



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

In the matter of the application of:

**Knife River Corp. - Mountain West – CU2025-0005**

The Canyon County Examiner considers the following:

- 1) A conditional use permit for a contractor shop and staging area. The subject property is located at 744 S. 10th Avenue, Caldwell (Parcel R32861), also referenced as a portion of the NW¼ of Section 15, T3N, R3W, BM, Canyon County, Idaho. (CU2025-0005).

### 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 CU2025-0005.

### 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) The 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 CU2025-0005, was presented at a public hearing before the Canyon County Hearing Examiner on May 19, 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 contractor shop and staging area on a 30.332-acre parcel.
- (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (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 a staging area.

##### **Findings:**

- (1) The nature of the request consists of a contractor shop and a staging area to perform roadway improvement on SH-55 between Farnway Road and Middleton Road. The applicant is leasing the land from the property owner, Nelson-Deppe, also to assist in the reclamation of the gravel pit onsite, which still has an approved reclamation plan with the Idaho Department of Lands and is covered by the original conditional use permit (**Exhibit A.7**).
- (2) The conditional use permit application for a complete application was submitted for a staging area on March 20, 2025. The application was updated on April 4, 2025, to include the contractor shop use (**Exhibit A**).
- (3) The use includes a temporary office trailer for project management operations and necessary equipment and materials for the projects. Equipment will be stored in two 85,000 square foot areas. One of the areas is located at the bottom of the existing gravel pit.

- (4) Approximately 10 employees are expected to be on-site at any given point (**Exhibit A.3**).
- (5) Vehicle fueling and minor maintenance will be performed on-site.
- (6) Hours of operation will be 7 am-7 pm seven days a week. Hauling construction materials may take place 24 hours a day, seven days a week, to support construction activity that requires nighttime operations (**Exhibit A.3**).
- (7) Dust impacts will be controlled by keeping the site clean and watering roads and fill/stockpile material via water trucks. Stormwater will be controlled through site grading, ditches, and berms, and will meet the Idaho Dept. of Environmental Quality requirements.
- (8) All fuel and pollutants will be controlled by spill control equipment and double-walled/secondary containment fuel tanks.
- (9) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (10) 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 2030 Comprehensive Plan.

#### **Findings:**

- (1) The proposed use is consistent with the 2030 Comprehensive Plan. The future land use is “residential” (**Exhibit B.2c**). The use will (1) contribute to the SH-55 improvements from Farmway to Middleton Road to address transportation needs for a growth area, and (2) contribute to the reclamation of the existing pit so the parcel can be developed per plan (Exhibit A.2).
- (2) The parcel is located in Caldwell’s Impact Area, where residential growth is also promoted (Exhibit D.3).
- (3) The request aligns with, but is not limited to, the following goals and policies:
  - Property Rights Goals and Policies:
    - Goal No. 1.1: “Protect the integrity of individual property rights while safeguarding public health, safety, and welfare.”
    - Policy No. 1.1.1: “No person shall be deprived of private property without due process of law.”
    - Policy No. 1.3: “Ordinances and land-use decisions should avoid imposing unnecessary conditions or procedures in development approvals.”
    - Goal No. 1.2: “Acknowledge the responsibilities of each applicant 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.”
  - Population Component Goals:
    - Policy No. 2.1.1: “Plan for anticipated population and households that the community can support with adequate services and amenities.”
    - Goal No. 2.2: “Promote housing, business, and service types needed to meet the demand of the future and existing population.”

Economic Development Goals and Policy:

- Goal No. 3.1: “Promote a healthy and sustainable regional economy by retaining, expanding, and recruiting businesses to favorable locations.”
- Policy No. 3.1.1: “Direct business development to locations that can provide necessary services and infrastructure.”

Land Use & Community Design Goals:

- Goal No. 4.1: “Support livability and high quality of life as the community changes over time.”
- Policy No. 4.1.2: “Planning, zoning, and land-use decisions should balance the community’s interests and protect private property rights.”
- Goal No. 4.2: “Ensure that growth maintains and enhances the unique character throughout the County.”
- Policy No. 4.2.1: “Consider site capability and characteristics when determining the appropriate locations and intensities of various land uses.
- Goal No. 4.3: “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.”
- Policy No. 3.2: “Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns.”
- Goal No. 4.4: “Concentrate future higher density residential growth in appropriate areas in and around existing communities while preserving and enhancing the County’s agricultural and rural character.”
- Policy No. 4.5: “Encourage buffering and/or transitional uses between residential and more impactful uses to promote the health and well-being of existing and future residents.”

Natural Resources and Hazards:

- Goal No.5.1: “Protect, enhance, and steward natural resources.”
- Policy No. 5.1.3: “Encourage the protection of groundwater and surface water quality and quantity in land use through drought-tolerant design and community systems.”
- Goal No. 5.6: “Encourage downward-facing lighting to improve public safety.”
- Policy No. 5.6.1: “Lighting design should reduce the negative impact of light pollution, including sky glow, glare, impacts on public health and safety, disruption of ecosystems and hazards to wildlife.”

Public Services, Facilities, & Utilities

- Goal No. 7.1: “Endeavor to continue providing reliable public services, public safety facilities, & public utilities that support existing developed areas and future growth.”
- Policy No. 7.1.3: “New developments should not increase stormwater runoff from the site.”

(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.

(5) 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) As conditioned, the proposed use will not be injurious to other property in the immediate vicinity or change the character of the area.
- (2) The request is on a parcel zoned “A” (Agricultural) (**Exhibit 2.Be**). Although the parcel and area in the county are zoned “A”, the area is predominantly residential. Within a one-mile radius, there are 53 residential subdivisions with an average lot size of 0.43 acres. Within a 600-foot radius, the average lot size is 1.67 acres (**Exhibit 2.Bf**). Recent land use decisions in the area have been to support residential growth (**Exhibit 2.Bg**).
- (3) The applicant states that dust impacts will be controlled by keeping the site clean and watering roads and fill/stockpile material via water trucks. Stormwater will be controlled through site grading, ditches, and berms, and will meet the Idaho Department of Environmental Quality (DEQ) requirements. All fuel and pollutants will be controlled by spill control equipment and double-walled/secondary containment fuel tanks (**Exhibit A.2**).
- (4) The property has an existing and permitted gravel pit in the process of being reclaimed per the approved reclamation plan (**Exhibit A.7 & B.2i**). Temporary impacts, such as noise, are anticipated during the reclamation process. The requested uses are also temporary and are only being requested for the SH-55 improvements from Farmway to Middleton Road.
- (5) The City of Caldwell is concerned about the use being near existing and future residential uses. The city does not oppose, subject to recommended conditions addressing operation hours, noise, dust, and visual impacts to the surrounding residential uses (**Exhibit D.3**).
- (6) Two comments were submitted by residents of the area, not opposing the request but concerned about the truck route for the SH-55 improvements (**Exhibit E**).
- (7) Conditions of approval, including hours of operation, screening, truck routes, and duration, will minimize potential impacts
- (8) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (9) 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) **Water:** Water trucks will be used as an on-site water source (**Exhibit A.2 & A.3**).
- (2) **Sewer:** Portable restrooms will be provided (**Exhibit A.3**). Southwest District Health sees no concerns or impacts regarding the requested use (**Exhibit D.1**).



(3) **Irrigation:** No irrigation (**Exhibit A.3**)

(4) **Stormwater Drainage:** Stormwater will be controlled through site grading, ditches, and berms, and will meet the Idaho Department of Environmental Quality requirements (**Exhibit A.2 & A.3**).

(5) **Utilities:** Utility connections will not be necessary for staging yard/contractor shop operations (**Exhibit A.2**).

(6) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.

(7) 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.

**Findings:**

(1) An existing stabilized construction entrance is accessible from S. 10<sup>th</sup> Avenue at the northwestern section of the site and will serve as the only access point (**Exhibit A.2**).

(2) The existing access was initially used for mineral extraction established on the property in 1976 and expanded in 1980 (**Exhibit A.7**).

(3) No comment was received from Highway District #4 (**Exhibit A.5**). An access/approach permit is required before the commencement of use. ITD has no comments or concerns regarding the request (**Exhibit D.2**).

(4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.

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

**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.

**Findings:**

(1) Approximately 10 employees are expected to be on-site at any given point. All affiliated traffic will be traveling from SH-55 to the construction entrance on S. 10<sup>th</sup> Avenue (**Exhibit A.2 & A.3**).

(2) Two comments were submitted by residents of the area, not opposing the request but concerned about the truck route for the SH-55 improvements (**Exhibit E**).

(3) No comment was received from Highway District #4 (**Exhibit A.5**). An approach permit is required before the commencement of use, at which time the highway district can request a

study or improvements if a traffic impact is identified. ITD has no comments or concerns regarding the request (**Exhibit D.2**).

- (4) Conditions of approval, including hours of operation, screening, truck routes, and duration, will minimize potential impacts
- (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (6) Evidence includes associated findings and evidence supported within this document.

**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 are not anticipated to be impacted by the requested uses.

**Findings:**

- (1) **School:** Vallivue School District. No comment received.
- (2) **Police:** Canyon County Sheriff's Department. No comment received.
- (3) **Emergency Services:**
  - Canyon County Ambulance/EMT. No comment received.
  - Caldwell Rural Fire Department provided a letter approving the request, subject to meeting access road conditions (**Exhibit D.4**).
- (4) **Irrigation District:** Wilder Irrigation District and Boise Project Board of Control (**Exhibit A.5**). No comment received.
- (5) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (6) Evidence includes associated findings and evidence supported within this document.

**9. Does the proposed project comply with the specific use standards for a staging area per CCCO §07-14-29?**

**Conclusion:** The proposed project complies with the specific use standards for a contractor shop and staging area per CCCO §07-14-09.

**Findings:**

- (1) **All work shall be conducted off-site.** Per the applicant's letter of intent (**Exhibit A.2**), the applicant requests a contractor shop and a staging area to perform roadway improvement on SH-55 between Farnway Road and Middleton Road.
- (2) **Business vehicles shall be operable and parked on site, not on a public or private road.** The applicant proposes a parking area for employees near the temporary office trailer (**Exhibit A.2**). Vehicle fueling and minor maintenance will be performed on site.
- (3) **Persons not employed on the premises may visit the premises for the purpose of picking up equipment and materials to be used elsewhere, including trucks offloading or**

**transferring equipment and/or materials to other vehicles.** Approximately 10 employees are expected to be on-site at any given point (**Exhibit A.3**). The applicant proposes a parking area for employees near the temporary office trailer (**Exhibit A.2**).

- (4) **Employees may meet on the premises to share rides to and from job sites.** Per the applicant's letter of intent (**Exhibit A.2**), the applicant requests a contractor shop and a staging area to perform roadway improvement on SH-55 between Farmway Road and Middleton Road. Employees may meet on the premises to share rides to and from job sites.
- (5) **Employees' vehicles shall be parked on-site and not on a public or private road.** The applicant proposes a parking area for employees near the temporary office trailer (**Exhibit A.2**).
- (6) **The use shall be contained within a building or behind a sight-obscuring fence:** The applicant does not propose a sight-obscuring fence (**Exhibit A.2**). As a condition of approval, all uses, if not stored in the existing gravel pit, must be contained.
- (7) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (8) Evidence includes associated findings and evidence supported within this document.

#### **Canyon County Code §09-03 (Area of City Impact Agreement) - AREA OF CITY IMPACT AGREEMENT ORDINANCE**

**Conclusion:** Parcel R32861 is located within the City of Caldwell Area of City Impact.

**Findings:**

- (1) The south boundary of the property abuts city jurisdiction.
- (2) Per CCCO Section 09-01-21, a notice was provided to the City of Caldwell on March 24, 2025, and April 16, 2025. The City of Caldwell submitted a letter dated April 22, 2025 (**Exhibit D.3**), with the following information and recommendation:
  - The city's comprehensive plan designates the parcel as "Neighborhood 2, 2-8 dwelling units an acre range". The property is directly north of residential development zoned "R-1" approved for the Passero Ridge Subdivision. The requested use would not be allowed in the designation/zone if located in the city.
  - If the use was allowed in the city, street/landscape buffer, sight-obscuring fencing, and restricted hours of operation would be required.
  - The city does not oppose, subject to recommended conditions addressing operation hours, noise, dust, and visual impacts to the surrounding residential uses:
    - i. Buffering/Screening along the south boundary where new single-family dwellings are being developed. Buffering to include six-foot-tall fencing with dense landscaping.
    - ii. City street/landscape requirements shall be met along 10th Avenue.
    - iii. Limit hours of operations to prohibit 24/7 operations.
- (3) Based on the applicant's site plan (**Exhibit A.2**), the requested use will either be located at the bottom of the existing pit or the northwest area of the parcel in an 85,000 square foot area over 900 feet from the south boundary and Passero Ridge Subdivision. As a condition, site-obscuring fencing is required around the use, not the property boundary.



- (4) The staging area/contractor shop use is required to complete the SH-55 improvements and reclaim the gravel pit onsite. The use will expire once SH-55 improvements are completed (approximately three years). Therefore, potential impacts are temporary.
- (5) Conditions of approval, including hours of operation, screening, and duration, will minimize potential impacts.
- (6) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CU2025-0005.
- (7) Evidence includes associated findings and evidence supported within this document.

### **Order**

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Canyon County Hearing Examiner **approves** Case # CU2025-0005, a conditional use permit for a staging area 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.
  - a. Noise emissions shall follow the regulations and standards of OSHA and MSHA.
  - b. Water surface and groundwater shall be discharged in accordance with state, federal, and local standards and/or regulations.
  - c. Onsite parking shall comply with CCCO Section 07-13-01 and 03.
  - d. Idaho Department of Environmental Quality (DEQ) review and approval are required prior to the commencement of use. Evidence shall be submitted to DSD.
    - i. Idaho Pollutant Discharge Elimination System (IPDES) Permit requirements to be reviewed by DEQ before the commencement of use (**Exhibit D.5**). Construction BMPs to be reviewed for projects near a source of surface water. Erosion and non-point pollution shall be minimized by careful design of the site access and implementation of BMPs.
    - ii. Storage of diesel fuel, petroleum products, and any other hazardous materials, dust control, and stormwater pollution prevention shall comply with all standards and requirements of the Idaho Department of Environmental Quality (**Exhibit D.5**).
2. This conditional use permit shall follow land use time limitation as stated in CCCO §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 operator shall be in substantial conformance with the letter of intent and site plan (**Exhibit A.2**), subject to the following:
  - a. Hours of operation are 7 am to 7 pm, seven days a week.
  - b. With advance notice to DSD, hauling construction materials may take place 24 hours a day, seven days per week to support construction activity that requires nighttime operations.

- c. The duration of the staging area/contractor shop operation on the subject property shall expire when the SH-55 improvement from Farmway Road to Middleton Road is completed.
  - d. The temporary office trailer requires a building permit (**Exhibit D.6**). A permit shall be approved prior to the commencement of use.
  - e. A temporary six (6) foot sight-obscuring fence as defined in CCCO §07-02-03 shall be installed prior to the commencement of use, obscuring the use, including the office, parking, and storage of materials and equipment. A fence is not required for equipment storage in the existing gravel pit.
  - f. All exterior lighting, if installed, shall be downward facing and directed away from surrounding properties.
4. Prior to the commencement of use, an approach permit is required by Highway District #4. Evidence shall be provided to DSD.
  5. Prior to the commencement of use, a fire access permit is required by the Caldwell Rural Fire Department to ensure the site meets access requirements (**Exhibit D.4**). Evidence shall be provided to DSD.
  6. Prior to commencement of use, a routing plan for the SH-55 improvements shall be submitted to DSD demonstrating the least impactful truck route for the required improvements.

DATED this 3rd day of June, 2025.

**HEARING EXAMINER  
CANYON COUNTY, IDAHO**

*Leon Letson*

Leon Letson

State of Idaho )

SS

County of Canyon County )

On this 3rd day of June, in the year 2025, before me CAITLIN ROSS, 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: Caitlin Ross

My Commission Expires: 5/7/2031