



PLANNING OR ZONING COMMISSION
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Hurst – CU2022-0040

The Canyon County Planning and Zoning Commission considers the following:

1) Conditional Use Permit

Jay Gibbons, representing the Jody & Petra Hurst Family Trust, is requesting a conditional use permit for a Contractor Shop and Staging Area located on parcel R30364010. The requested use includes an office building, out buildings, and landscape material storage areas. The applicant has proposed to maintain the current 45 employees and hours of operation from 7am to 6pm. The parcel is zoned "A" (Agricultural). The subject property is located at 4663 Ustick Rd, Nampa; also referenced as a portion of the NW¼ of Section 5, Township 3N, Range 1W; 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 CU2022-0040.

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 §07-14-09 (Use Standards), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code §09-11-25, (Area of City Impact Agreement).
 - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
 - b. 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.
 - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the commission to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity. *See* CCZO §07-07-01.
 - d. 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. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.

- e. Use Standards – Contractor’s Shop: The use shall be contained within a building or behind a sight obscuring fence. *See* CCZO §07-14-09.
2. The commission shall have those powers and perform those duties assigned by the board that are provided for in the local land use planning act, Idaho Code, title 67, chapter 65, and county ordinances. CCZO §07-03-01, 07-07-01.
3. There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm’rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
4. 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.
5. 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.
6. 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 (CU2022-0040) was presented at a public hearing before the Canyon County Planning and Zoning Commission on October 5, 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 Canyon County Planning and Zoning Commission decide as follows:

CONDITIONAL USE PERMIT HEARING CRITERIA – CCZO §07-07-05

1. Is the proposed use permitted in the zone by conditional use permit?

Conclusion: The proposed uses include an allowed use and two uses permitted in the zone by conditional use permit.

- Findings:**
- (1) According to CCZO §07-02-03, a contractor shop “May include, but not be limited to, a building where a contractor conducts his business, including offices and parking of equipment and employee parking.” A staging area is “An area where equipment and/or materials are stored for use conducted entirely off site.” A landscape business is not defined.
 - (2) According to CCZO §07-02-03, both contractor shops and staging areas are permitted uses through a conditional use permit in the “A” (Agricultural) zone. A landscape business is an allowed use in the “A” (Agricultural) zone.
 - (3) The subject parcel, R30364010, is zoned “A” (Agricultural) (Exhibit E3).
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
 - (5) Evidence includes associated findings and evidence supported within this document.

2. What is the nature of the request?

Conclusion: The applicant is requesting a conditional use permit for a contractor shop and staging area.

- Findings:** (1) The requested use includes using the existing office building, out buildings, and landscape material storage areas for a contractor shop and staging area. The applicant has proposed to maintain the current 45 employees and hours of operation from 7am to 6pm (Exhibit C3).
- (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
- (3) Evidence includes associated findings and evidence supported within this document.

3. Is the proposed use consistent with the comprehensive plan?

Conclusion: The proposed use is consistent with the 2020 Canyon County Comprehensive Plan.

- Findings:** (1) The Future Land Use designation in the 2020 Canyon County Comprehensive Plan is Agriculture (Exhibit E4).
- (2) The use is consistent with the following goals and policies of the 2020 Canyon County Comprehensive Plan:

Chapter 1. Property Rights
Policy 1. No person shall be deprived of private property without due process of law.
Policy 10. Land use laws and decisions should avoid imposing unnecessary conditions or procedures on development approvals.
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 3. School Facilities
Policy 2. Provide information regarding land development proposals with all affected school districts. School districts should be given the opportunity to participate in pre-application processes and planning.
Chapter 4. Economic Development
Goal 4. Provide an economically viable environment that builds and maintains a diverse base of business.
Policy 2. Support existing business and industry in the county.
Policy 6. Encourage commercial and residential development in a controlled, planned, and constructive manner, which will enhance, not destroy, the existing lifestyle and environmental beauty of Canyon County.
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 1. To encourage growth and development in an orderly fashion, minimize adverse impacts on differing land uses, public health, safety, infrastructure and services.
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 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 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.
Commercial and Industrial

Policy 1. Encourage commercial and industrial development where there is adequate access to the following services, if applicable:

- a. sufficient water;
- b. a system to discharge used water;
- c. power;
- d. transportation.

Implementation Action: Encourage commercial areas, zones or uses that are contiguous to existing county or city commercial areas, zones or uses but recognizing additional areas or zones, beyond those already existing, may be desirable and that some mixed uses are compatible.

Chapter 8. Public Services, Facilities and Utilities Component

Policy 2. Encourage the establishment of expanded sewer infrastructure and wastewater treatment in areas of city impact.

Implementation Action: In order to protect groundwater quality and to create cost effective wastewater collection systems, encourage all existing developments served by septic systems to connect to central sewer once it becomes available.

- The applicant is being given due process of law through the hearing process. Conditions have been agreed upon by the applicant.
 - Landscaping services are needed as the population in the Treasure Valley grows.
 - Ada County school district was notified of the proposed use.
 - Approving the conditional use permit would support an existing business which is located near infrastructure and somewhat near city services.
 - Conditions are provided to mitigate potential impacts.
 - While the use is not strictly agricultural, it is an appropriate and compatible use to be in an agricultural zone.
 - Adjacent Ada County land uses and zonings have been included as part of the staff report.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
- (4) Evidence includes associated findings and evidence supported within this document.

4. Will the proposed use be injurious to other property in the immediate vicinity and/or negatively change the essential character of the area?

Conclusion: As conditioned, the proposed use will not be injurious to other property in the immediate vicinity or negatively change the essential character of the area.

- Findings:**
- (1) The surrounding area includes both active agricultural uses in Canyon and Ada Counties and residential subdivisions in the City of Nampa. Owyhee High School is located approximately a quarter mile to the northeast (Exhibits E1, E7).
 - (2) The property has previously been used as a nursery. The change in use is not significantly different enough to change the essential character of the area.
 - (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 25, 2023. Property owners within 600' were notified by mail on August 24, 2023. The property was posted on September 1, 2023. No public comments were received.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
 - (5) Evidence includes associated findings and evidence supported within this document.

5. Will adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems be provided to accommodate the use?

Conclusion: Adequate facilities and systems for the use are already existing on site.

- Findings:**
- (1) The property has an existing private well, septic, and surface irrigation which are adequate for the propose use (Exhibit C1).
 - (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 25, 2023. Property owners within 600' were notified by mail on August 24, 2023. The property was posted on September 1, 2023.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
 - (4) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: Legal access to the subject property for the development exists.

- Findings:**
- (1) The property has access to Ustick Rd via an easement across parcel R30365.
 - (2) Nampa Highway District stated that the property must continue to use the existing commercial access. No new point of access is allowed unless a variance is approved by the Nampa Highway District #1 Commissioners (Exhibit F4).
 - (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 25, 2023. Property owners within 600' were notified by mail on August 24, 2023. The property was posted on September 1, 2023.
 - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
 - (5) Evidence includes associated findings and evidence supported within this document.

7. Will there be undue interference with existing or future traffic patterns?

Conclusion: The use is not expected to cause undue interference with existing or future traffic patterns.

- Findings:**
- (1) The applicant has proposed to maintain the current number of employees, which is 45. Since the proposed use is a contractor shop and staging area, almost all traffic to and from the site will be employees. The business does not have a retail or wholesale component.
 - (2) The property currently has a similar number of employees and has had a similar use since 2014. There will not be a significant increase in traffic from the existing permitted and non-permitted uses.
 - (3) Nampa Highway District did not state any concerns with traffic (Exhibit F4).
 - (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 25, 2023. Property owners within 600' were notified by mail on August 24, 2023. The property was posted on September 1, 2023.
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.

(6) Evidence includes associated findings and evidence supported within this document.

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?**

Conclusion: Essential services will be provided to accommodate the use. The use is not anticipated to negatively impact essential services or require public funding.

- Findings:**
- (1) All essential services which could be impacted were notified of the proposed use. No comments were received.
 - (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 25, 2023. Property owners within 600' were notified by mail on August 24, 2023. The property was posted on September 1, 2023.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.
 - (4) Evidence includes associated findings and evidence supported within this document.

Canyon County Code §09-11-25 (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 09-11-25.

- Findings:**
- (1) The City of Nampa sent a comment stating that they are not opposed to the application provided that a condition is added requiring that the property owner apply for annexation once city services are available (Attachment A). The Commission has considered this comment and disagrees with the proposed condition.
 - (2) A notice was sent on March 2, 2023 to the City of Nampa in accordance with the Joint Exercise of Powers Agreement.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2022-0040.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission **approves** Case # CU2022-0040, a conditional use permit for a contractor's shop on parcel R30364010 subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. This conditional use permit must follow land use time limitation as stated in CCZO 07-07-23: "When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date."
3. The hours of operation shall be 7 a.m. to 6 p.m. Monday through Friday. Weekend work may occur from the hours of 8 a.m. to 4 p.m.

4. All exterior lighting shall be directed away from adjacent residential properties.

DATED this 5 day of October, 2023.

PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

[Signature]
Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this 5th day of October, in the year 2023, before me Jennifer D. Almeida a notary public, personally appeared Robert Sturgill, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: Jennifer D. Almeida

My Commission Expires: 4/7/28



Madelyn Vander Veen

From: Doug Critchfield <critchfieldd@cityofnampa.us>
Sent: Monday, August 14, 2023 4:25 PM
To: Madelyn Vander Veen
Cc: Rodney Ashby; Caleb Laclair
Subject: RE: [External] RE: [External]Legal Notice CU2022-0040 / Hurst

Madelyn – Rodeny and I spoke about this. Your suggestion that “the conditional use permit could be conditioned to expire once city services are available to the property so that the property owner would need to (apply for annexation) at that point” is a good approach. Thanks - Doug

From: Madelyn Vander Veen <Madelyn.VanderVeen@canyoncounty.id.gov>
Sent: Monday, August 7, 2023 1:12 PM
To: Doug Critchfield <critchfieldd@cityofnampa.us>
Cc: Rodney Ashby <ashbyr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>
Subject: RE: [External] RE: [External]Legal Notice CU2022-0040 / Hurst

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Hi Doug,

I’m hoping to get the case scheduled soon if this can be resolved, so if you can somehow respond tomorrow before noon that would be amazing, otherwise anytime before August 22. Thanks for looking into it!

Madelyn Vander Veen, Planner I
Canyon County Development Services
Direct: 208-455-6035
Madelyn.VanderVeen@canyoncounty.id.gov

NEW public office hours - Effective Jan. 3, 2023
Monday, Tuesday, Thursday and Friday: 8am - 5pm
Wednesday: 1pm - 5pm
**We will not be closed during lunch hour **

From: Doug Critchfield <critchfieldd@cityofnampa.us>
Sent: Monday, August 7, 2023 12:11 PM
To: Madelyn Vander Veen <Madelyn.VanderVeen@canyoncounty.id.gov>
Cc: Rodney Ashby <ashbyr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>
Subject: RE: [External] RE: [External]Legal Notice CU2022-0040 / Hurst

Hi Madelyn – What is your timeframe for a response on this? Rodney is on vacation this week and I need to discuss with him.

Thanks - Doug

From: Madelyn Vander Veen <Madelyn.VanderVeen@canyoncounty.id.gov>
Sent: Monday, August 7, 2023 11:44 AM
To: Doug Critchfield <critchfieldd@cityofnampa.us>
Cc: Rodney Ashby <ashbyr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>
Subject: RE: [External] RE: [External]Legal Notice CU2022-0040 / Hurst

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Hello Doug,

Please see the attached letter from the applicant of this case for a contractor shop & wholesale nurse located at 4663 Ustick Rd. Your comment from March of this year requested that the county deny the application and that the property be annexed. The applicant is stating that they would like to proceed with the county rather than annex since services are not in the area. Do you have a response for the applicant? Is this something we can condition – for example, the conditional use permit could be conditioned to expire once city services are available to the property so that the property owner would need to annex at that point.

Thanks,

Madelyn Vander Veen, Planner I
Canyon County Development Services
Direct: 208-455-6035
Madelyn.VanderVeen@canyoncounty.id.gov

NEW public office hours - Effective Jan. 3, 2023
Monday, Tuesday, Thursday and Friday: 8am - 5pm
Wednesday: 1pm - 5pm
**We will not be closed during lunch hour **

From: Doug Critchfield <critchfieldd@cityofnampa.us>
Sent: Thursday, March 16, 2023 8:26 AM
To: Madelyn Vander Veen <Madelyn.VanderVeen@canyoncounty.id.gov>
Cc: Rodney Ashby <ashbyr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>
Subject: [External] RE: [External]Legal Notice CU2022-0040 / Hurst

Madelyn – Please see the response from Nampa Planning and Zoning. Thank you

From: Bonnie Puleo <Bonnie.Puleo@canyoncounty.id.gov>
Sent: Thursday, March 2, 2023 9:45 AM
To: Robyn Sellers <sellersr@cityofnampa.us>; Caleb Laclair <laclairc@cityofnampa.us>; Kristi Watkins <watkinsk@cityofnampa.us>; Daniel Badger <BadgerD@cityofnampa.us>; Doug Critchfield <critchfieldd@cityofnampa.us>; Nathan Haveman <havemann@cityofnampa.us>; Char Tim <timc@cityofnampa.us>
Subject: [External]Legal Notice CU2022-0040 / Hurst

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Dear Agency;

You are hereby notified, pursuant to the Joint Exercise of Power Agreement between the City of Nampa and Canyon County, that the Development Services Department has accepted the following application: **CU2022-0040**. Attached for your review is a copy of the letter of intent and a site plan. If you would like additional information please contact Planner Madelyn Vander Veen at Madelyn.vanderveen@canyoncounty.id.gov

Thank you,



Bonnie Puleo

Hearing Specialist

Canyon County Development Services

111 No 11th Ave. Suite 310

Caldwell, ID 83605

bonnie.puleo@canyoncounty.id.gov

(208) 454-6631 *direct*

NEW public office hours effective January 3, 2023

Monday, Tuesday, Thursday and Friday

8 am – 5 pm

Wednesday

1 pm – 5 pm

****We will not be closed during lunch hour****

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PLANNING AND ZONING DEPARTMENT

Madelyn Vander Veen
111 North 11th Ave.
Caldwell, ID 83605

DATE: March 13, 2023

RE: CU2022-0040 – CUP for Contractor Shop and Nursery at 4663 Ustick Rd.
(R30364010) or the Property...

The Property has been reviewed by the Planning and Zoning Department with the following analysis:

The Property is in the Nampa Area of City Impact and adjacent to annexed parcels in the City of Nampa. The Property is overlaid by the Highway 16 Specific Area Plan. Highway 16 construction is underway with a direct connection to Ustick Road, which will become a major thoroughfare for the City of Nampa and connection to the Treasure Valley region.

The Nampa Comprehensive Plan shows this parcel extending into two future land use designations: 'Community Mixed Use' and 'Medium Density Residential'. 'Community Mixed Use' land use designation is intended for commercial development with at least 5% in high density residential. The 'Medium Density Residential' land use designation is intended for single-family residential development.

This area has been identified in the Highway 16 Specific Area Plan as the 'Ustick Business District'. The design standards are elevated for this area as indicated in Chapter 31 and 34 of the Nampa City Code, and the Highway 16 Specific Area Plan.

Nampa requests that this conditional use permit be denied and that the Property be annexed into the City of Nampa. Once annexed, the City of Nampa will work with the property owners to establish the desired commercial land uses on this parcel utilizing the codes and standards outlined in the Nampa City Code, Comprehensive Plan and Highway 16 Specific Area Plan.

Sincerely,

Doug Critchfield
Principal Planner
Nampa Planning Dept.
E-mail address: critchfieldd@cityofnampa.us
(208) 468-5442

EDC/dc
file

“Owner/Applicant(s) shall comply with all applicable requirements [including obtaining proper permits] as may be imposed by City agencies appropriately involved in the review of improvement or land use requests (e.g., Nampa Fire, Building, Planning and Zoning and Engineering Departments, etc.) as this zoning verification letter does not and shall not have the effect of approving a project or abrogating requirements from those agencies.”