



**BOARD OF COUNTY COMMISSIONERS**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

In the matter of the application of:

**[AG Development] – [Case RZ2021-0061]**

The Canyon County Board of Commissioners considers the following:

- 1) Conditional Rezone Case No. RZ2021-0061: AG Development LLC, represented by Hatch Design Architecture, is requesting a conditional rezone of parcel R33952010 from an “A” (Agricultural) zone to a “CR-C-2” (Conditional Rezone - Service Commercial) zone. The request includes a Development Agreement limiting the types of uses and development plan that will be allowed on the property. The applicant is proposing to have a mixed-use development including a mini-storage facility and a business/flex (non-retail) complex on the subject property.
- 2) Development Agreement limiting the types of uses and design that will be allowed on the property (Attachment 1).

[Case RZ2021-0061; 9145 Hwy 44, Middleton; also referenced as a portion of the NE¼ of Section 09, Township 4N, Range 2W; 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 RZ2021-0061.
  - B. On June 15, 2023 the Planning and Zoning Commission heard this case and forwarded it to the Board of County Commissioners with a recommendation of approval as conditioned subject to a development agreement.

**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 09-09-17 (Area of City Impact Agreement).
  - a. For the Planning and Zoning Meeting held June 15, 2023: Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509. Affected agencies were noticed on January 11, 2023 and May 5, 2023, a JEPA letter sent to City of Middleton on January 11, 2023. Newspaper notice was published on February 3, 2023 and May 5, 2023. Property owners within 600 feet were notified by mail on January 3, 2023 and May 5, 2023. Full political notice was provided on January 11, 2023 and the property was posted on May 12, 2023.
  - b. The Planning and Zoning Commission on June 15, 2023 forwarded this case to the Board of County Commissioners with a recommendation of approval as conditioned and subject to a Development Agreement.

- c. For the Board of County Commissioners Hearing August 15, 2023: Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509. Affected agencies were noticed on July 5, 2023. Newspaper notice was published on July 5, 2023. Property owners within 600 feet were notified by mail on July 5, 2023 and the property was posted on July 13, 2023.
  - d. The presiding party may establish conditions, stipulations, restrictions, or limitations that 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 improvements 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).
  - e. 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, §67-6511A.
  3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504.
  4. The Board can sustain, modify or reject the 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 (RZ2021-0061 (CR) was presented at a public hearing before the Canyon County Board of Commissioners on August 15, 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 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 from Agricultural to CR-Service Commercial subject to a development agreement is generally consistent with the 2020 Canyon County Comprehensive Plan and Future Land Use Map.

- Findings:**
- (1) The 2020 Canyon County Comprehensive Plan Future Land Use Map designates the property as Commercial. (Attachment 4a)
  - (2) The subject property lies within the City of Middleton area of city impact. The adopted Middleton Comprehensive Plan designates the property as “Residential Special Areas”. The subject property lies within the ‘AE’ Special Flood Hazard Area (SFHA).
  - (3) The request is consistent with goals and policies of the Comprehensive Plan, including, but not limited to:

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#### **Chapter 1. Property Rights**

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**Policy 8.** Promote orderly development that benefits the public good and protects the individual with a minimum of conflict.

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**Chapter 2. Population**

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**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.

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**Chapter 4. Economic Development**

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**Goal 3.** Create new jobs that are sustainable and lasting.

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**Policy 4.** Encourage growth of responsible business in Canyon County by recruiting businesses based on their potential job creation and their willingness to have a positive impact on the community.

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**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.

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**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.

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**Chapter 5. Land Use**

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

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**Policy 1.** Review all residential, commercial and industrial development proposals to determine the land use compatibility and impact to surrounding areas.

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**Chapter 8. Public Services, Facilities, and Utilities Component**

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**Policy 3.** Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.

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Supporting evidence can be found in Criteria 2 - 8.

- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case file No. RZ2021-0061.

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

**Conclusion:** The proposed conditional rezone to CR-C2 (Service Commercial) is more appropriate than the current zoning designation of Agricultural.

**Findings:** (1) The 11.41 acre agriculturally zoned parcel is not in agricultural production.

- (2) There are agricultural parcels near the subject property; however, this area is predominantly commercial and residential as shown in the zoning and classification map (Attachment 4b).
- (3) As shown in the small air photo, agricultural uses are limited by residential and commercial development and in the primary vicinity of State Highway 44 directly to the north (Attachment 4c).
- (4) The subject property lies within the FEMA 'AE' SFHA, limiting residential development in the floodplain is appropriate.
- (5) The property lies within the Middleton area of city impact and the City of Middleton is in support of the application and has entered into a pre-annexation agreement with the applicants to provide utility corridors/easements for future service connections.
- (6) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case File No. RZ2021-0061.
- (7) Evidence includes findings and evidence found in Criteria 3 and 4.

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

**Conclusion:** The proposed conditional rezone for an RV/Mini-storage facility and a business-flex (non-retail) complex as conditioned is compatible with the surrounding land uses.

- Findings:**
- (1) There are 11 commercially zoned parcels within a 1-mile radius of the subject property, as shown in the zoning and classification map (Attachment 4b).
  - (2) The subject property is 0.80 miles from the city limits of Middleton and their Future Land Use Map shows this general area for commercial and residential - special areas as shown in the City of Middleton Future Land Use Map (Attachment 4d).
  - (3) The conditional rezone with development agreement (Attachment 1) limits the “C-2” Zone to only an RV and mini-storage facility and a business/flex (non-retail) complex.
  - (4) There are 28 platted subdivisions within one (1) mile of the subject property, as shown in the Subdivision Map (Attachment 4e), with 20 of the 28 subdivisions platted after 2000, as shown in the Lot Report (Attachment 4e).
  - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0060.

### 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 (Attachment 1), the conditional rezone is not anticipated to negatively affect the character of the area; however, the development agreement will limit the types of uses that will be allowed on the property to help mitigate any impacts that would occur with more intensive uses allowed in the “C-2” zone.

- Findings:**
- (1) The Canyon County Comprehensive Plan 2020 Future Land Use Map designates the subject property and surrounding area as commercial (Attachment 4a).
  - (2) The request is located within the Middleton Area of City Impact and the land use is designated to support mixed-use. The city is in support of the proposed use (Attachment 5a).
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on May 2, 2023. Newspaper notice was published on May 5, 2023. Property owners within 600’ were notified by mail on May 5, 2023. Full political notice was provided on January 11, 2023. The City of Middleton was noticed on January 11, 2023. The property was posted on May 12, 2023.
    - a. Comments received from agencies do not oppose the request. (Attachment 5).
    - b. One (1) letter in opposition to the proposed use from property owners within 600 feet was received (Attachment 6). However, the concerns stated in the letter may be addressed and mitigated through the conditions of approval (Attachment 1).
    - c. The development agreement (Attachment 1) limits the types of uses to provide clarity of what uses are allowed and prohibited on the property. The conditions of the agreement include fencing, landscaping, and exterior lighting requirements to ensure the impact on surrounding properties will be minimized.
  - (4) For the Board of County Commissioners Hearing August 15, 2023: Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509. Affected agencies were noticed on July 5, 2023. Newspaper notice was published on July 5, 2023. Property owners within 600 feet were notified by mail on July 5, 2023 and the property was posted on July 13, 2023.
    - a. Two letters of support were received from the general public. The addresses provided are not in the immediate vicinity of the development property.

- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.
- (6) Evidence includes findings and evidence found in Criteria 2, 3, 5, 6, and 8.

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

**Conclusion:** Adequate sewer, drainage, and stormwater retention facilities and utility systems will be provided to accommodate the proposed use at the time of development.

- Findings:**
- (1) City services are not available to the subject parcel at this time (Attachment 5b); however, as conditioned through the development agreement (Attachment 1), the business/flex (non-retail) complex will not be constructed until city services are available.
  - (2) The mixed-use storage facility will be served by well and septic and will be required to meet IDWR, DEQ, and SWDH requirements.
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on May 2, 2023. Newspaper notice was published on May 5, 2023. Property owners within 600' were notified by mail on May 5, 2023. Full political notice was provided on January 11, 2023. The City of Middleton was noticed on January 11, 2023. The property was posted on May 12, 2023.
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.
  - (5) Evidence includes findings and evidence found in Area of City Impact Agreement ordinance criteria.

**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:** The conditional rezone of the subject property will not require improvements to prevent undue interference with existing or future traffic patterns as conditioned.

- Findings:**
- (1) The applicant commissioned a Traffic Generation Study prepared by J-U-B Engineers, Inc which was completed on February 24, 2023 (Attachment 7). At full buildout and peak usage, the development is conservatively estimated to generate 412 trips per day. Approximately 34 trips are estimated to occur during the AM peak hour between 7 AM and 9 AM, and 43 trips are estimated to occur during the PM peak hour between 4 PM and 6 PM.
  - (2) According to Idaho Transportation Department (ITD), after their review of the Traffic Generation Study they concluded that the development would not generate enough traffic to warrant any mitigations (Attachment 4c).
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on May 2, 2023. Newspaper notice was published on May 5, 2023. Property owners within 600' were notified by mail on May 5, 2023. Full political notice was provided on January 11, 2023. The City of Middleton was noticed on January 11, 2023. The property was posted on May 12, 2023.
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.

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

**Conclusion:** Legal access will exist for the subject property at the time of development.

- Findings:**
- (1) Legal access will be granted via a driveway on the eastern side of the subject property from Highway 44 and will be required to meet ITD approach standards.
  - (2) According to ITD, the applicant requested an approach permit and it was approved on April 5, 2023. ITD has no objection to the proposed application as all access concerns have been addressed with ITD Staff. (Attachment 5c).
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on May 2, 2023. Newspaper notice was published on May 5, 2023. Property owners within 600' were notified by mail on May 5, 2023. Full political notice was provided on January 11, 2023. The City of Middleton was noticed on January 11, 2023. The property was posted on May 12, 2023.
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.

**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:** Essential services will be provided to accommodate the use. No mitigation is proposed at this time.

- Findings:**
- (1) The proposed use is not anticipated to require additional public funding to meet the needs created by the requested use and police, fire, and emergency medical services will be provided to the property.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on May 2, 2023. Newspaper notice was published on May 5, 2023. Property owners within 600' were notified by mail on May 5, 2023. Full political notice was provided on January 11, 2023. The City of Middleton was noticed on January 11, 2023. The property was posted on May 12, 2023.
  - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.

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

**Conclusion:** The property is located within the Middleton Area of City Impact. A notice was sent to the City of Middleton per Canyon County Code Section 09-09-17. Conditions applied require future development to work with the City of Middleton.

- Findings:**
- (1) The City of Middleton designates the property as “Residential - Special Area” (Attachment 4d).
  - (2) The City of Middleton stated they are in support of the project and they do not have any objections (Attachment 5a).
  - (3) The applicant has a pre-annexation agreement with the City of Middleton. The agreement states the subject property can be annexed by the city once it is contiguous with city limits and the applicant will provide a utility corridor and easement for future sewer and water facilities to run “to and through” the property (Attachment 8).
  - (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. RZ2021-0061.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **APPROVE** Case # RZ2021-0061, a conditional rezone of parcel R33952010 from an “A” (Agricultural) zone to a “CR-C-2” (Conditional Rezone - Service Commercial) subject to conditions of the development agreement (Attachment 1).

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

CANYON COUNTY BOARD OF COMMISSIONERS

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

|                                       | Yes   | No    | Did Not<br>Vote |
|---------------------------------------|-------|-------|-----------------|
| _____<br>Commissioner Leslie Van Beek | _____ | _____ | _____           |
| _____<br>Commissioner Brad Holton     | _____ | _____ | _____           |
| _____<br>Commissioner Zach Brooks     | _____ | _____ | _____           |

Attest: Chris Yamamoto, Clerk

By: \_\_\_\_\_  
Deputy

Date: \_\_\_\_\_

## ATTACHMENT 1

### CONDITIONS OF APPROVAL for D.A.

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, R33952010, shall be subject to the requirements of the "CR-C-2" Zone. The "CR-C-2" Zone is subject to the following ongoing conditions:
  - a. The following uses shall be the only allowed uses within the "C-2" zone:
    - i. Ministorage and/or RV storage facility
    - ii. Offices
    - iii. Accessory uses and/or structures to allowed uses
    - iv. Similar uses to allowed uses
3. The development of the site shall be in general conformance with the applicant's letter of intent and site plan (Attachments 2a & 2b). The site plan does not propose/depict open storage. Any significant modifications of the site plan and structure layout shall be required to amend the plan through a conditional use permit modification.
  - a. Storage units shall only be used for storage and no other uses shall be permitted to operate within the storage units. Warehousing shall not be permitted in any structures within the development.
4. Building permits for the business/flex (non-retail) complex shall not be issued until city services become available from the City of Middleton.
5. Off-street parking shall be provided in accordance with article 13 of this chapter (CCZO §07-13-01 & 03).
6. Prior to the issuance of building permits, the applicant/developer shall receive review and approval from Star Fire District to ensure proper access and circulation to all structures on the facility.
7. Signage shall comply with §07-10-13 of the Canyon County Zoning Ordinance. In addition, where signs are located in close proximity to a residential area, the sign should be designed and located so they have little or no impact on adjacent residential neighborhoods. Signage along Old Hwy 30 shall be restricted to monument signs.
8. All exterior light fixtures will be downward facing and shielded to reduce off-site glare to ensure light pollution is minimized.
9. Prior to the submittal of building permits a fencing and landscaping plan shall be submitted to DSD.
10. The development of the site shall comply with NFIP mitigation standards and obtain floodplain development permits.
11. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected. Modifications, including any crossings and tiling of the irrigation structures shall be approved by applicable governing agencies. No stormwater from the hard surface facilities shall be allowed to directly flow into the irrigation systems.
12. Stormwater run-off shall be retained on-site. Stormwater retention is the responsibility of the property owner.
13. 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."