



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

In the matter of the application of:
Vermaas – CR2022-0022

The Canyon County Board of County Commissioners considers the following:

- 1) Conditional Rezone of Parcels R37517 & R37519, approximately 20 acres, from an “A” (Agricultural) Zone to a “CR-R-R” (Conditional Rezone - Rural Residential) Zone subject to a development agreement (Attachment A).

[Case No. CR2022-0022, 9713 Galloway Road, Middleton; also referenced as a portion of the NW¼ of Section 28, T5N, R2W, 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 CR2022-0022.

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)), and Idaho Code §67-6511 (Zoning Map Amendments and Procedures).
 - 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 Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act (“LLUPA”) and can establish its own ordinances regarding land use. *See* I.C. §67-6504, §67-6511.
3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504, 67-6509 & 67-6511.
4. The 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, CR2022-0022, was presented at a public hearing before the Canyon County Board of County Commissioners on February 4, 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 Board of County Commissioners decide as follows:

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

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

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

- Findings:**
- (1) The 2030 Canyon County Comprehensive Plan designates the parcel as “agricultural” on the future land use map. However, the request was submitted before the adoption of the 2030 Canyon County Comprehensive Plan. The parcel and area are designated as “residential” in the 2020 Future Land Use map (Exhibit B.3c of the staff report).
 - (2) The request aligns with the following goals and policies of the 2020 Canyon County Comprehensive Plan:
 - Property Rights - Policy 1: “No person shall be deprived of private property without due process of law.”
 - 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.” (See *Criteria 2, 3 & 4 for evidence*).
 - School Facilities and Transportation – Goal 2: “Strive for better connectivity, safer access, and pedestrian-friendly transportation options to schools.” See *Attachment A, Condition No. 2b*.
 - 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.” (See *Criteria 2, 3 & 4 for evidence*)
 - Land Use – Goal 6: “Designate areas where rural-type residential development will likely occur and recognize areas where agricultural development will likely occur.” (See *Criteria 2, 3 & 4 for evidence*)
 - Land Use – Policy 1: “Review all residential, commercial, and industrial development proposals to determine the land use compatibility and impact on surrounding areas.” (See *Criteria 2, 3 & 4 for evidence*)
 - Land Use – Policy 2: “Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.” (See *Criteria 2, 3 & 4 for evidence*)
 - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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

Conclusion: When considering the surrounding land uses, the request is more appropriate than the current zoning designation.

- Findings:**
- (1) The property is zoned “A” (Agricultural) and surrounded predominantly by other “A” zoned properties (Exhibit B.3d of the staff report). Within a 600’ radius, the average lot size is 3.45 acres (Exhibit B.3f of the staff report). The subject parcel predominantly consists of class 3 & 4 soils (Exhibit B.3i of the staff report). Due to slopes ranging from 9 to over 15%

(approximately a five-acre portion), a majority of the parcel consists of not prime farmland/farmland of statewide importance if irrigation (Exhibit B.3k of the staff report). Canyon Soils Conservation District does not oppose the request (Exhibit B.4f of the staff report).

- (2) Although a majority of the surrounding parcels are zoned “A”, the parcels consist of lots created through subdivision platting (Exhibit B.3f of the staff report). North of the subject parcel is Lansing Heights Estates (89 lots, 3.16-acre average lot size) approved in 1973. To the south is Willowview Subdivision No. 2 (16 lots, 7.11-acre average lot size; 2.21 acres if the large field is not included) approved in 2006. To the southwest is the Thoroughbred Estates Subdivision (40 lots, 2.29-acre average lot size) approved in 2014. To the west is the Grand Estates Subdivision (14 lots, 2.86-acre average lot size) approved in 2000. Within a one-mile radius are 23 subdivisions with an average lot size of 2.99 acres.
- (3) The request originally proposed an “R-1” zone with a development agreement condition to limit development to a 1.4-acre average lot size (13 lots; Exhibit B.2a of the staff report). The applicant amended the proposal as “R-R” (Rural Residential, two-acre average minimum lot size) to ensure future development does not impact the rural character (Exhibit C.10 of the staff report).
- (4) The “R-R” (Rural Residential) zoning designation has been approved predominantly within a one-mile radius (Exhibit B.3d of the staff report). Recent land use decisions demonstrate that the existing character supports agricultural and rural residential development (Exhibit B.3e of the staff report).
- (5) The Planning and Zoning Commission recommended that the Board of County Commissioners deny the request finding the proposed two-acre average lot size not commensurate with the average lot sizes found in the area (Exhibit A of the staff report). After considering all the information and testimony at the February 4, 2025, public hearing, the Board of County Commissioners find, as conditioned (Attachment A), a 2.5-acre average lot size is commensurate with the average lot size of the four nearest subdivisions (Exhibit B.3f of the staff report).
- (6) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600’ were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
 - a. No written comments were received regarding the proposal to an “R-R” Zone. Comments previously submitted for the Planning and Zoning Commission hearings were provided to the Board of County Commissioners for consideration (Exhibit B.5 & C.11a).
- (7) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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

Conclusion: As conditioned (Attachment A), the request is compatible with the surrounding land uses.

- Findings:**
- (1) Although a majority of the surrounding parcels are zoned “A”, the parcels consist of lots created through subdivision platting (Exhibit B.3f of the staff report). North of the subject parcel is Lansing Heights Estates (89 lots, 3.16-acre average lot size) approved in 1973. To the south is Willowview Subdivision No. 2 (16 lots, 7.11-acre average lot size; 2.21 acres if the large field is not included) approved in 2006. To the southwest is the Thoroughbred Estates Subdivision (40 lots, 2.29-acre average lot size) approved in 2014. To the west is the Grand Estates Subdivision (14 lots, 2.86-acre average lot size) approved in 2000. Within a one-mile radius are 23 subdivisions with an average lot size of 2.99 acres.
 - (2) Within a one-mile radius, the following land use decisions were made between 2018 and 2023 (Exhibit B.3e of the staff report):

- a. 2020: SD2020-0003 – Oaklee Estates Sub. (approximately 2,600 feet south of the subject parcel): Rezone to “R-1” in 2017 and a preliminary plat for 36 residential lots (a 1.3-acre average lot size).
 - b. 2021: RZ2021-0006 – Guidi (R37431014, approximately 4,800 feet north of the subject parcel): Rezone from “A” to “R-R” zone was approved. The parcel can potentially be divided into five parcels. Since the rezone, the parcel has been divided into a total of three parcels via an administrative land division application approval (AD2022-0072).
 - c. 2021: RZ2021-0018 – Kelley (Parcel R37527011, approximately 1,350 feet southwest of the subject parcel): Conditional Rezone from “A” to “CR-R-1” zone limiting the 37.8 acres to 26 residential lots subject to landscaping requirements and ag-disclosures was approved (Exhibit B.6a of the staff report).
 - Per CCZO Section 07-06-07(3): “Designation of a parcel as CR shall not constitute “spot” zoning and shall not be presumptive proof that the zoning of other property adjacent to or in the vicinity of the conditionally rezoned property should be rezoned the same.”
 - d. 2022: RZ2021-0034 – Cotner (Parcel R37498, approximately 3,300 feet southeast of the subject parcel): Rezone from “A” to “R-R” zone was approved. A preliminary plat was approved for Hawk View Subdivision in 2022 for 12 residential lots (SD2021-0021).
 - e. 2022: RZ2021-0012 – Reynolds (Parcel R37497010, 010A & 010B, approximately 3,300 feet southeast of the subject parcel): Rezone from “A” to “R-1” zone denied due to the area still maintaining an agricultural and rural residential character that would be impacted by the “R-1” zone (Exhibit B.6b of the staff report).
 - f. 2022: RZ2021-0049 – Lippert (Parcel R37431010, approximately 2,700 feet north of the subject parcel): Conditional rezone from “A” to “R-R” zone limiting the 20 acres to no more than two parcels was approved.
 - Per CCZO Section 07-06-07(3): “Designation of a parcel as CR shall not constitute “spot” zoning and shall not be presumptive proof that the zoning of other property adjacent to or in the vicinity of the conditionally rezoned property should be rezoned the same.”
 - g. 2022: RZ2021-0055 – Codr (Parcel R37431017A, approximately 2,700 feet southeast of the subject parcel): Conditional rezone from “A” to “R-R” zone limiting the 14 acres to no more than six parcels was approved.
 - Per CCZO Section 07-06-07(3): “Designation of a parcel as CR shall not constitute “spot” zoning and shall not be presumptive proof that the zoning of other property adjacent to or in the vicinity of the conditionally rezoned property should be rezoned the same.”
 - h. 2023: RZ2022-0011 – Sierra Vista (Parcel R37496, approximately 5,000 feet southeast of the subject parcel): Rezone from “A” to “R-R” zone was denied due to unknown cumulative impacts regarding traffic and impacts to Middleton School District based on current capacity issues (Exhibit B.6c of the staff report).
- (3) As conditioned (Attachment A), the request limits development to a 2.5-acre average lot size which is commensurate with the average lot size of the four nearest subdivisions (Exhibit B.3f of the staff report).
 - (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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

Conclusion: As conditioned (Attachment A), the request will not negatively impact the rural character of the area.

Findings:

- (1) The request originally proposed an “R-1” zone with a development agreement condition to limit development to a 1.4-acre average lot size (13 lots; Exhibit B.2a of the staff report). The applicant amended the proposal as “R-R” (Rural Residential, two-acre average minimum lot size) to ensure future development does not impact the rural character (Exhibit C.10 of the staff report).

The area consists of large agricultural properties and rural development within old subdivisions (Exhibit B.3a, B.3f & B.7 of the staff report). Lots sizes within the area consist of rural residential-sized lots (two-acre lot sizes or larger). Within a 600-foot radius, the average lot size is 3.45 acres (Exhibit B.3f of the staff report). Within a one-mile radius are 23 subdivisions with an average lot size of 2.99 acres (Exhibit B.3f of the staff report).

The rural residential zoning designation has been approved predominantly within a one-mile radius (Exhibit B.3d of the staff report). Recent land use decisions demonstrate that the existing character supports agricultural and rural residential development (Exhibit B.3e of the staff report).

As conditioned (Attachment A), the request limits development to a 2.5-acre average lot size which is commensurate with the average lot size of the four nearest subdivisions (Exhibit B.3f of the staff report).

- (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600’ were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
- a. No written comments were received regarding the proposal to an “R-R” Zone. Comments previously submitted for the Planning and Zoning Commission hearings were provided to the Board of County Commissioners for consideration (Exhibit B.5 & C.11c).
- (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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

Conclusion: Adequate facilities can be accommodated for the request.

Findings:

- (1) As conditioned (Attachment A), the request will create 2.5-acre average lot sizes (subject to subdivision platting) that will be served by individual wells and individual septic systems (Exhibit B.2a of the staff report). The parcel is not located in a nitrate priority area (Exhibit B.3j of the staff report).
- (2) The property is allotted nine inches of irrigation water, which is not adequate to supply irrigation to each lot. Therefore, the rights will be transferred and irrigation will be provided via domestic wells (Exhibit B.2a of the staff report).
- (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600’ were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
- a. Black Canyon Irrigation District (BCID) has no specific concerns about the request (Exhibit B.4e of the staff report). Platting requires BCID review including water rights verification, easement and maintenance road protection, and improvements such as piping.
- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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 request is not anticipated to create an interference with existing or future traffic patterns.

- Findings:**
- (1) As conditioned (Attachment A), the rezone limits development to 2.5-acre average lot sizes with no secondary residences equating to 76.16 average daily trips (ADT). The applicant proposes internal roads serving the development to be public and improved to highway district standards.
 - *ADT estimate based on CCZO Section 07-10-03(3).*
 - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600' were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
 - a. Highway District #4 will not require a Traffic Impact Study (TIS). A TIS is normally required for the development of 50 lots or 500 ADT. However, a 40' wide right-of-way dedication is required along Galloway Road for future public road improvements (Exhibit B.4d of the staff report).
 - b. Based on the size of the development and distances from SH-44, ITD does not have any concerns about the development (Exhibit B.4b of the staff report).
 - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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

Conclusion: The property has legal access. The development will have adequate access at the time of development.

- Findings:**
- (1) R37517 and R37519 are both original parcels per CCZO §07-02-03 (created on or before September 6, 1979). Parcel R37519 has an access and dwelling with a garage established in the 1970s off Galloway Road.
 - (2) The applicant's initial conceptual plan shows that the access will be relocated to accommodate the future internal roads (Exhibit B.2a of the staff report).
 - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600' were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
 - a. Per Highway District #4 comments, there are no concerns regarding the future location of the internal roads and approach onto Galloway Road (Exhibit B.4d of the staff report).
 - b. Based on the size of the development and distances from SH-44, ITD does not have any concerns about the development (Exhibit B.4b of the staff report).
 - (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.

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 request is not anticipated to impact essential services. As conditioned by the development agreement (Attachment A), the request minimizes impacts regarding capacity concerns expressed by the Middleton School District.

Findings:

- (1) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on January 7, 2025. A newspaper notice was published on January 7, 2025. Property owners within 600' were notified by mail on January 7, 2025. Full political notice was provided on January 7, 2025. The property was posted on January 7, 2025.
 - a. Middleton School District submitted a letter identifying that 2 of the 3 elementary schools are over capacity while the middle and high schools are nearing capacity due to continued growth within the district boundaries (Exhibit B.4a of the staff report). The rezone proposes 13 residential lots which equate to 7-9 students (14-18 students with secondary residence). If approved, the school district requests the developer include appropriate planning to ensure safe routes and bus stop spacing.
 - b. The Planning and Zoning Commission recommended that the Board of County Commissioners deny the request, finding the request does not adequately address cumulative impact on the school district and does not provide any solutions or mitigation measures (Exhibit A of the staff report). After considering all the information and testimony at the February 4, 2025, public hearing, the Board of County Commissioners finds the request as conditioned (Attachment A), will have a negligible impact on the school district.
 - c. No comment letter was received from Middleton/Star Fire District, Canyon County Sheriff's Department, or Canyon County Paramedics. The applicant's letter of intent states the development will coordinate with the fire district regarding fire suppression requirements (Exhibit B.2a of the staff report).
- (2) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0022.


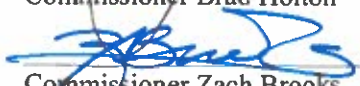
Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners approve Case # CR2022-0022, a conditional rezone of Parcels R37517 & R37519 from an "A" (Agricultural) Zone to a "CR-R-R" (Conditional Rezone - Rural Residential) Zone subject to the development agreement conditions (Attachment A).

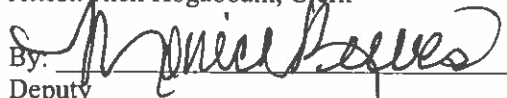
DATED this 4 day of MARCH, 2025.

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"/>
<u>Did not participate</u> Commissioner Brad Holton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Commissioner Zach Brooks	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Rick Hogaboam, Clerk

By: 
Deputy

Date: 3-4-25

ATTACHMENT A

Development Agreement Conditions

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property.
2. The subject property, R37517 and R37519, approximately 20 acres, shall be divided in compliance with Chapter 7, Article 17 of the Canyon County Zoning Ordinance (Subdivision) subject to the following restrictions:
 - a. Residential lots shall maintain an average lot size of 2.5 acres. Secondary residences per CCZO Section 07-02-03, 07-10-27, and 07-14-25 are prohibited.
 - b. The subdivision shall provide adequate bus stop spacing for school buses.
 - c. Further division of parcel is prohibited unless rezoned and re-platted.
3. The developer shall comply with CCZO §07-06-07(4) Time Requirements: “All conditional rezones for a land use shall commence within two (2) years of the approval of the board.”