



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

In the matter of the application of:

Person – CR2022-0011

The Canyon County Board of County Commissioners considers the following:

- 1) Conditional Rezone of approximately 10.66 acres from an “A” (Agricultural) zone to a “CR-R-1” (Conditional Rezone - Single-Family Residential) zone, and (3) a Development Agreement limited future development to seven buildable lots, a 1.3-acre average lot size.

Case #CR2022-0011, 28753 Peckham Road, Wilder (Parcel Number: R36963020), a portion of the NW¼ of Section 20, T4N, R5W, BM, Canyon County, Idaho

Summary of the Record

1. The record is comprised of the following:
 - A. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2022-0011.
 - a. The request is being considered concurrently with a comprehensive plan amendment application (OR2022-0005).
 - b. The hearing on September 7, 2023, was tabled to October 19, 2023, by the Planning and Zoning Commission.
 - c. On October 19, 2023, the Planning and Zoning Commission forwarded the case to the Board of County Commissioners with a recommendation of denial.
 - d. The public hearing that was scheduled to go before the Board of County Commissioners on April 30, 2024. The Board tabled the hearing to May 14, 2024.

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 §07-06-05 (Zoning Amendment Criteria), Canyon County Code §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and §67-6519 (Application Granting Process).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
2. The commission 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, including subdivision permits. *See* I.C. §67-6504, §67-6511.
3. 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, 07-06-05.
4. The burden of persuasion is upon the applicant to prove that all criteria 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. The County’s hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

The application, CR2022-0011, was presented at a public hearing before the Canyon County Board of County Commissioners on May 14, 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:

ZONING AMENDMENT CRITERIA – CCZO §07-06-07(6)

A. Is the proposed zone change generally consistent with the comprehensive plan?

Conclusion: The request is inconsistent with the 2020 Canyon County Comprehensive Plan.

- Findings:**
- (1) The future land use map within the 2020 Comprehensive Plan designates the area as “agriculture” (Attachment B6c of the staff report). The nearest residential designation is over 2 miles east of the subject property where the City of Wilder’s area of city impact is located (Attachment B6b of the staff report). The definition of the residential designation in the Comprehensive Plan states: “*Residential must be compatible with the existing agricultural activity. Residential development should be encouraged in or near areas of city impact or which areas that demonstrate a development pattern of residential land uses.*” The property is not located in an area of city impact. Residential uses in the area were either created via the County’s land division process or through a conditional use permit between 2004-2009 which no longer aligns with the Comprehensive Plan or County Code. The majority of the parcels with residential dwellings in the vicinity range between 3 to 6-acre lot sizes. The applicant is requesting a 1.3-acre average lot size which is not commensurate with the agricultural/rural area (Attachment B6b of the staff report).
 - (2) Although the property is 50% class soils with slopes that range between 12-25%, the 10.66-acre property is commensurate with other parcel sizes created by land division in the area (Attachment B6b of the staff report). Properties to the north of the property contain many 40 to 80-acre parcels in productive agricultural uses (Attachment B6b of the staff report). The Comprehensive Plan provides guidance to protect agricultural lands and the economic benefits they bring to the County (Chapters 4, 5, and 13 of the 2020 Comprehensive Plan).
 - (3) The subject parcel is located within a 2,000-acre TAZ (Traffic Analysis Zone; Zone 2776 – Canyon West Demographic). The TAZ is delineated by the state and/or local transportation officials for tabulating traffic-related data (Attachment B6i). COMPASS (Community Planning Association of Southwest Idaho) also uses the data as part of the Communities in Motion Regional Transportation Plan. As part of each TAZ zone, data is generated forecasting future population, households, and jobs which is used by COMPASS to identify growth areas and the necessary infrastructure and funding. This area is forecasted to have little to no residential growth because the character is rural/agricultural (Attachment B6b of the staff report). Therefore, the property is not in a growth area and does not have future funding for necessary infrastructure.
 - (4) The request does not align with the following goals and policies of the Canyon County Comprehensive Plan:

Chapter 2: Population

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

Chapter 4: Economic Development

Policy 1.	Canyon County should encourage the continued use of agricultural lands, land uses and recognize the economic benefits they provide to the community.
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 4.	To encourage development in those areas of the county which provide the most favorable conditions for future community services.
Policy 2.	Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.
Policy 9.	Encourage and support land use proposals that are consistent with the community design goals and policies within the county.
Residential Policy 1.	Encourage high density development in areas of city impact.
Residential Policy 3.	Encourage compatible residential areas or zones within the county so that public services and facilities may be extended and provided in the most economical and efficient manner.

Chapter 6: Natural Resources/Agricultural Land & Water

Ag Land Goal 1.	To support the agricultural industry and preservation of agricultural land.
Ag Land Policy 1.	Protect agricultural activities from land use conflicts or undue interference created by nonagricultural development
Ag Land Policy 3.	Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development.

Chapter 13: Agriculture

Goal 1.	Acknowledge, support and preserve the essential role of agriculture in Canyon County.
Goal 2.	Support and encourage the agriculture use of agriculture lands.
Goal 3.	Protect agricultural lands and land uses from incompatible development.
Policy 1.	Preserve agricultural lands and zoning classifications.

- (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.
- (6) Evidence includes associated findings and evidence supported within this document.

B. When considering the surrounding land uses, is the proposed zone change more appropriate than the current zoning designation?

Conclusion: The request is not more appropriate than the current zoning designation.

Findings: (1) Residential uses in the area were either created via the County's land division process or through a conditional use permit between 2004-2009 which no longer aligns with the

Comprehensive Plan or County Code. The majority of the parcels with residential dwellings in the vicinity range between 3 to 6-acre lot sizes. The applicant is requesting a 1.3-acre average lot size which is not commensurate with the agricultural/rural area (Attachment B6b of the staff report).

- (2) There are no residential zones in the area. The closest residential zone is over two miles east within Wilder's area of city impact (Attachment B6b of the staff report). Approval of the request could promote residential growth outside of an area of city impact or planned growth area which could impact the surrounding agricultural uses. Although the property is 50% class soils with slopes that range between 12-25%, the 10.66-acre property is commensurate with other parcel sizes created by land division in the. Properties to the north of the property contain many 40 to 80-acre parcels in productive agricultural uses (Attachment B6b of the staff report). The Comprehensive Plan provides guidance to protect agricultural lands and the economic benefits they bring to the County (Chapters 4, 5, and 13 of the 2020 Comprehensive Plan).
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.

C. Is the proposed zoning map amendment compatible with surrounding land uses?

Conclusion: Based on the proposed lot sizes, the request is not compatible with the surrounding area.

Findings: As proposed, the development of the parcel will allow seven 1.3 acre lots. This is out of character with the area which appears to have allowed 3-6-acre parcel sizes via land divisions process or conditional use permits between 2004-2009 which no longer aligns with the Comprehensive Plan or County Code.

- (1) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.

D. Will the proposed zoning map amendment negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: The request will negatively impact the character of the area.

Findings: (1) As proposed, the development of the parcel will allow seven 1.3 acre lots. This is out of character with the area which appears to have allowed 3-6-acre parcel sizes via land divisions process or conditional use permits between 2004-2009 which no longer aligns with the Comprehensive Plan or County Code.

- (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 21, 2024. Newspaper notice was published on March 21, 2024. Property owners within 600' were notified by mail on March 21, 2024. Full political notice was provided on March 21, 2024. The property was posted on March 28, 2024.
- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.
- (4) Evidence includes associated findings and evidence supported within this document.

E. Will adequate facilities and services including sewer, water, drainage, irrigation, and utilities be provided to accommodate the proposed zoning map amendment?

Conclusion: Adequate facilities and services would be provided for wells and septic systems. Irrigation is unavailable per the applicant.

- Findings:**
- (1) The applicant proposes development will use domestic wells and septic systems. City services are over 2.5 miles east of the property in the City of Wilder. The property is located within a nitrate-priority area. No comments were received from IDWR.
 - (2) Southwest District Health did not provide a response, but there is email correspondence from DEQ to Southwest District Health stating what type of systems would be required after evaluating the NPI study and that they determined that the proposed concept plan would not significantly impact groundwater quality. (Attachment B7c and B7d)
 - (3) No comments were received from Wilder Irrigation District. Therefore, impacts and compliance standards are unknown.
 - (4) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 21, 2024. Newspaper notice was published on March 21, 2024. Property owners within 600' were notified by mail on March 21, 2024. Full political notice was provided on March 21, 2024. The property was posted on March 28, 2024.
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.

F. Does legal access to the subject property for the zoning map amendment exist or will it exist at the time of development?

Conclusion: The parcel has legal access to Peckham Road, a major collector.

- Findings:**
- (1) Parcel has legal access to Peckham Road, a major collector. The applicant proposes access from Gravelly Lane and will have to comply with the Golden Gate Highway District standards. (Attachment B7a and B7b)
 - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 21, 2024. Newspaper notice was published on March 21, 2024. Property owners within 600' were notified by mail on March 21, 2024. Full political notice was provided on March 21, 2024. The property was posted on March 28, 2024.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.

G. Does the proposed zoning map amendment 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 created by the proposed development? What measures have been taken to mitigate road improvements or traffic impacts?

Conclusion: The request, as proposed, is not anticipated to create a traffic impact. Mitigation measures would be addressed during platting.

- Findings:**
- (1) The property will use an existing private road, Gravelly Lane, to connect to Peckham Road, a major collector. The request will create a total of seven buildable lots (66.64 average daily trips (ADT), 133.28 ADT if secondary dwellings are allowed. The ADT on Gravelly Lane is unknown but can be reasonably assumed to exceed 100 ADT. Therefore, private road improvements may be required at the time of platting per CCZO Section 07-10-03.
 - (2) Golden Gate Highway District does not oppose the request subject to conditions of approval regarding the meeting of ACCHD standards and addressing site distance issues (Attachment B7a and B7b of the staff report). Idaho Transportation Department had no comments (Attachment B7g of the staff report).
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 21, 2024. Newspaper notice was published on March 21, 2024. Property owners within 600' were notified by mail on March 21, 2024. Full political notice was provided on March 21, 2024. The property was posted on March 28, 2024.

- (4) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.
- (5) Evidence includes associated findings and evidence supported within this document.

H. Will the proposed zoning map 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 request is not anticipated to impact essential services subject to conditions. No comments were received from Wilder School District, Canyon County Ambulance, or the County Sheriff's Department.

- Findings:**
- (1) The nearest school and fire station are approximately 2.5 miles from the subject property. Wilder Fire District requests future access to meet their requirements and highly recommends a secondary emergency exit for emergency vehicles (Attachment B7e of the staff report).
 - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 21, 2024. Newspaper notice was published on March 21, 2024. Property owners within 600' were notified by mail on March 21, 2024. Full political notice was provided on March 21, 2024. The property was posted on March 28, 2024.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0011.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **deny** Case CR2022-0011, a conditional rezone of approximately 10.66 acres from an "A" (Agricultural) zone to a "CR-R-1" (Conditional Rezone - Single-Family Residential) zone, and (3) a Development Agreement limited future development to seven buildable lots, a 1.3-acre average lot size.


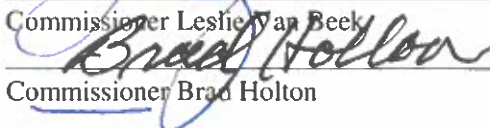
Pursuant to Idaho Code Section 67-6519, the following actions may be taken to potentially obtain approval:

- 1. Consider a conditional rezone to a "CR-R-R" (Conditional Rezone – Rural Residential) zone with a development agreement limiting development to three (3) lots/three-acre lot sizes.

DATED this 18 day of June, 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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST: RICK HOGABOAM, CLERK

By:  Deputy

Date: 6-18-24