



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

In the matter of the application of:

LWD Development Inc. - Case # CR2022-0003

The Canyon County Planning and Zoning Commission considers the following:

1) Conditional Rezone

CR2022-0003, Northeast of the intersection of Kingsbury Rd and Foothill Rd, Middleton (Parcel Numbers: R33827 and R37624), a portion of the NW¼ of Section 2, T4N, R2W and SW ¼ of Section 35, T5N, R2W, BM, Canyon County, Idaho

2) Development Agreement with conditions.

Parcel Size: 72.8 acres

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 CR2022-0003.

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 §09-19-01 (Area of City Impact Agreement).
 - a. Notice of the public hearing was provided per CCZO §07-05-01 and Idaho Code §67-6509.
 - b. The presiding party may establish conditions, stipulations, restrictions, or limitations which restrict and limit the use of the rezoned property to less than the full use allowed under the requested zone, and which impose specific property improvement and maintenance requirements upon the requested land use. Such conditions, stipulations, restrictions, or limitations may be imposed to promote public health, safety, and welfare, or to reduce any potential damage, hazard, nuisance, or other detriment to persons or property in the vicinity to make the land use more compatible with neighboring land uses. *See* CCZO §07-06-07(1).
 - c. All conditional rezones for land use shall commence within two (2) years of the approval of the board. If the conditional rezone has not commenced within the stated time requirement, the application for a conditional rezone shall lapse and become void. *See* CCZO §07-05-01
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 (CR2022-0003) was presented at a public hearing before the Canyon County Planning and Zoning Commission on (10/17/2024). 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 Planning and Zoning Commission decides as follows:

CONDITIONAL REZONE CRITERIA – CCZO §07-06-07(6)

1. Is the proposed conditional rezone generally consistent with the comprehensive plan?

Conclusion: The proposed conditional rezone is consistent with the comprehensive plan.

Findings: (1) The parcel's future land use in the 2020 comprehensive plan is residential.

- (2) The proposed conditional rezone is consistent with nine (9) policies and six (6) goals:

Chapter 1. Property Rights:

Policy 1. No person shall be deprived of private property without due process of law.

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

Policy 11. Property owners shall not use their property in a manner that negatively impacts the surrounding neighbors or neighborhoods.

Chapter 2. Population:

Goal 1. Consider population growth trends when making land use decisions.

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

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

Chapter 4. Economic Development:

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

Chapter 5. Land Use:

Goal 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.

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

Policy 2. Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.

Chapter 8. Public Services, Facilities and Utilities Component:

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

Chapter 11. Housing:

Goal 1. Encourage opportunities for a diversity of housing choices in Canyon County.

- (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
- (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: The conditional rezone request to Single Family Residential is not more appropriate than the current zoning designation of Agricultural.

- Findings:**
- (1) Per the 2020 Comprehensive plan the proposed project aligns with the future outlook of the area (Exhibit B2.7 of the staff report) as well as the property is located within the City of Star Area of City Impact. (Exhibit B2.8 of the staff report)
 - (2) The surrounding area is zoned predominantly residential. The southerly parcel is less than 300 feet from the city of Star to the South. The Star Comprehensive Plan designates the area as Low Density Residential (Maximum 1 unit per acre). The parcels are in the Star Area of City Impact. (Exhibit B2.8) The Southerly parcel is also approximately 1,300 feet to the West of the City of Middleton. (Their future land use map designates this area as Residential.) (Exhibit B2.9)
 - (3) The Commission finds Rural Residential zoning would be more appropriate rather than the proposed Single Family Residential due to the average lot size being on the bottom end of the average lot size in the area.
 - (4) There are 48 platted subdivisions in the area. (Exhibit B2.2)
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (6) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: The proposed development as conditioned, is compatible with the surrounding land uses.

- Findings:**
- (1) The surrounding land uses are predominantly residential. There are 48 subdivisions that have been approved in the area. Eight of those are subdivisions in the City of Middleton or City of Star. One of the subdivisions is listed as one large 916.60-acre parcel, which skews the average lot size for the area. When that subdivision is removed, it brings the average lot size to 1.59 acres. (Exhibit B2.2)
 - (2) The single-family residential designation, CR-R1 is more compatible than the current designation of agriculture due to the lack of irrigation rights, the slopes of the parcels and the lack of access for farm equipment. The land uses in this area are residential in nature with a few hobby type farms in the area. The roads, whether public or private are narrow and winding which would not lend to farm equipment movement.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (4) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: The conditional rezone request will not negatively affect the character of the area.

- Findings:**
- (1) The character of the area is residential with varying sizes of parcels. Homes are built in this area for the panoramic views. The improvements that the applicant is proposing as part of their platting process will assist in reducing the response time for emergency services with the connection of 2 other public roads.
 - (2) The parcel is in the Star Area of City Impact and they agree that the development will meet their Future Land Use and have no concerns (Exhibit D4 of the staff report).
 - (3) Adjacent to the parcel to the West is a Rural Residential zoned subdivision. To the North of the parcels, there was a decision to conditionally rezone 464-acres to Rural Residential subject to a Development Agreement. The conditions for this Development Agreement have not been met as of the time of this Staff Report. (Exhibit B2.3 of the 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. CR2022-0003.
 - (5) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: Adequate sewer, drainage, stormwater drainage facilities and utility systems will be provided to accommodate the proposed zoning map amendment at the time of any development. However, irrigation does not have adequate facilities.

- Findings:**
- (1) The intention of the developer is to provide pressurized irrigation via private wells. Each lot would be able to irrigate up to ½ acre via an individual well. There is currently no surface water or groundwater rights on the parcel. The development would add 23 acres of incremental water use based on ½ acre of irrigation usage by domestic well on 46 lots. This would make it a net consumer rather than a transfer of water rights. No comments were received from Middleton Irrigation Association/Middleton Mill Ditch Company regarding irrigation facilities.
 - (2) Individual septic systems are requested for each lot. This parcel is not within a nitrate priority area. An email from SWDH was received the applicant schedule a Pre-Development meeting with them. (Exhibit D6 of the staff report)
 - (3) Individual wells are requested for each lot. Notice was given to the Idaho Department of Water Resources of this Preliminary Plat, but no comments were received. The city of Star is within 300 feet of the property. The letter that the city provided for this application did not make any recommendation to connect to city services. (Exhibit D4 of the staff report)
 - (4) Finish grades at subdivision boundaries shall match existing finish grades. Runoff shall be maintained on subdivision property unless otherwise approved. The development is considered partially a hillside development that will require special attention to drainage at time of platting.
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (6) Evidence includes associated findings and evidence supported within this document.

6. Does the proposed conditional rezone require public street improvements in order to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns? What measures have been taken to mitigate traffic impacts?

Conclusion: The proposed conditional rezone will require public street improvements in order to provide adequate access to and from the subject property in order to minimize undue interference with existing and/or future traffic patterns created by the proposed development. There is no guarantee that this connection will happen.

- Findings:**
- (1) Highway District Number 4 provided comment that there currently isn't access from a public road for this development. There are requirements that will need to be met at time of platting to provide access for this development. With the size of the proposed development, the Highway District will not require a Traffic Impact Study. (Exhibit D5 and D5.1 of the staff report).
 - (2) This development intends to extend Kingsbury Drive, a public road, through their development to make a connection from the Southwest corner of their property near Foothills Road up to Lanktree Lane in the Northwest corner of their property. They also plan to make the connection to the West at Quail Hollow Drive which is also a public road. The applicant has gone through the process of opening up a closed public Right of Way through Highway District Number 4 to allow this connection from the north at Lanktree Lane.
 - (3) With the uncertainty of the connectivity of Kingsbury to the south and no analysis of what the actual connectivity would mean and the impact it would have, the Commission determined that this criteria is not supported. This will require condemnation or purchase of third-party properties to achieve that connectivity.
 - (4) Idaho Transportation Department commented that they have no comments or concerns at this time. The proposed 46 residential units falls below their threshold to request a TIS and the development is approximately 2.5 miles North of State Highway 44 and a major impact is not anticipated. (Exhibit D11 of the staff report)
 - (5) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (6) Evidence includes associated findings and evidence supported within this document.

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

Conclusion: The proposed development for the conditional rezone does not currently have legal access from a public roadway, but will exist at time of development.

- Findings:**
- (1) There are two unimproved public Right of Ways that extend to the property. The access will exist at the time of the development as required by Highway District Number 4. (Exhibit D5.1 of the staff report)
 - (2) Exhibit D5 details that the Highway District 4 board approved reclassification of existing Kingsbury Road right-of-way south of Lanktree Lane to Open Public Right-of-Way (Subject to Construction) subject to conditions.
 - (3) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (4) Evidence includes associated findings and evidence supported within this document.

8. Will the proposed conditional rezone amendment impact essential public services and facilities, such as schools, police, fire, and emergency medical services? What measures will be implemented to mitigate impacts?

Conclusion: Essential services will be impacted by the proposed conditional rezone.

- Findings:**
- (1) All affected agencies were notified per CCZO §07-05-01.
 - (2) The Middleton School District submitted comments that they are nearing capacity and the district expects 0.569 students to come to their schools per new home. The school district is also requesting bus stops and a safe route to planned stops to service the development. (Exhibit D1 of the staff report)
 - (3) A letter submitted by the Middleton School District Superintendent was read into the record by the applicant at the hearing. The school district does acknowledge that there will be an impact, they believe the benefit of Kingsbury Road being extended will offset that. There is no guarantee that the road will be extended but there is a guarantee that the students that will be in this subdivision will attend Middleton schools. The school district is over capacity, with one elementary school at 144% of capacity and the other at 114% of capacity, and there are no guarantees on what the lots are going to be like. There is no preliminary plat with this conditional rezone, just a concept plan. It could be more dense than what is in the concept plan.
 - (4) Canyon County Sheriff Office was noticed and no comments were received.
 - (5) The Middleton Star Fire District commented that the development can be serviced by the district. They support the proposed connection of Kingsbury Road and that the improvements will enhance the safety of the community. They provided options for fire hydrants or the requirement of automatic residential fire sprinkler systems within the development. They provided requirements for access to each individual lot at the time of building permit. (Exhibit D7 of the staff report)
 - (6) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.
 - (7) Evidence includes associated findings and evidence supported within this document.

**Canyon County Code §09-19-09 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 09-09-12. The City of Star submitted a letter stating that they have no concerns with this request.

- Findings:**
- (1) The City of Star submitted a letter stating that they have no concerns with this request. They stated that it was in alignment with their Comprehensive Plan for Low Density Residential. (Exhibit D4 of the staff report)
 - (2) Evidence includes the application, support materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0003.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission recommends **denial** of Case #CR2022-0003, a conditional rezone of R33827 and R37624.

DATED this 7 day of November, 2024.

**PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO**


Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this 7 day of November, in the year 2024, before me Amber Lewter, 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: Amber Lewter

My Commission Expires: 10/20/2029