



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

In the matter of the application of:

BCI Real Estate– Case #CR2023-0003

The Canyon County Planning and Zoning Commission considers the following:

1) Conditional Rezone

Case CR2023-0003, The subject property is located west and south of 27262 Ustick Rd, Wilder, ID 83676 and also referenced as Parcel Number: R37229010A, a portion of the Southwest quarter of the Southeast quarter in Section 33, T4N, R5W, BM, Canyon County, Idaho.

Parcel Size: 16.49 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 CR2023-0003

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 §09-05-21 (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 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).
 - 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 CR2023-0003 was presented at a public hearing before the Canyon County Planning and Zoning Commission on February 6, 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 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 change is generally consistent with the Canyon County Comprehensive Plan for 2030.	
Findings:	(1) This parcel is within City of Homedale’s Impact Area, but the City does not currently have plans for this area per their City Clerk (Staff Report Exhibit D7).
	(2) The Future Land Use Map from the 2030 Comprehensive Plan designates this parcel as Rural Residential (Staff Report Exhibits B1 and B2.4)
	(3) The request aligns with the following goals and policies of the 2030 Comprehensive Plan: <ul style="list-style-type: none"> • <u>Property Rights Goals and Policies:</u> <ul style="list-style-type: none"> ○ Goal No. 1: “Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.” ○ Policy No. 1: “No person shall be deprived of private property without due process of law.” • <u>Population Component Policy and Goal:</u> <ul style="list-style-type: none"> ○ Policy No. 1: “Plan for anticipated population and households that the community can support with adequate services and amenities.” ○ Goal No. 2: “Promote housing, business, and service types needed to meet the demand of the future and existing population.” • <u>Economic Development Goal</u> <ul style="list-style-type: none"> ○ Goal No. 5: “Support a diverse economy in Canyon County and recognize that residential, commercial, and industrial uses are necessary components of overall economic stability.” • <u>Land Use Policies and Goals:</u> <ul style="list-style-type: none"> ○ Point 1: “Maintain a balance between residential growth and agriculture that protects the rural character.” ○ Point 2: “Planning, zoning, and land-use decisions should balance the community’s interests and protect private property rights. “ ○ Goal 2: “Ensure that growth maintains and enhances the unique character throughout the County.” ○ Goal 3: “Develop land in a well-organized and orderly manner while mitigating or avoiding incompatible uses, protecting public health and safety, and creating a vibrant economy through sustainable land use planning. “ ○ Goal 7: “Protect rural qualities that make the County distinct and conserve and enhance the elements contributing to the good quality of life. “ ○ Point 7: “Plan land uses that are compatible with the surrounding community.” • <u>Housing Goals</u>

	<ul style="list-style-type: none"> ○ Goal 1: “Encourage opportunities for a diversity of housing choices in the County.” ○ Goal 2: “Maintain the rural character of Canyon County while providing sufficient housing without fragmenting agricultural and natural resources.”
	(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003.
	(5) 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: In consideration of the surrounding land uses, the proposed conditional rezone change to “RR” Rural Residential is more appropriate than the current zoning designation of “A” (Agricultural).	
Findings:	(1) The surrounding area primarily contains agricultural zoning and uses, but the land directly to the south and southeast predominately contains residential zoning (RR, CR-RR, R-1) and agricultural uses (Staff Report Exhibits B2.1 and B2.3). The residential zoning to the south and southeast appears to have been in place since 1980 per Canyon County’s Zoning Map from this time frame (Staff Report Exhibit B3). To the north and east, there is productive agriculture and some sporadic residential zoning (R-1 and CR-RR). To the west, there is agricultural uses and some agricultural residential parcels (parcels are zoned agricultural but have residential uses) (Staff Report Exhibits B2.1 and B2.3).
	(2) The Rural Residential (RR) zone would be more appropriate than the Agricultural zone due to the fact that this area appears to be a transition area between low-density residential and productive agriculture (Staff Report Exhibits B2.1, B2.2, B2.3, and B2.8). Additionally, the proposed parcels (6.262 acre-parcel and 10.221-acre parcel) exceed the median acreage of 4.96 acres and is within 1.0-acre of the average size (11.12 acres) of the parcels within the surrounding area (Staff Report Exhibit B2.2).
	(3) The surrounding land use cases demonstrate the area is trending towards residential (Staff Report Exhibit B2.7).
	(4) Parcel R37229010A is within City of Homedale’s Impact Area and the city is located approximately 2700 feet to the southwest. Homedale’s City Clerk states at this time the City does not have plans for this area (Staff Report Exhibit D7).
	(5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(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 conditional rezone to Rural Residential (RR) is compatible with surrounding land uses.	
Findings:	(1) The proposed rezone is intended to facilitate the development of two (2) residential parcels on a large acreage (the proposed parcel sizes are 6.269-acres and 10.221-acres), which is consistent with the development pattern of land uses in the surrounding area. The acreage is generally consistent with other parcels in the area and the intent is to still have agricultural uses take place on the two (2) proposed parcels (such as pasture and hay ground). As conditioned, the proposed development is not anticipated to interfere with adjacent agricultural production, nor detract from established residential uses (Staff Report Exhibits A2, A6, B2.1, B2.2, B2.3, and B2.8).

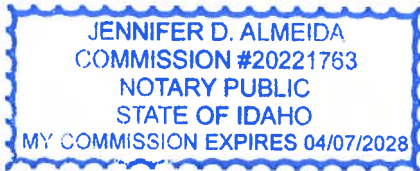
	(2) Pursuant to Canyon County Ordinance 07-02-03, land uses are compatible if: a) they do not directly or indirectly interfere or conflict with or negatively impact one another and b) they do not exclude or diminish one another's use of public and private services. A compatibility determination requires a site-specific analysis of potential interactions between uses and potential impacts of existing and proposed uses on one another. Ensuring compatibility may require mitigation from or conditions upon a proposed use to minimize interference and conflicts with existing uses.
	(3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(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 proposed conditional rezone will not negatively affect the character of the area. Any necessary measures to mitigate impacts are detailed below.	
Findings:	(1) The character of the area is mainly agricultural wherein people live and have agricultural uses such as growing crops (on a large-scale and smaller scale), keeping pastures, and raising animals. There is some residential zoning to the south wherein agricultural uses occur with even smaller lot sizes. (Staff Report Exhibits B2.1, B2.2, B2.3, B2.8, and C) .
	(2) The parcel is in the Homedale City Impact Area, but the city does not have plans for the area (Staff Report Exhibit D7) .
	(3) To mitigate potential impacts to the surrounding area, conditions of approval have been added that will limit future development to two (2) parcels with a residential building available to each and no further divisions shall occur as proposed in Staff Report Exhibits A2 and A6 . A condition has also been added to prohibit secondary residences on each proposed parcel. If the property owner in the future desires to develop further, they will have to amend their Development Agreement or reapply for a rezone and subdivision plat to create more parcels with a residential building permit.
	(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(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: The project will have adequate sewer, water, drainage, irrigation, and utilities to accommodate the proposed conditional rezone based on the analysis contained herein.	
Findings:	(1) An individual septic system exists for the 1-bedroom barn which would be present on the proposed 6.269-acre parcel. An individual septic system is requested for the proposed 10.221-acre parcel. (Staff Report Exhibits A2 and D4.1) . Per Southwest District Health, the subject property is not located within a nitrate priority area, an on-site evaluation will need to be applied for when ready to install a new septic system on the proposed 10.221-acre parcel and proposed future septic systems must maintain minimum setback requirements from any features of concerns (i.e. property lines, canals/ditches, streams, pressurized water lines, neighboring wells, and septic systems, etc.) (Staff Report Exhibits D4 and D4.1) .
	(2) Individual wells are requested for each lot (Staff Report Exhibit A2) Notice was given to the Idaho Department of Water Resources, but no comments were received. Individual wells are

	anticipated to adequately provide services to the potential two residential dwellings. Future development shall comply with IDWR standards at the time of subdivision/building permit, etc.
	(3) Drainage appears to not be affected by this application, as stormwater drainage is currently retained by burrow ditches (Staff Report Exhibit A3). Boise Project Board of Control states that storm drainage and/or street runoff must be retained on site and no discharge into any live irrigation system is permitted (Staff Report Exhibit D3).
	(4) The parcel is served by Boise Project Board of Control/Wilder Irrigation. Boise Project Board of Control submitted a letter stating that the United States' Hammond Lateral lies within the boundary of the above-mentioned location and an easement for this canal is held in the name of the United States through the Bureau of Reclamation under the authority of the Act of August 30, 1890. The location of the lateral can be found in Staff Report Exhibit D3.1 . Boise Project Board of Control also reminds the applicant of the irrigation district's easement and drainage requirements and that per Idaho Statutes, Title 42, local irrigation/drainage ditches that cross this property to serve neighboring properties must remain unobstructed and protected by an appropriate easement by the landowner, developer and contractors. Please see Staff Report Exhibit D3 to review their full comment letter.
	(5) Utility poles exist along the frontage of the parcel (Staff Report Exhibit C). There are also residences in the general vicinity that are indicative of utility services being available.
	(6) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 7, 2023 and November 7, 2024. Newspaper notice was published on January 7, 2025. Property owners within 600' were notified by mail January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
	(7) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(8) 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: No public street improvements are required to provide adequate access to and from the subject property and minimize traffic impacts (Staff Report Exhibit D1).
Findings:	(1) Per Golden Gate Highway District No. 3, the proposed conditional rezone will not 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 (See Staff Report Exhibit D1 to review Golden Gate Highway District's full comment letter).
	(2) Due to only two (2) parcels being created with a residential building permit, there does not appear to be a need to implement mitigation of traffic impacts.
	(3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 7, 2023 and November 7, 2024. Newspaper notice was published on January 7, 2025. Property owners within 600' were notified by mail January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
	(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(5) 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 time of development?	
Conclusion: The subject property does have legal access for the conditional rezone and will exist at the time of the development.	
Findings:	<p>(1) Per Golden Gate Highway District No. 3, the proposed access for Parcel “A” would be from Ustick Road and Parcel “C” would be from an easement through Parcel “A” to Ustick Road. Ustick Road is a Major Collector according to GGHD’s 2019 Functional Classification Map. Additionally, Golden Gate Highway District No. 3 states the following findings and conditions of approval apply:</p> <ul style="list-style-type: none"> • Proposed access on Ustick Rd to meet the rural roadway driveway spacing requirements of Section 3061.020 and applicable standard drawings of the ACCHD Standards • Provide a recorded easement prepared by an Idaho registered licensed land surveyor in accordance with ACCHD Standards for access to Parcel “C.” • A site visit by GGHD and/or ITD representatives is required to address possible site distance issues, if any (Staff Report Exhibit D1).
	(2) If secondary residences are applied for at a later date on either proposed parcel, the private access would need to become a private road in compliance with CCCO §07-10-03.
	(3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 7, 2023 and November 7, 2024. Newspaper notice was published on January 7, 2025. Property owners within 600’ were notified by mail January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
	(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(5) 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: The proposed use is not anticipated to impact essential public services and facilities including, but not limited to schools, police, fire and emergency medical services. Any necessary measures to mitigate impacts are detailed below	
Findings:	(1) Homedale School District No. 370 was noticed, but no comments were received.
	(2) Canyon County Sheriff’s Office was noticed and no comments were received.
	(3) Wilder Rural Fire Protection District, Canyon County’s Paramedics and EMT, Canyon County’s Emergency Management Coordinator, and Homedale City Ambulance were noticed, but no comments were received.
	(4) Per Canyon County’s Driveway and Private Road requirements (CCCO §07-10-03(2)), the construction of driveways and private roads longer than one hundred fifty feet (150’) from a public street right of way to the most distant portion of an inhabited building must be approved in writing from the applicable fire district. Additionally, fire district review and approval are required during the building permit process for single-family residences.
	(5) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on March 7, 2023 and November 7, 2024. Newspaper notice was published on January

	7, 2025. Property owners within 600' were notified by mail January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
	(6) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
	(7) Evidence includes associated findings and evidence supported within this document.
Canyon County Code §09-05-21 (Area of City Impact Agreement) – AREA OF CITY IMPACT AGREEMENT ORDINANCE	
Conclusion: The property is located within the Homedale Area of City Impact. A notice was sent to the City of Homedale per Canyon County Code Section §09-05-21.	
Findings:	(1) Per the City of Homedale's Clerk, the city has no plans for this area and her only concern was dividing the parcel with such a small entry way into a larger area (Staff Report Exhibit D7). Per the applicant's proposed survey, the entry way is 60' and the proposed ingress/egress easement is 35' which meets Canyon County Driveway Requirements (CCCO §07-10-03(2) if an easement reduction approved at the time during the administrative land division process
	(2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2023-0003 .
Order	
Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Planning and Zoning Commission recommends approval of Case No. CR2023-0003 a conditional rezone of 16.49 acres subject to conditions of the development agreement (Attachment A).	

DATED this 20 day of February, 2025.



PLANNING AND ZONING COMMISSION
CANYON COUNTY, IDAHO

Robert Sturgill
Robert Sturgill, Chairman

State of Idaho)

SS

County of Canyon County)

On this 20th day of February, in the year 2025, before me Jennifer D Almeida, 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: Jennifer D Almeida
My Commission Expires: 4/7/28

ATTACHMENT A
DRAFT 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 subject parcel, approximately 16.49 acres, shall be divided in compliance with Chapter 7, Article 18 (Administrative Land Divisions) of the Canyon County Code of Ordinance (CCCO) in substantial compliance with the conceptual site plan (**Staff Report Exhibit A6**).
 - a. No further divisions shall occur.
 - b. Secondary residences are prohibited.
3. Historic irrigation lateral, drain, and ditch flow patterns shall be maintained and protected. Modification or improvements shall be approved in writing the local Irrigation District.
4. Within 30-days of Canyon County’s Board of Commissioners signature on the Findings of Fact, Conclusions of Law, and Order and prior to any new building permit being issued on the proposed parcels, the property owner shall bring the agricultural-exempt building into compliance via an approved change of occupancy permit.
5. The developer shall comply with CCCO §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 CCCO §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.”
6. At the time of application for administrative land division, the following Golden Gate Highway District No. 3 conditions of approval apply (**Staff Report Exhibit D1**):
 - a. Proposed access on Ustick Rd to meet the rural roadway driveway spacing requirements of Section 3061.020 and applicable standard drawings of the ACCHD Standards
 - b. Provide a recorded easement prepared by an Idaho registered licensed land surveyor in accordance with ACCHD Standards for access to Parcel “C.”
 - c. A site visit by GGHD and/or ITD representatives is required to address possible site distance issues, if any.
7. The property owners shall only use their legal access off of Ustick Road to access their property unless legal access is obtained through a different access point in the future.