

ORDINANCE NO. 24-001

ORDINANCE DIRECTING AMENDMENTS TO THE
CANYON COUNTY ZONING MAP
(Johns – Conditional Rezone – CR2023-0001)

An ordinance of Canyon County, Idaho directing amendments to the Canyon County Zoning Map (Ordinance No. 12-021); providing for title, structure, purpose and authority clauses; rezone; severability; and an effective date.

Be It Ordained by the Board of County Commissioners of Canyon County, Idaho:

SECTION 1. TITLE.

This Ordinance shall be known as the “Ordinance Directing Amendments to Canyon County Zoning Map (for approximately 2.90 acres; Parcel R37463010A).

SECTION 2. STRUCTURE.

Titles and subtitles of this Ordinance are only used for organization and structure and the language in each paragraph of this Ordinance should control with regard to determining the legislative intent and meaning of the Board of County Commissioners.

SECTION 3. PURPOSE.

The purpose of this Ordinance is to authorize the rezone of the property described in Section 5 of this Ordinance from “A” (Agricultural) to “CR-R-1” (Conditional Rezone – Single Family Residential). The purpose of this Ordinance also authorizes amendments to the Official Maps of Canyon County to reflect the rezone authorized by this Ordinance.

SECTION 4. AUTHORITY.

This Ordinance amending the Official Zoning Maps of Canyon County (is enacted pursuant to the authority conferred by Canyon County Zoning Ordinance 7, Chapter 7, Article 6; and Idaho Code § 67-6511, 67-6511A, 31-714, 31-801 and 31-828.

SECTION 5. REZONE.

The subject property shall be and is rezoned from “A” (Agricultural) to “CR-R-1” (Conditional Rezone – Single-Family Residential), as specifically identified and described on the attached Exhibit “A”, pursuant to the Findings of Fact, Conclusions of Law and Order issued on *March 12, 2024* the Board of Canyon County Commissioners as authorized by Canyon County Zoning Ordinance, Chapter 7, Article 6; the Idaho Constitution; and Idaho Code § 67-6511, 67-6511A.

SECTION 6. SEVERABILITY CLAUSE.


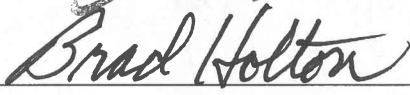
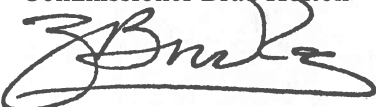
Should any provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance in whole or in part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall be in full force and effect on March 20, 2024.

ADOPTED AND APPROVED this 19th day of March, 2024.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO**

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

Attest: Rick Hogaboam, Clerk

By: JROSS
Deputy

Date: 03-19-24

Publication Date: 3/20 2024, Idaho Press-Tribune



EXHIBIT "A"

For APN/Parcel ID(s): 37463010A 0

A TRACT OF LAND SITUATED IN A PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, MARKED BY A 5/8-INCH IRON PIN WITH ALUMINUM CAP; THENCE NORTH 89°41 '11" EAST A DISTANCE OF 633 FEET ALONG THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER TO A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE SOUTH 00°00'32" EAST A DISTANCE OF 200 FEET TO A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE SOUTH 89°41'11" WEST A DISTANCE OF 633 FEET TO A POINT ON THE WEST LINE OF SAID NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER MARKED BY A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE NORTH 00°00'32" WEST A DISTANCE OF 200 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.



CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 N 11th Avenue • Caldwell, Idaho • 83605 • Phone (208) 454-7458

www.canyoncounty.id.gov/development-services

DEVELOPMENT AGREEMENT BETWEEN CANYON COUNTY AND APPLICANT

Agreement number: 24-025

THIS AGREEMENT, made and entered into this 19th day of March, 2024, by and between Canyon County, Idaho, a political subdivision of the state of Idaho, hereinafter referred to as "COUNTY" and Mark Johns, hereinafter referred to as "Applicant."

RECITALS

WHEREAS, The Applicant has applied to the County for a conditional rezone from an "A" (Agricultural) Zone to "CR-R-1" (Conditional Rezone – Single-Family Residential) Zone (CR2023-0001), which are legally described in the attached EXHIBIT "A," incorporated by reference herein (hereinafter referred to as "Subject Property"); and

WHEREAS, Parcel R37463010A, approximately 2.90 acres, is owned by the Applicant; and

WHEREAS, on the 19th day of March, 2024, the Canyon County Board of Commissioners approved a conditional rezone with conditions of the Subject Property to a "CR-R-1" Zone, which was done with Applicant's approval. The conditions of the approval for the conditional rezone are attached hereto as EXHIBIT "B"; and

WHEREAS, the parties desire to enter into an agreement to comply with Canyon County Code of Ordinances §07-06-07(2) & 07-06-07(7), Canyon County Zoning Ordinance, or as amended, and to ensure the Applicants will implement and be bound by the conditions of the rezone order issued by the Canyon County Board of Commissioners; and

NOW THEREFORE, the parties hereto do hereby agree to the following terms:

SECTION 1. AUTHORIZATION.

This Agreement is authorized and required by Idaho Code §67-6511A; Canyon County Code of Ordinances 07-06-07 (Conditional Rezoning).

SECTION 2. PROPERTY OWNER.

Applicants are the owner(s) of Subject Property which is located in the unincorporated area of Canyon County, Idaho, more particularly described in EXHIBIT "A", attached hereto and incorporated herein, which real property is the subject matter of this Agreement. Applicants represent that they currently hold complete legal or equitable interest in the Subject Property and that all persons holding legal or equitable interests in the Subject Property or the operation of the business are to be bound by this Agreement.

SECTION 3. RECORDATION.

Pursuant to Idaho Code §67-6511A and Canyon County Code of Ordinances, this Agreement shall be recorded by the Clerk in the Canyon County Recorder's Office and will take effect upon the adoption, by the Board of County Commissioners, of the amendment to the zoning ordinance as set forth herein.

SECTION 4. TERM.

The parties agree that this Agreement shall run with the land and bind the Subject Property in perpetuity, and shall inure to the benefit of and be enforceable by the parties, and any of their respective legal representatives, heirs, successors, and assignees. Provided, however, this Agreement shall terminate if the Board of County Commissioners subsequently rezones the property to allow for a higher density use or if annexation of the Subject Property by a city occurs. In this event, however, the Agreement shall only terminate in regards to the portion of the Property that is actually rezoned or annexed, while the remainder of the Property shall remain subject to the Agreement.

If any of the privileges or rights created by this Agreement would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then such provision shall continue until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of George Herbert Walker Bush, former President of the United States, or for such shorter period as may be required to sustain the validity of such provision.

SECTION 5. MODIFICATION.

This Agreement may be modified only in writing signed by the parties, or their successors in interest, after complying with the notice and hearing procedures of Idaho Code §67-6509 and the requirements of Canyon County Code of Ordinances. The modification proposal must be in the form of a revised Development Agreement and must be accompanied by a statement demonstrating the necessity for the requested modification.

SECTION 6. APPLICATION OF OTHER LAWS TO THE SUBJECT PROPERTIES.

This Agreement shall not prevent the County in subsequent actions applicable to the Subject Properties from applying new rules, regulations, or policies that do not conflict with this Agreement.

SECTION 7. COMMITMENTS.

Applicants will fully and completely comply with the conditions of the approved conditional rezone of the Subject Property from "A" (Agricultural) Zone to "CR-R-1" (Conditional Rezone – Single-Family Residential) Zone, which conditions are attached hereto as EXHIBIT "B".

SECTION 8. USES, DENSITY, AND HEIGHT AND SIZE OF BUILDINGS

The density or intensity of use of the Subject Properties is specified in the commitments of Section 7 unless conditioned otherwise (see EXHIBIT "B"). The uses and maximum height and size of the buildings on the Subject Properties shall be those set pursuant to law, including those contained in the Canyon County Code of Ordinances, that are applicable to an "CR-R-1" (Conditional Rezone – Single-Family Residential) zone and those provisions of law that are otherwise applicable to the Subject Property.

SECTION 9. LIABILITY AND INDEMNITY OF COUNTY.

A. COUNTY REVIEW.

Applicants acknowledge and agree that the County is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates or acceptances, relating to the use and development of the property described in EXHIBIT "A," and that the County's review and approval of any such plans and the improvements or the issuance of any such approvals, permits, certificates, or acceptances does not, and shall not, in any way, be deemed to insure or ensure Applicants or any of Applicants' heirs, successors, assigns, tenants, and licensees, against damage or injury of any kind and/or at any time.

B. COUNTY PROCEDURES.

Applicants acknowledge that notices, meetings, and hearings have been lawfully and properly given and held by the County with respect to Applicant's conditional rezone application in Development Services Department Case Number CR2023-0001 and any related or resulting development agreements, ordinances, rules and regulations, resolutions or orders of the Board of County Commissioners. Applicants agree not to challenge the lawfulness, procedures, proceedings, correctness or validity of any of such notices, meetings, hearings, development agreements, ordinances, rules, regulations, resolutions or orders.

C. INDEMNITY.

Applicants agree to, and do hereby, defend, hold harmless and indemnify the County, the Board of County Commissioners, all County elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any such parties in connection with (i) the County's review and approval of any plans or improvements, or the issuance of any approvals, permits, certificates, or acceptances relating to the use and/or development of the Subject Properties; (ii) any actions taken by the County pursuant to Subsection 9(B) of this Agreement; (iii) the development, construction, and maintenance of the property; and (iv) the performance by County of its obligations under this Agreement and all related ordinances, resolutions, or other agreements.

D. DEFENSE EXPENSES.

Applicants shall, and do hereby agree, to pay, without protest, all expenses incurred by the County in defending itself with regard to any and all of the claims identified in Subsection 9 of this Agreement. These expenses shall include all out-of-pocket expenses, including, but not limited to, attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the County.

SECTION 10. PERIODIC REVIEW.

The County's Development Services Department will administer the Agreement after it becomes effective and will conduct a review of compliance with the terms of this Agreement on a periodic basis, including, but not limited to, each time a development of the Property is platted. Applicants shall have the duty to demonstrate Applicants' compliance with the terms of this Agreement during such review.

SECTION 11. REQUIRED PERFORMANCE.

Applicants shall timely carry out all steps required to be performed and maintain all commitments set forth in this Agreement and as set forth in County laws, ordinances, rules and regulations as they pertain to the Subject Property including, but not limited to, those concerning the commencement of development, completion of development, preliminary platting and final platting.

SECTION 12. DEFAULT AND REMEDIES.

In the event of a default or breach of this Agreement or of any of its terms or conditions, the party alleging default shall give the breaching party not less than thirty (30) days, Notice of Default, in writing, unless an emergency exists threatening the health and safety of the public. If such an emergency exists, written notice shall be given in a reasonable time and manner in light of the circumstances of the breach. The time of the giving of the notice shall be measured from the date of the written Notice of Default. The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time during which said default may be satisfactorily cured. During any period of curing, the party charged shall not be considered in default for the purposes of termination or zoning reversion, or the institution of legal proceedings. If the default is cured, then no default shall exist and the charging party shall take no further action.

SECTION 13. ZONING REVERSION CONSENT.

The execution of this Agreement shall be deemed written consent by Applicants to change the zoning of the Subject Properties to its prior designation upon failure to comply with the terms and conditions imposed by the approved conditional rezone and this Agreement. No reversion shall take place until after a hearing on this matter pursuant to Idaho Code §67-6511A. Upon notice and hearing, as provided in this Agreement and in Idaho Code §67-6509, if the properties described in attached EXHIBIT "A " are not used as approved, or if the approved use ends or is abandoned, the Board of County Commissioners may order that the property will revert to the zoning designation (and land uses allowed by that zoning designation) existing immediately prior to the rezone action, i.e., the Subject Properties conditionally rezoned from "A" (Agricultural) Zone designation to "CR-R-1" (Conditional Rezone – Single-Family Residential) Zone designation shall revert back to the "A" (Agricultural) Zone designation.

SECTION 14. COMPLIANCE WITH LAWS.

Applicants agree that they will comply with all federal, state, county and local laws, rules and regulations, which appertain to the Subject Property.

SECTION 15. RELATIONSHIP OF PARTIES.

It is understood that this Agreement between Applicants and the County is such that Applicants are an independent party and are not an agent of the County.

SECTION 16. CHANGES IN LAW.

Any reference to laws, ordinances, rules, regulations, or resolutions shall include such laws, ordinances, rules, regulations, or resolutions as they have been, or as they may hereafter be amended.

SECTION 17. NOTICES.

Except as otherwise provided in this Agreement and/or by law, all notices and other communications in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof, (1) when delivered in person on a business day at the address set forth below, or (2) in the third business day after being deposited in any main or branch United States post office, for delivery by properly addressed, postage paid, certified or registered mail, return receipt requested, at the addresses set forth below.

Notices and communications required to be given to County shall be addressed to, and delivered at, the following address:

Director
Development Services Department

Canyon County Administration
111 North 11th Avenue, #310
Caldwell, Idaho 83605

Notices and communications required to be given to the Applicant shall be addressed to, and delivered at, the following addresses:

Name: Mark Johns
Street Address: 25220 Kingsbury Rd
City, State, Zip: Middleton, Idaho 83644

A party may change its address by giving notice, in writing, to the other party, in the manner provided for in this section. Thereafter, notices, demands, and other pertinent correspondence shall be addressed and transmitted to the new address.

SECTION 18. TERMINATION.

This Agreement may be terminated in accordance with the notice and hearing procedures of Idaho Code §67-6509, and the zoning designation upon which the use is based reversed, upon failure of Applicant(s), a subsequent owner, or other person acquiring an interest in the property described in attached EXHIBIT "A" to comply with the terms of this Agreement. Applicants shall comply with all commitments in this Agreement prior to establishing the approved land use.

SECTION 19. EFFECTIVE DATE.

The commitments contained in this Agreement shall take effect in the manner described in this Agreement upon the County's adoption of the amendment to the zoning ordinance as set forth herein.

SECTION 20. TIME OF ESSENCE.

Time is of the essence in the performance of all terms and provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY, IDAHO

APPLICANT



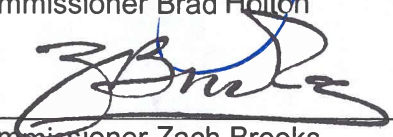
Commissioner Leslie Van Beek



Mark Johns, Property Owner



Commissioner Brad Holton



Commissioner Zach Brooks

ATTEST: Rick Hogaboam, Clerk

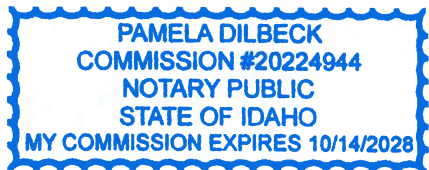
BY: JROSS
Deputy

DATE: 03-19-24

(All Applicants must sign and their signatures must be notarized)

STATE OF IDAHO)
) ss.
County of Canyon)

On this 12th day of March, 2024, before me, a notary public, personally appeared Mark Johns, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he/she executed the same on behalf of the Applicant.





Notary Public for Idaho

Residing at: Canyon County Idaho

My Commission Expires: 10/14/28

EXHIBIT "A"

LEGAL DESCRIPTION

For APN/Parcel ID(s): 37463010A 0

A TRACT OF LAND SITUATED IN A PORTION OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 2 WEST, BOISE MERIDIAN, CANYON COUNTY, IDAHO, MARKED BY A 5/8-INCH IRON PIN WITH ALUMINUM CAP; THENCE NORTH 89°41 '11" EAST A DISTANCE OF 633 FEET ALONG THE NORTH LINE OF SAID NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER TO A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE SOUTH 00°00'32" EAST A DISTANCE OF 200 FEET TO A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE SOUTH 89°41'11" WEST A DISTANCE OF 633 FEET TO A POINT ON THE WEST LINE OF SAID NORTH HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER MARKED BY A SET 1/2-INCH IRON PIN WITH PLASTIC CAP PLS 6552; THENCE NORTH 00°00'32" WEST A DISTANCE OF 200 FEET ALONG SAID WEST LINE TO THE POINT OF BEGINNING.

EXHIBIT "B"

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 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."
 - a. Per CCZO §07-02-03: Definitions Enumerated, commencement is "the acceptance by DSD of a complete application, together with the application fee, for a preliminary plat or a short plat."
3. Secondary residences are prohibited.



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

In the matter of the application of:

CR2023-0001 – Johns

The Canyon County Board of County Commissioners consider the following:

- 1) Conditional Rezone of approximately 2.9 acres from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone – Single-Family Residential) zone. The request includes a development agreement (Attachment A). The subject property is located at 25220 Kingsbury Rd, Middleton, Parcel R37463010A, a portion of the SW quarter of Section 26, T5N, R2W, 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 CR2023-0001.

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), Canyon County Code §09-19-12 (Area of City Impact Agreement), and §67-6519 (Application Granting Process).
 - 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).
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 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 (CR2023-0001) was presented at a public hearing before the Canyon County Board of County Commissioners on February 22, 2024. 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: Yes, the proposed rezone is generally consistent with the comprehensive plan.

Findings: (1) The applicant is requesting that the property be rezoned to “CR-R-1” (Conditional Rezone – Single-Family Residential). The subject property is designated as “Rural Residential” in the 2030 Canyon County Comprehensive Future Land Use Map. This designation is intended to correspond to the “R-R” (Rural-Residential) zone. The “CR-R-1” (Conditional Rezone - Single-Family Residential) zone would fit under the “Residential” Future Land Use designation. However, as conditioned (Attachment A), secondary dwellings are prohibited. A secondary dwelling is already available, so approval of this rezone with secondary dwellings prohibited results in the same possible number of residences. The proposed rezone is therefore consistent with the Rural Residential Future Land Use.

(2) The proposal does align with the following policies and action of the 2030 Comprehensive Plan:

P1.01.01	No person should be deprived of private property without due process of law.
P1.01.03	Ordinances and land-use decisions should avoid imposing unnecessary conditions or procedures on development approvals.
P4.01.01	Maintain a balance between residential growth and agriculture that protects the rural character.
P4.03.02	Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.
P4.03.03	Recognize that each land use application is unique and that agricultural and non-agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.
A6.01.01b	Continue providing information regarding land development proposals to all affected school districts.
G11.02.00	Maintain the rural character of Canyon County while providing sufficient housing without fragmenting agricultural land and natural resources.
P12.01.02	Encourage non-agricultural related development to the cities, areas of city impact, and other clearly defined and planned development areas.

- The applicant is being provided due process of law through this application and hearing process.
- The applicant has reviewed and agreed to the draft conditions of approval.

- The parcel is located in a rural area with a balance of residential growth and agriculture.
- The parcel is not currently used for agricultural and is unlikely to be in the future due to the small lot size. The parcel is surrounded by residential uses. Rezoning the parcel does not fragment agriculture.
- The applicant has provided a condition of approval to promote compatibility with other uses in the area.
- Middleton School District was noticed. No comment was received.
- The subject parcel is located in an area designated as Rural Residential on the 2030 Canyon County Comprehensive Plan Future Land Use Map. It is also located in the Star City Impact Area.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

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

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

Conclusion: As conditioned (Attachment A), the request is more appropriate than the current zoning designation.

Findings: (1) The property is currently zoned “A” (Agricultural). Pursuant to CCZO §07-10-25(1), the purpose of the “A” (Agricultural) zone is:

- A. Promote the public health, safety, and welfare of the people of the County by encouraging the protection of viable farmland and farming operations;*
- B. Limit urban density development to Areas of City Impact in accordance with the comprehensive plan;*
- C. Protect fish, wildlife, and recreation resources, consistent with the purposes of the "Local Land Use Planning Act", Idaho Code title 67, chapter 65;*
- D. Protect agricultural land uses, and rangeland uses, and wildlife management areas from unreasonable adverse impacts from development; and*
- E. Provide for the development of schools, churches, and other public and quasi-public uses consistent with the comprehensive plan.*

Pursuant to CCZO §07-10-25(3), the purpose of the “R-1” (Single-Family Residential) zone is “to promote and enhance predominantly single-family living areas at a low density standard”.

The property is unlikely to be used for productive agricultural purposes since it is not located in an irrigation district. There is a dwelling and accessory structure covering approximately one acre of the property. The remaining acreage, based on historical aerial images, has not been farmed (Exhibit F of the Planning & Zoning Commission staff report).

- (2) The parcel is primarily surrounded by residential uses and a mix of lot sizes from under 1 acre to 10 acres and more. There are multiple subdivisions in the area with parcel sizes around 1 acre (Exhibits E7 and E9 of the Planning & Zoning Commission staff report). Just outside of the immediate vicinity there are large parcels both used actively for agriculture and not being actively farmed. As seen in the site photos and aerial imagery (Exhibits D and E1 of the Planning & Zoning Commission staff report), the subject property is surrounded by both residential development and open space. Parcel R37489, approximately 700 feet to the north, is owned by the Bureau of Reclamation.
- (3) There are 15 subdivisions within a 1-mile radius of the property (including phases as separate subdivisions), many of which were platted in the early 2000s. The average lot size of the 37

parcels within 600 ft of the subject property is 2.5 acres and the median is 1.15 acres (Exhibit E7 of the Planning & Zoning Commission staff report).

- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

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

Conclusion: Yes, the proposed conditional rezone is compatible with surrounding land uses.

- Findings:**
- (1) The parcel is primarily surrounded by residential uses and a mix of lot sizes from under 1 acre to 10 acres and more. There are multiple subdivisions in the area with parcel sizes around 1 acre (Exhibits E7 and E9 of the Planning & Zoning Commission staff report). Just outside of the immediate vicinity there are large parcels both used actively for agriculture and not being actively farmed. As seen in the site photos and aerial imagery (Exhibits D and E1 of the Planning & Zoning Commission staff report), the subject property is surrounded by both residential development and open space. Parcel R37489, approximately 700 feet to the north, is owned by the Bureau of Reclamation.
 - (2) There are 15 subdivisions within a 1-mile radius of the property (including phases as separate subdivisions), many of which were platted in the early 2000s. The average lot size of the 37 parcels within 600 ft of the subject property is 2.5 acres and the median is 1.15 acres (Exhibit E7 of the Planning & Zoning Commission 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. CR2023-0001.

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

Conclusion: No, as conditioned (Attachment A), the proposed conditional rezone will not negatively affect the character of the area.

- Findings:**
- (1) The parcel is primarily surrounded by residential uses and a mix of lot sizes from under 1 acre to 10 acres and more. There are multiple subdivisions in the area with parcel sizes around 1 acre (Exhibits E7 and E9 of the Planning & Zoning Commission staff report). Just outside of the immediate vicinity there are large parcels both used actively for agriculture and not being actively farmed. As seen in the site photos and aerial imagery (Exhibits D and E1 of the Planning & Zoning Commission staff report), the subject property is surrounded by both residential development and open space. Parcel R37489, approximately 700 feet to the north, is owned by the Bureau of Reclamation.
 - (2) There are 15 subdivisions within a 1-mile radius of the property (including phases as separate subdivisions), many of which were platted in the early 2000s. The average lot size of the 37 parcels within 600 ft of the subject property is 2.5 acres and the median is 1.15 acres (Exhibit E7 of the Planning & Zoning Commission staff report).
 - (3) The property is currently eligible for a secondary residence if the property owner lives on-site. As a condition of approval, secondary residences will be prohibited. Therefore, as conditioned, the request would result in the same potential number of residences allowed on the property by Canyon County Code (CCZO §07-02-03, 07-10-27, and 07-14-25).
 - (4) Notice of the Planning & Zoning Commission public hearing was provided per CCZO §07-05-01. Newspaper notice was published on September 23, 2023. Property owners within 600' were notified by mail on September 20, 2023. The property was posted on September 26, 2023. Notice of the Board of County Commissioners public hearing was also provided per CCZO §07-05-01. Newspaper notice was published on December 14, 2023. Property owners within

600' were notified by mail on December 6, 2023. The property was posted on December 21, 2023.

One comment was received from Jessica Perryman (25200 Kingsbury Rd) in opposition to the case on January 5, 2024 (Exhibit 5c of the Board of County Commissioners staff report addendum).

- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

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

Conclusion: Yes, adequate facilities and services will be provided to accommodate the proposed conditional rezone.

Findings: (1) Sewer and water for the potential new residence would be provided by a new private well and septic system. The property is not located in an irrigation district (Exhibit G2 of the Planning & Zoning Commission staff report). As allowed by state law, the new residence would be allowed to irrigate a 0.5 acre from the domestic well. Drainage will be addressed through the subdivision application.

(2) No other comments were received regarding facilities and services. For the Planning & Zoning Commission public hearing, affected agencies were noticed on July 31, 2022 and September 19, 2023, and full political notice was provided on September 20, 2023. For the Board of County Commissioners public hearing, affected agencies, full political noticing, and Joint Exercise of Powers Agreement noticing was provided on December 6, 2023.

(3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

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 proposed conditional rezone is not anticipated to cause undue interference with existing or future traffic patterns. No measures have been taken to mitigate traffic impacts.

Findings: (1) Highway District No. 4 stated that the new lot is not anticipated to significantly impact the transportation network and that impacts will be mitigated (Exhibit G1 of the Planning & Zoning Commission staff report). Idaho Transportation Department "anticipates minimal to no impact to our state highway system" (Exhibit G3 of the Planning & Zoning Commission staff report).

(2) The property is currently eligible for a secondary residence if the property owner lives on-site. As a condition of approval, secondary residences will be prohibited. Therefore, as conditioned, the request would result in the same potential number of residences allowed on the property by Canyon County Code (CCZO §07-02-03, 07-10-27, and 07-14-25).

(6) No other comments relating to traffic were received. Notice of the Planning & Zoning Commission public hearing was provided per CCZO §07-05-01. Newspaper notice was published on September 23, 2023. Property owners within 600' were notified by mail on September 20, 2023. The property was posted on September 26, 2023. Affected agencies were noticed on July 31, 2022 and September 19, 2023, and full political notice was provided on September 20, 2023. Notice of the Board of County Commissioners public hearing was also provided per CCZO §07-05-01. Newspaper notice was published on December 14, 2023. Property owners within 600' were notified by mail on December 6, 2023. The property was

posted on December 21, 2023. Affected agencies, full political noticing, and Joint Exercise of Powers Agreement noticing was provided on December 6, 2023.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

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

Conclusion: Yes, legal access to the subject property exists. Access to the new building lot will be addressed in the subdivision application.

- Findings:**
- (1) The property has frontage along Kingsbury Road, a public road. Access to the new building lot will be provided via an easement.
 - (2) Highway District No. 4 has indicated that if a subdivision is approved, the parcels must share one approach and the circle driveway will need to be abandoned (Exhibit G1 of the Planning & Zoning Commission 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. CR2023-0001.

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: The proposed conditional rezone is not anticipated to significantly impact essential public services and facilities. No measures will be implemented to mitigate impacts.

- Findings:**
- (1) The property currently has an existing dwelling served by Middleton Fire, Middleton School District and Canyon County Sheriff. The request would allow one division that would allow one more dwelling to be developed. The property is currently eligible for a secondary residence if the property owner lives on-site. As a condition of approval, secondary residences will be prohibited. Therefore, as conditioned, the request would result in the same potential number of residences allowed on the property by Code (CCZO sections 07-02-03, 07-10-27, and 07-14-25). Therefore, the request is not anticipated to impact essential services.
 - (2) All essential services were notified. No comments were received from Middleton Fire, Middleton School District, or the Canyon County Sheriff. For the Planning & Zoning Commission public hearing, affected agencies were noticed on July 31, 2022 and September 19, 2023, and full political notice was provided on September 20, 2023. For the Board of County Commissioners public hearing, affected agencies, full political noticing, and Joint Exercise of Powers Agreement noticing was provided on December 6, 2023.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0001.

Canyon County Code §09-19-12 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE

Conclusion: The property is located within the Star Area of City Impact. A notice was sent to the City of Star per Canyon County Code Section 09-19-08 (3).

- Findings:**
- (1) The City of Star sent a comment dated October 26th stating that they do not support the zone change since the ultimate subdivision of the property into lots smaller than 2 acres does not meet the intent of their Comprehensive Plan (Exhibit 5a of the Board of County Commissioners staff report addendum).

- (2) The subject parcel is located in the Star City Impact Area. In the Star Future Land Use Map approved on June 7, 2022, it is designated as "Rural Residential" (1 unit/2-acre to 1 unit/5-acre). It is also located in a "special transition overlay area". The current configuration of the parcel appears to align with Star's rural 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. CR2023-0001.

Order


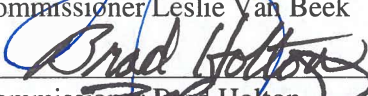
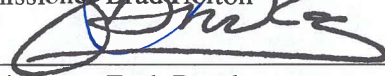
Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **approves** Case # CR2023-0001, a conditional rezone of parcel R37463010A.

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 19th day of March, 2024.

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: Rick Hogaboam, Clerk

By: JR088
Deputy

Date: 03-19-24

ATTACHMENT A

DEVELOPMENT AGREEMENT CONDITIONS

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. 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."
 - a. Per CCZO §07-02-03: Definitions Enumerated, commencement is "the acceptance by DSD of a complete application, together with the application fee, for a preliminary plat or a short plat."
3. Secondary residences are prohibited.