-annexation agreement and are connecting to City water and sewer. (Exhibit F, Attachment 7e)
 - (2) The proposed development does fit within the Comprehensive Plan for City of Nampa as Low Density Residential designation.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0059.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approves** Case #RZ2021-0059, a conditional rezone of R30566 subject to conditions of the development agreement (Attachment A).

DATED this 4 day of October, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

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

[Signature]
Commissioner Leslie Van Beek
Brad Holton
Commissioner Brad Holton
[Signature]
Commissioner Zach Brooks

Yes	No	Did Not Vote
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Chris Yamamoto, Clerk
By: [Signature]
Deputy

Date: 10-4-23

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 13 buildable lots in substantial compliance with the concept plan.
3. Subject to the applicant's pre-annexation agreement, the development must connect to City of Nampa's water under the direction of City of Nampa.
4. The preliminary plat must align with the conditions and comments given by the City of Nampa's letter seen in Exhibit F Attachment 7e unless otherwise waived by the City.
5. Developer shall meet with Kuna School District for agency review prior to approval of the Preliminary Plat.
6. 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."