



**HEARING EXAMINER**  
**FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER**

In the matter of the application of:  
**Tim John/Canyon Creek Gardens for Symm's Fruit Ranch Inc. – CU2024-0002**

The Canyon County Examiner considers the following:

- 1) A conditional use permit for a retail nursery and a food/produce processing facility on approximately 6-acres of the 35.49-acres on parcel R33566 in the "A" (Agricultural) zone. The subject property is located at 20087 Lowell Rd, Caldwell, Idaho, 83607, also referenced as a portion of the NE quarter of Section 27, T4, R3, BM, Canyon County, Idaho. (CU2024-0002).

**Summary of the Record**

I. The record is comprised of the following:

- A. The record includes all testimony, the staff report, exhibits, and documents in Case File CU2024-0002.

**Applicable Law**

- (1) The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-07 (Conditional Use Permits), Canyon County Code §07-02-03 (Definitions), Canyon County Code §07-10-27 (Land Use Regulations (Matrix), Idaho Code §67-6512 (Special Use Permits, Conditions, and Procedures), and Canyon County Code 09-03.
  - a. Notice of the public hearing was provided pursuant to CCZO §07-05-01, Idaho Code §67-6509 and 67-6512.
  - b. A special use permit may be granted to an applicant if the proposed use is conditionally permitted by the terms of the ordinance, subject to conditions pursuant to specific provisions of the ordinance, subject to the ability of political subdivisions, including school districts, to provide services for the proposed use, and when it is not in conflict with the plan. Idaho Code §67-6512.
  - c. Every use which requires the granting of a conditional use permit is declared to possess characteristics which require review and appraisal by the Hearing Examiner to determine whether or not the use would cause any damage, hazard, nuisance or other detriment to persons or property in the vicinity. *See* CCZO §07-03-07.
  - d. Upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those: (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development;(6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. *See* Idaho Code §67-6512, CCZO §07-07-17, and 07-07-19.

- (2) Any hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code section 67-6520. See CCZO §07-03-07.
- (3) There are no mandates in the Local Planning Act as to when conditional permits may or may not be granted, aside from non-compliance with the community master plan. I.C. § 67-6512. Chambers v. Kootenai Cnty. Bd. of Comm'rs, 125 Idaho 115, 117, 867 P.2d 989, 991 (1994).
- (4) The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCZO §07-05-03.
- (5) Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.
- (6) The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCZO 07-05-03(1)(I).

**The application CU2024-0002, was presented at a public hearing before the Canyon County Hearing Examiner on March 3, 2025. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Canyon County Hearing Examiner decides as follows:**

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

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

**Conclusion:** The proposed uses are permitted in the “A” (Agricultural) zone by conditional use permit.

**Findings:** (1) The proposed uses are permitted in the “A” (Agricultural) zone by conditional use permit, pursuant to the Canyon County Code of Ordinance (CCCO §07-10-27).

(2) The proposed use consists of a retail nursery and a food/produce processing facility on approximately 6-acres of parcel R33566.

(3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2024-0002.

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

##### **2. What is the nature of the request?**

**Conclusion:** The request consists of a conditional use permit for retail nursery and a food/produce processing facility.

**Findings:** (1) Approximately 6-acres on the northeast corner of the 35.49-acre parcel will be utilized for the proposed uses. The nature of the request consists of two independent uses on parcel R33566. A conditional use permit application for a retail nursery and processing facility was submitted on July 23, 2024. See **Exhibit B7**. There are three (3) proposed internal access roads two (2) of which will be to Sunny Slope road also known as State Highway 55 (SH-55) but will not be connected at this time. The other internal road will be connected to Lowell road which will be the perimeter of the proposed six (6) acre portion of the parcel. See section 07-07-05(6) and (7).

- (2) The conditional use permit application for retail nursery was submitted on January 11, 2024. A nursery (retail/wholesale) is defined as “the selling of products and plants at retail and/or wholesale (CCCO §07-02-03).” Pursuant to the site plan, the retail nursery of the greenhouse will primarily be on the west half of the proposed six (6) acre portion of the parcel. The nursery retail portion entails but not limited to the following:
- Six (6) 1,900 square feet of Quonset /greenhouses not to be accessed by the public, where plants, vegetables, flowers and hanging baskets are grown.
  - A large retail greenhouse approximately 22,400 square feet where customers will shop for their produce, flowers, and hanging baskets. Additionally, trees, shrubs, and fruit will be sold in the future as the operations expand.
  - A barn that will be utilized as the checkout area and will be built with an office and restrooms.
  - According to the operations plan the retail will be open April to November, Monday through Saturday 9:00 a.m. to 6:00 p.m.
  - Approximately 20 employees to be hired for the retail nursery operations.
  - Approximately 20-30 parking spaces are proposed.
  - **See Exhibit A** for details.
- (3) The conditional use permit application for a food processing facility was submitted on June 17, 2024. A food processing facility is defined as “a facility where food, in its raw product form, is prepared for market (CCCO §07-02-03).”
- (4) Pursuant to the site plan, the produce facility will be on the southeast corner of the proposed six (6) acre portion of the parcel. The nature of the request includes but is not limited to the following:
- A food processing facility with the intent to process shelf stable retail products such as freeze-dried and dried fruit, fruit juices, canned fruit, and baked pies.
  - The food processing facility will be approximately 14,450 square feet with an office space, processing rooms, restrooms etc. See Exhibit A5.
  - There will be approximately ten (10) employees for this operation.
  - Hours of operations are 8:00 a.m. and 5:00 p.m., Monday through Friday.
  - Shipping and receiving of materials will be during the hours of operations.
  - Approximately ten (10) parking spaces are proposed for the processing facility.
  - **See Exhibit A** for details.
- (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2024-0002.
- (6) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The proposed use is generally consistent with the Comprehensive plan.

#### **Findings:**

- (1) The proposed use is consistent with the 2030 Comprehensive Plan. Parcel R33566 is zoned “A” (Agricultural) with a future land use designation of “A” (Agricultural) with a zoning overlay district of Agri-tourism business use/ Agri-tourism exclusive farm use/ Scenic byway buffer. Highlighted below are goals, action plans, and policies in the comprehensive plan that align with the proposed use of parcel R33566 but not limited to:

#### Chapter 1 Property Rights:

- G1.01.00 Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.
- A1.01.00a Require properties to conform to the zoning code before receiving additional zoning approvals.
- P1.01.01 No person should be deprived of private property without due process of law.
- G1.02.00 Acknowledge the responsibilities of each property owner as a steward of the land, use their property wisely, maintain it in good condition and preserve it for future generations without becoming a public nuisance.

Property owners have “the right to enjoy the property for its intended use without creating nuisances. Zoning categorizes land uses based on compatibility, such as agriculture, residential, commercial, and industrial. Each category has characteristics that might not be compatible with other zoning categories (Pg. 10, Comprehensive Plan 2030).” See section 07-07-05(4) for analysis on land use compatibility and consistency.

#### Chapter 3 Economic Development:

- G3.01.00 Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.
- P3.01.02 Support suitable sites for economic growth and expansion compatible with the surrounding area.
- P3.03.01 Encourage agritourism activities in areas such as the Sunny Slope Wine Region and the Snake River Scenic Byway.

The future land use designation of parcel R33566 is “A” (Agricultural) with a zoning overlay district of Agri-tourism business use, although the overlay districts have yet to be adopted. “Agriculture is a significant economic driver (Pg. 19, Comprehensive Plan 2030).” The proposed use will add to the Sunny Slope region’s agricultural character and business. It will allow local plants and vegetables to be grown and sold on site contributing to the economic growth by attracting tourism to the area. The Adventure Trail aids in advertising the local agricultural business around Canyon County.

#### Chapter 4 Land Use and Community Design

- G4.02.00 Ensure that growth maintains and enhances the unique character throughout the County.
- P4.02.01 Consider site capability and characteristics when determining the appropriate locations and intensities of various land uses.
- G4.05.00 Support a diversity of agricultural uses to sustain the agricultural and agriculturally related economy.
- P4.07.01 Plan land uses that are compatible with the surrounding community.

The character of the area is primarily zoned agricultural and is used as such. The design of the proposed use is agriculturally driven with the use of greenhouses, barns and landscaping to obscure the commercial operation of a food/produce processing facility. The location of the proposed use is right on Sunny Slope and the Sunny Slope Wine Region. The proposed use will enhance the surrounding existing use.

#### Chapter 8 Transportation:

- G8.02.00 Provide safe transportation improvements for all users and connections to adjacent areas.

Parcel R33566 is on a scenic byway route, the intent of the scenic byway is to “highlight the rich agricultural heritage of canyon county and the farmers and ranchers who work the land and provide food for communities (pg. 1-2, Snake River Canyon Scenic Byway, 2009).” **See Exhibit B10.** Parcel R33566 has an overlay district of Scenic Byway Buffer. The overlay “preserves and protects the country's cultural, architectural, and archaeological history, enhances the scenic resources of scenic byways and ensures that new development minimizes impacts through appropriate design (Pg.28, Comprehensive Plan 2030).” The proposed use includes three (3) internal roads two (2) of which will be to Sunny Slope road (SH-55) but will not be connected at this time due to potential low traffic volume and the nature of the use. Sunny Slope road is a part of the Snake River Scenic Byway. “Idaho Transportation Department (ITD) is responsible for constructing and maintaining state, U.S. and interstate highways in the County (Pg. 61, Comprehensive Plan 2030).” If and when connection to Sunny Slope Road (State Highway 55) the applicant is required to contact ITD. **See condition of approval No. 7c.** The third internal road will be connected to Lowell Road. The use will provide safe transportation improvements to Lowell Road, bringing it up to Golden Gate Highway District No.3 (GGHD3) standards. **See Exhibit D3.**

Chapter 12 Agricultural:

- P12.01.01 Preserve and maintain agriculturally designated lands for agricultural use.
- G12.02.00 Support farmers and enhance local farmland.

The proposed use aligns with the comprehensive plan specifically the economic development, agricultural, and land use portion of the 2030 comprehensive plan. **See Exhibit B8.** The proposed use will also bring business into the Sunny Slope area with the retail nursery where agritourism is in place and provide additional attraction to the area. It’s anticipated to enhance the agricultural ground that is used uniquely for the county. The retail greenhouse and processing facility will allow locally grown flowers and produce to be grown and sold on site. The request includes three (3) internal private roads that will be built to Golden Gate Highway District No.3 standards and the existing Lowell Road will be improved. The development in this area will enhance the agricultural land use in place.

- (2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2024-0002.
- (3) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The proposed use will not be injurious to other property in the immediate vicinity and will not negatively change the essential character of the area.

**Findings:**

- (1) The surrounding area is zoned “A” (Agricultural) and is used as such.

<b>Adjacent Existing Parcels:</b>			
<b>Direction</b>	<b>Existing Use</b>	<b>Primary Zone</b>	<b>Parcel Size</b>
<b>N</b>	<b>Agricultural</b>	<b>“A”</b>	<b>49.76</b>
<b>E</b>	<b>Agricultural</b>	<b>“A”</b>	<b>16.36</b>
<b>S</b>	<b>Agricultural</b>	<b>“A”</b>	<b>36.39</b>

<b>W</b>	<b>Agricultural</b>	<b>“A”</b>	<b>37.92</b>
“A” (Agricultural), “R-R” (Rural Residential), “R-1” (Single-Family Residential), “C-1” (Neighborhood Commercial), “C-2” (Service Commercial), “M-1” (Light Industrial), “CR” (Conditional Rezone)			

- (2) **Character of the Area:** The Sunny Slope area is known for its agritourism and agricultural land use. See **Exhibit C**. The soil on the parcel has a grade 2 and 3, primarily best suited with portions of it being moderately suited soil. The parcel has prime farmland if irrigated. See **Exhibit B2.7-2.9**. The area is known for wineries and distilleries as there is prominent use of such in that area. There are other agricultural uses in the area and the proposed use is anticipated to fit in with the character of the area. There are four (4) subdivisions in the surrounding area. See **Exhibit B2.10**. Sunny Slope is a principal arterial road that provides access to the surrounding area. The food/produce processing facility will be obscured by landscaping to maintain the agricultural landscape of the area. See **Exhibit A9.1**.
- (3) **Surrounding Land Use Cases:** Within 600’ of the property there aren’t active land use development cases. In the past few years, there have been applications as seen in **Exhibit B2.5** such as following but not limited to:
- A conditional use permit on the subject parcel and parcel R33567 for an RV resort within the agricultural zone, that case was denied by the Planning and Zoning Commission and appealed by the applicant then later denied by the Board of County Commissioners in 2022. See **Exhibits B6.1 & B6.2**.
  - To the southeast, there was a proposed conditional use permit on a 45.32-acre parcel for a special events facility for agritourism and weddings. That case was denied by the Planning and Zoning Commission and appealed by the applicant. It was then denied by the Board of County Commissioners in 2023. See **Exhibit B6.3 & B6.4**.
  - To the west, there have been attempts for a comprehensive plan map amendment and rezone but they have been withdrawn.
  - AD2015-93, approved for farmworker housing on parcel R33480. See **Exhibit B6.5**.

The past land use cases illustrate the area is meant for agricultural uses, the proposed use fits within the agricultural zone with an approval of a conditional use permit. See **Exhibit B2**.

- (4) **Compatibility:** The proposed use is not anticipated to interfere or conflict with the surrounding land use. Due to the majority of the area being used for agricultural uses and the characteristic of the area being used for agriculture, the proposed use is not anticipated to negatively impact the surrounding area. The proposed use will have sufficient roadways, parking, water, septic systems, and services that will not exclude or diminish services for others. The proposed use is agriculturally related and similar to the existing surrounding uses. The interactions between the uses is consistent and is not anticipated to negatively impact the surrounding land uses. The site location of the proposed use is adequate and is compatible with the surrounding area. See conditions of approval to mitigate concerns that may arise.
- (5) The proposed use may have impacts on the transportation system however the effects of the impacts are unknown until a traffic impact study is completed as conditioned. It’s not anticipated that the scenic byway will be negatively impacted. The food/produce processing facility may change the character of the area, however the facility will be hundreds of feet away from the road and as conditioned there will be landscaping along Sunny Slope to obscure and mitigate that concern. See **Exhibit A9.1**. Seven (7) public comments were received, six (6) of which was in favor including a petition. The other was looking for clarification on the proposed use. See **Exhibit E** and conditions of approval to mitigate concerns and impacts that may arise with the proposed use.
- (6) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2024-0002.

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

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

**Conclusion:** The project will have adequate water, sewer, irrigation, drainage and stormwater drainage facilities, and utility systems to accommodate the proposed use based on the analysis contained herein.

**Findings:**

- (1) According to the land use worksheet the proposed use will have a centralized public water system. There will be an individual septic for sewer (wastewater). Irrigation will be via surface water and through pressurized irrigation well water. All stormwater shall be retained on site. **See Exhibit A6 and A6.1.**
- (2) **Water:** The retail nursery will rely on the property owner, Dar Symms, to provide water for the proposed use. Water will be provided via a centralized public water system by the property owner for the food processing facility. There will be access on the northeast corner of the parcel and a pipe will be provided through the parcel to the proposed agricultural production facility. A drainage pipe/ditch will be installed. There is an estimated 126.9 gallons of water that will be utilized by the operation. The centralized water system is anticipated to provide adequate water for the proposed use and is ready to be used at commencement of the operations.
- (3) **Sewer:** An individual septic system has been installed on-site. The septic tank is placed to the north of the retail nursery according to the property owner. The structures that are currently on site were constructed with building permits as agriculturally exempt structures. **See Exhibit B9.** The retail greenhouse will need a commercial occupancy due to the public use of the greenhouse. **See Exhibit D1.** The use of portable potties will be on site and will be addressed by a third-party company for the proposed retail nursery, it's unclear if and when it will switch over to the installed septic system. **See condition of approval No. 10a.** According to the land use worksheet for the proposed food/produce processing facility, the use will be serviced by an individual septic. In a pre-development meeting the representative, Tim John had with Southwest District Health it was unclear if the sewer line could be connected with city services. Depending on the size of the septic system engineering may be required and a nutrient pathogen study performed by South West District Health may likely be required. **See Exhibit D2.1. and condition of approval No. 10.** According to Southwest District Health, a site evaluation has not been conducted on site to determine if there is adequate sanitary systems to accommodate the proposed use, however, It's anticipated that there are adequate sewer facilities to accommodate the use. **See Exhibit D2.**
- (4) **Irrigation:** Irrigation will be provided via an irrigation well and surface irrigation through pressurized irrigation for the proposed food processing facility according to the land use worksheet as seen in **Exhibit A6 & A6.1.** The greenhouse retail nursery will be irrigated via surface irrigation. Agency comments were sent out to Wilder Irrigation District/Boise Project Board of Control on November 1, 2024, the agency provided comments on November 7, 2024, stating that although there isn't any Wilder Irrigation District Facility on site, the subject parcel does possess water rights. Any irrigation drainage ditches that cross the parcel can't be obstructed and need to be maintained via an easement. Lastly, the agency noted that the storm drainage must be retained on site. **See Exhibit D4.**
- (5) **Drainage:** The food processing facility use proposes to have landscaping along Sunny Slope road. The site plan shows that there will be a drainage pipe/ditch located between the proposed

six (6) Quonset/greenhouses and the customer retail greenhouse. **See Exhibit A2.** The subject parcel contains the Lizar Lateral and Lizard Wasteway on the northwest corner of the 35.49-acre parcel outside of the proposed 6-acres that will be used for the use. The lateral and waste way is not anticipated to be impacted by the proposed use. The applicant may add landscaping along Lowell Road. As conditioned a drainage plan shall be submitted to DSD prior to commencement. A landscaping plan was submitted on February 21, 2025, which includes landscaping and a retention pond. **See Exhibit A9.1.**

- (6) **Stormwater drainage facilities:** According to the land use worksheet the applicant noted that the food processing facility will have the stormwater retained onsite by diverting the rainwater to the farm ground **See Exhibit A3 & A6.1.** The retail nursery proposes to borrow ditches. **See Exhibit A3 & A6.** Agency comments were sent out to Wilder Irrigation District/Boise Project Board of Control on November 1, 2024, the agency provided comments on November 7, 2024, stating that the storm drainage must be retained on site. **See Exhibit D4 and condition of approval No. 8a. Utility Systems:** An agency notice was sent out to Century Link, Intermountain Gas, Idaho Power, and Ziply on November 1, 2024, but no comments were received. Power poles can be connected subjected to Idaho Power. It's anticipated that adequate utilities will be provided to accommodate the proposed use.
- (7) **Natural Gas:** Natural gas will be supplied by a tank maintained by the property owner on site for the processing facility. **See Exhibit A4.**
- (8) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2024-0002.
- (9) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The subject property has legal access to the proposed development. The subject parcel has frontage along Lowell road which is a local road and Sunny Slope Road also known as State Highway 55 (SH-55) which is a principal arterial that provides access to that area.

**Findings:**

- (1) According to the applicant, Lowell Road will be used to access the parcel for both uses with no new access however, there will be three (3) internal private roads that will be used. **See Exhibit A4.** The internal roads running east to west are not going to be connected to Sunny Slope road at this time, it's unclear if and when they will be connected. The applicant is also proposing to add a turn lane/skirt off to the right turning onto Lowell Road running north to south for approximately 550 feet. **See Exhibit A2.**
- (2) Agency Notice was sent out to Idaho Transportation Department (ITD) on November 1, 2024, no comments were received. Agency notice was sent out for a second time on January 27, 2025, on January 30, 2025, ITD provided comments. **See Exhibit D6.** Agency Notice was sent out to Golden Gate Highway District No. 3 on November 1, 2024, comments were received from the agency on November 6, 2024. According to Golden Gate Highway District No. 3 (GGHD), a Traffic Impact Study (TIS) is required. Additionally, the existing Lowell access is required to be reconstructed per ACCHD standards. **See Exhibit D3 and condition of approval No. 7.**

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



**Conclusion:** There may not be undue interference with the existing or future traffic patterns.

Parcel R33566 is at the intersection of Sunny Slope Road (State Highway 55) a principal arterial and Lowell Road a local road. Although no new access is proposed there will be three (3) internal roads, two (2) of which will not be connected to SH-55 while the third will be connected to Lowell Road.

**Findings:**

- (1) According to the applicant, there will be approximately 30-40 customers per hour on-site during peak flower season between late April and early May. The peak times for produce sales will be mid-August to October with approximately 15-20 customers per hour. The proposed retail nursery use consists of 20-30 parking spaces on asphalt/gravel parking lot currently there is road base and crushed gravel on site for the use of the parking lot and internal road ways.
- (2) Per CCCO §07-13-03(13) off street parking shall be provided, retail sales establishments shall have one (1) parking space for every 600 square feet of floor area. Based on those requirements the proposed use does not meet the threshold. The retail nursery shall provide at minimum 37 parking spaces. **See Condition of approval No. 4.** The retail nursery is anticipating four (4) to six (6) semi-trucks of soil weekly in December and January then slowing down to four (4) to six (6) semi-trucks of soil every two (2) to three (3) weeks. In addition, there will be two (2) to three (3) semi-trucks delivering growing supplies in January and February and slowing down in after with occasional deliveries in March and April, according to the letter of intent. **See Exhibit A4.** The proposed retail nursery shall provide at minimum one (1) loading space in accordance with §07-13-03(15).
- (3) The food/produce processing facility consists of ten (10) parking spaces meeting §07-13-03(14) requirement. According to the land use worksheet the processing facility will have a loading space on the southwest corner of the processing facility. There shall be at a minimum one (1) loading space for shipping and receiving.
- (4) Agency notice was sent out to Golden Gate Highway District No. 3 (GGHD) on November 1, 2024, and on November 6, 2024, the agency provided comments noting that a Traffic Impact Study (TIS) is required to further investigate traffic impacts and the possible need for turn lanes. At this time, it's not anticipated to negatively impact current and/or future traffic patterns however as conditioned a TIS will be required from GGHD3 to determine the impacts. **See Exhibit D3.** Traffic on Sunny Slope and Lowell Road will be impacted however, the intensity of the traffic impact is unclear until the TIS is completed. **See Exhibit A9.2.** To mitigate traffic concerns, **see conditions of approval No. 7.**
- (5) ITD provided comments on January 30, 2025, noting that the approaches are for agricultural uses only and the change of use will require an access permit and the approach must meet ITD standards of commercial access. The applicant shall contact ITD to discuss access standards if and when an approach on to SH-55 is desired outside of an agricultural use. **See Exhibit D6.**
- (6) The Snake River Canyon Scenic Byway runs on Sunny Slope Road and the Sunny Slope Loop runs along Sunny Slope and Lowell Road. **See Exhibit B10.** The proposed uses are not anticipated to interfere with the current or future traffic patterns.

**8. Will essential services be provided to accommodate the use including, but not limited to, school facilities, police and fire protection, emergency medical services, irrigation facilities, and will the services be negatively impacted by such use or require additional public funding in order to meet the needs created by the requested use?**

**Conclusion:** Essential services will be provided to accommodate the use including, but not limited to school facilities, police and fire protection, emergency medical services, and irrigation facilities. The services will not be negatively impacted by such use, and/or require additional public funding in order to meet the needs created by the requested use.

**Findings:**

- (1) **School Facilities:** Agency notice was sent out on November 1, 2024, to Vallivue School District, no comments were received. The proposed use is not anticipated to negatively impact school facilities.
- (2) **Police and Fire Protection:** Agency notice was sent out on November 1, 2024, to Marsing Fire District, the state fire marshals, and Canyon County Sheriff no comments were received. Marsing Fire District noted in a pre-development meeting with the applicant that the access road and turn around meets Marsing Fire District requirements. The proposed use is not anticipated to negatively impact police and fire protection.
- (3) **Emergency Medical Services:** Agency notice was sent out on November 1, 2024, to Marsing Ambulance, paramedics, and emergency Coordinator, no comments were received. The proposed use is not anticipated to negatively impact emergency medical services.
- (4) **Irrigation Facilities:** Agency notice was sent out on November 1, 2024, to Wilder Irrigation District and Boise Project Board of Control, received comments can be viewed in Exhibit D4. The proposed use is not anticipated to negatively impact irrigation facilities.

**Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Canyon County Hearing Examiner **approves** Case # CU2024-0002, a conditional use permit for a retail nursery and a food/produce processing facility subject to the following conditions as enumerated:

Conditions of Approval

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. This conditional use permit shall follow land use time limitation as stated in CCZO 07-07-23: “When a conditional use permit is granted, the land use or construction of its facility proposed in the application must have commenced within three (3) years of the date of the final decision by the presiding party or a court of appropriate jurisdiction. The improvements for the approved use must be completed within five (5) years of the same date.
3. The proposed development shall be in substantial conformance with the applicant’s site plan, operations plan and Letter of Intent (**Exhibit A2-A4**).
  - a. The hours of operation for the retail nursery shall be 9 a.m. to 6 p.m. Monday through Saturday, as proposed in the applicant’s letter of intent (**Exhibit A4**). The hours of operation for the food/produce processing facility shall be 8 a.m. to 5 p.m. Monday through Friday as proposed in the land use worksheet (**Exhibit A6**).
  - b. Landscaping shall be installed along Sunny Slope road in accordance with the site plan and landscaping plan prior to the commencement of use of the food processing facility (**Exhibit A2 & A9.1**).
  - c. The Quonset greenhouses shall not be accessible to the public. No more than six (6) of the permitted Quonset greenhouses shall be used for the retail nursery operation.

4. Prior to the commencement of use, all parking spaces shall meet all applicable off-street parking requirements (CCZO 07-13-01 and 07-13-03). Evidence shall be submitted to Canyon County DSD.
  - a. The retail greenhouse shall have a minimum of 37 parking spaces and a loading space in accordance with CCZO 07-13-03(13) & (15).
  - b. The Food Processing facility shall have a minimum of 10 parking spaces and a loading space in accordance with CCZO 07-13-03(14) & (15).
  - c. A parking and circulation plan approved by Marsing Fire District shall be submitted.
5. All exterior lighting shall be directed away from adjacent properties, facing downward and Exterior lighting compliance shall be demonstrated in the food processing facility's building plans submitted as part of the building permit submittal. Review and approval by DSD shall be completed before building permit issuance.
6. The balance of parcel R33566 not to be used for the proposed uses shall remain in productive agricultural use unless permitted.
7. The applicant shall comply with applicable Golden Gate Highway District No. 3 and ITD requirements.
  - a. The existing access is required to be reconstructed in accordance with AACHD-106.
  - b. A Traffic Impact Study shall be completed and submitted to Golden Gate highway District No. 3 (GGHD) no later than 90 days from final decision. Any improvements required to mitigate traffic impact(s) shall be installed per the timeframe required by GGHD or per Condition No. 2 whichever occurs first.
  - c. Sunny Slope access is strictly for agricultural uses only, if and when the internal roads running east to west are connected to Sunny Slope road, the applicant shall contact ITD to discuss access and receive an access and approach permit.
8. Pursuant to Boise Project Board of Control, stormwater shall be retained on site and irrigation/drainage ditches shall remain unobstructed and protected by an easement by the property owner (Exhibit D4).
  - a. A drainage plan shall be submitted to DSD no later than 90 days from final decision.
9. The proposed structure(s) shall receive approval from Marsing Fire district, Golden Gate Highway District No. 3, Idaho Transportation Department and Southwest District Health prior to building permit issuance (Exhibit D1.1).
10. A nutrient pathogen study shall be completed and evidenced by Southwest District Health (Exhibit D2).
  - a. Portable sanitation units shall be serviced at least once per week by a licensed plumber and permitted through a health district.
11. Pursuant to DSD Building department the agricultural structures used as part of the retail nursery shall receive a commercial change of occupancy permit and an evaluation report from a state of Idaho engineer stating that the structures are safe to use prior to commencement of use (Exhibit D1.1).

DATED this 10th day of March, 2025.

HEARING EXAMINER  
CANYON COUNTY, IDAHO

*Leon Letson*

Leon Letson

State of Idaho )

SS

County of Canyon County )

On this 10th day of March, in the year 2025, before me Pamela Dilbeck, a notary public, personally appeared Leon Letson, 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: *Pamela Dilbeck*

My Commission Expires: 10/14/2028

