



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

In the matter of the application of:

**William & Gena Werhane – CR2022-0031**

The Canyon County Planning and Zoning Commission considers the following:

- 1) Conditional Rezone of approximately 8.93 acres from an “A” Agricultural to “CR-C1” Neighborhood Commercial zone on Parcel No. R33590012B and R33590012C.
- 2) Development Agreement to limit the uses in a C1 zone.

**Case CR2022-0031** The property is located at 0 Hwy 55, Caldwell, southeast of the Hwy 55/Sunny Slope Road and Churruca Lane intersection; also referenced as a portion of Section 34, Township 3N, Range 4W; 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 CR2022-0031.

**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 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 Case Number CR2022-0031, was presented at a public hearing before the Canyon County Planning and Zoning Commission on May 15, 2025 and continued to July 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 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 Comprehensive plan.

**Findings:** (1) The Future Land Use Map indicates that the parcels are in the Agritourism Business Use/Agritourism Farm Use, however there is no specific zoning designation for this use. The applicant is proposing uses that fall into alignment with Agritourism Business Use or Agritourism Farm Use. **(Exhibit A3 and A3.1)**

- (2) The goals and policies of the 2030 Comprehensive Plan that this application is generally consistent with follow:

**POPULATION P2.01.01**

Plan for anticipated population and households that the community can support

**POPULATION G2.02.00**

Promote housing, business, and service types needed to meet the demand of the Future and existing population.

**ECONOMIC DEVELOPMENT G3.01.00**

Promote a healthy and sustainable regional economy by retaining, expanding, And recruiting businesses to favorable locations.

**ECONOMIC DEVELOPMENT P3.01.01**

Support suitable sites for economic growth and expansion compatible with the Surrounding area.

**ECONOMIC DEVELOPMENT G3.05.00**

Support a diverse economy in Canyon County and recognize that residential, Commercial and industrial uses are necessary components of overall economic stability

**LAND USE AND COMMUNITY DESIGN P4.01.02**

Planning, zoning and land-use decisions should balance the community's Interests and protect private property rights.

**LAND USE AND COMMUNITY DESIGN P4.02.01**

Consider site capability and characteristics when determining the appropriate Locations and intensities of various land uses.

**LAND USE AND COMMUNITY DESIGN G4.03.00**

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.

**LAND USE AND COMMUNITY DESIGN P4.03.01**

Designate areas that may be appropriate for industrial, commercial, and residential land uses while protecting and conserving farmland and natural resources.

**LAND USE AND COMMUNITY DESIGN P4.03.03**

Recognize that each land use application is unique and that agricultural and non-Agricultural uses may be compatible and co-exist in the same area and in some instances may require conditions of approval to promote compatibility.

**LAND USE AND COMMUNITY DESIGN P4.05.01**

Promote future development and land-use decisions that do not create hardship for farmers and agricultural operators.

**TRANSPORTATION P8.01.01**

Coordinate land use and transportation planning to locate development near appropriate transportation corridors and services.

- (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
- (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** In consideration of the surrounding land uses, the proposed conditional zone change to “C-1” – Neighborhood Commercial is not more appropriate than the current zoning designation of “A” - Agricultural.

- Findings:**
- (1) The parcel is located between a production agriculture use and a state highway. The land use is agricultural in nature on the Canyon County side of the river. Across the river, in Owyhee County and City of Marsing, the use is parks along the river and a commercial downtown area beyond the parks.
  - (2) The land is not agricultural land, but it is surrounded by agricultural land. Testimony and exhibits show surrounding area is in production agriculture.
  - (3) The Commission feels that Commercial use in the Agricultural zone is inappropriate and that the uses proposed are way too broad.
  - (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
  - (5) Evidence includes statement read into the record by Chairman Sturgill (Attachment 1).
  - (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 change to C-1 is not compatible with surrounding land uses.

- Findings:**
- (1) The surrounding land uses are agricultural in nature. The subject property is set apart from the Agricultural uses by State Highway 55 (Sunny Slope Rd), Marsing Road and Churruca Lane.
  - (2) The land is not agricultural land, but it is surrounded by agricultural land. Testimony and exhibits show surrounding area is in production agriculture and a Commercial zone is not compatible with the area.
  - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
  - (4) Evidence includes statement read into the record by Chairman Sturgill (Attachment 1).

(5) 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 negatively affect the character of the area.

- Findings:**
- (1) The character of the area is predominantly agricultural with city commercial across the river. This area leads into the fruit production and winery area of Sunny Slope Road.
  - (2) The Commission feels that the Commercial use would adversely impact the character of the area as pointed out in the written exhibits.
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on February 18, 2025. Newspaper notice was published on February 18, 2025. Property owners within 600' were notified by mail on February 18, 2025. Full political notice was provided on February 18, 2025. The property was posted on February 18, 2025.
  - (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
  - (5) Evidence includes statement read into the record by Chairman Sturgill (Attachment 1).
  - (6) 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) The parcel has the capability to provide appropriate wastewater disposal, water, irrigation and utilities. The requirements would be based on the actual use when the development moves forward. Drainage would also be handled at the time of development according to requirements noted in Boise Project Board of Control's letter in Exhibit D1.
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on February 18, 2025. Newspaper notice was published on February 18, 2025. Property owners within 600' were notified by mail on February 18, 2025. Full political notice was provided on February 18, 2025. The property was posted on February 18, 2025.
  - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
  - (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The proposed conditional rezone may 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. Any necessary measures to mitigate traffic impacts are detailed below.

- Findings:**
- (1) There are three agencies that have jurisdiction in this area (Golden Gate Highway District, Highway District 4 and Idaho Transportation District). All three agencies reserve the right to require further Traffic Impact Studies and other analysis at the time of the application for an access permit, once the use is determined.

- (2) Mitigation for the use that is established will be determined by the highway district at the time of an approach permit application. Traffic Impact Studies may be required and any improvements that need to be made after those studies have been analyzed shall be the responsibility of the developer.
- (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on February 18, 2025. Newspaper notice was published on February 18, 2025. Property owners within 600' were notified by mail on February 18, 2025. Full political notice was provided on February 18, 2025. The property was posted on February 18, 2025.
- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
- (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:**
- (1) The subject property has an existing access onto Marsing Road and with the addition of parcel R335490012C (Churruca Lane) an approach permit would be applied for through Highway District 4 and Golden Gate Highway District No. 3. (Exhibit D6) If the applicant wants to access from State Highway 55, an approach permit process will need to be applied for through Idaho Transportation Department. (Exhibit D6.2)
  - (2) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on February 18, 2025. Newspaper notice was published on February 18, 2025. Property owners within 600' were notified by mail on February 18, 2025. Full political notice was provided on February 18, 2025. The property was posted on February 18, 2025.
  - (3) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
  - (4) Evidence includes associated findings and evidence supported within this document.

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

**Conclusion:** The proposed uses 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) The proposed uses 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.
  - (2) The proposed rezone is for Neighborhood Commercial, so schools will not be impacted. The Canyon County Sheriff's Office was noticed but no response was received. No impact is expected with the proposed uses. At the time of building permit, Marsing Fire District would be contacted for access approval. Marsing Fire District did respond to a request from staff for response times and stated that response time should be 5 to 8 minutes. (Exhibit D8)
  - (3) Notice of the public hearing was provided per CCZO §07-05-01. Affected agencies were noticed on February 18, 2025. Newspaper notice was published on February 18, 2025. Property owners

within 600' were notified by mail on February 18, 2025. Full political notice was provided on February 18, 2025. The property was posted on February 18, 2025.

- (4) Evidence includes the application, supporting materials submitted by the applicant, public testimony, and the staff report with exhibits found in Case No. CR2022-0031.
- (5) 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 Planning and Zoning Commission recommends **denial** of Case # CR2022-0031, a conditional rezone of R33590012B and R33590012C.

Pursuant to Idaho Code Section 67-6519, the following actions may be taken to obtain approval:

1. Resubmit with a refined list of allowed uses. No retail or financial institutions and limited restaurant venues.

DATED this 17 day of July, 2025.

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

  
Robert Sturgill, Chairman

State of Idaho )

SS

County of Canyon County )

On this 17<sup>th</sup> day of July, in the year 2025, before me CAITLIN ROSS, 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: Caitlin Ross

My Commission Expires: 5/7/2031

## Rob Sturgill's Thoughts – July 3, 2025

I'd like to thank the applicant for their patience and my fellow commissioners for their thoughtful discussion during the May 15 hearing. I listened to your questions and deliberations several times.

This is a very important case as the applicant's property occupies the gateway to the jewel of Canyon County - the Sunnyslope wine region. A wise decision here will enhance the value of agriculture and agritourism for future generations of county residents. A poorly considered decision by ourselves or by the Board of County Commissioners could spark a catastrophic commercialization of the entire region over the next 20 years.

I think I heard consensus that this land is largely unsuitable for agricultural production and the commission agrees with the applicant that some productive use is warranted.

I also heard concerns from some commissioners that rezoning for a commercial use, even if restrictively conditioned, is a foot in the door for incremental commercial activities encroaching upon this important agritourism region.

I agree with the consensus expressed by this Commission on May 15. For a variety of geographic and historical reasons, the property has limited suitability for most agricultural production activities. Our decision should encourage the applicant to develop or sell his property in a manner that's consistent with the Comprehensive Plan and the surrounding uses and lead the inevitable development of the area in a manner that's consistent with the agritourism theme. And I'm enthusiastic in my support of the applicant's desire to enable that development. The applicant has endured a review and approval process longer than three years. This process has taken too long and the unique location of this property is too valuable to delay his development any longer.

Where my view departs from some of my fellow commissioners is that some proposed uses in the application are NOT consistent with the area, particularly given the definition of the term 'agritourism' provided in Title 6, Chapter 6 of the Idaho Statutes. I do not believe that a Financial Institution and Retail (in an unrestricted sense) are consistent with the character of the area on the north side of the river. I'm also not convinced that a historical theme is relevant to the site's use. The public input provided by the applicant didn't request a historical theme, and even if they did, it's not clear how a rezone could be conditioned to insist the applicant implement it. I would leave that marketing dimension to the eventual owner/operator of the businesses located on the site. But, I don't blame the applicant. Our code doesn't provide finer granularity of uses for the applicant to propose.

My assessment is that proposed uses such as a restaurant and a microbrewery/tasting room could be consistent with the surrounding area if implemented on a limited scale, deeply consistent with the agritourism theme, and would provide visitors to Canyon County with amenities that would be highly appreciated to enhance the Sunnyslope experience. I'll specifically note how the folks down the road at Peaceful Belly have threaded the needle between functioning agricultural production and a profitable, commercial eatery rather than a tawdry restaurant chain. Likewise, the The Orchard House fits well with the area and the parking lot is always full. In comparison, I doubt any of us would be comfortable that

we'd fulfilled our planning roles if we drove past a Burger King or Sizzler on the property in question as we enter the Sunnyslope region from the South. Adding uses that are consistent with the agritourism theme will add value to the county and provide property owners, including tonight's applicant, exceptional financial returns. It's quite unfortunate that we do not have more a more refined set of appropriate agritourism uses to guide today's decision, as this location is exceptionally well suited for the implementation of that definition.

I do agree with concerns expressed by members of this Commission that a Commercial rezone, even if highly conditioned, will likely lead to incremental development that ultimately moves the area further away from the agritourism vision established through a long series of public hearings for the region in the 2030 Comprehensive Plan. Nonetheless, I share the Commission's desire to find a way to expeditiously assist the applicant in realizing their desire to see the property developed and benefit from its use.

Having said all that, I cannot support the existing rezone application with the current, proposed list of uses as some are demonstrably incompatible with the area north of the river. Since some of the proposed uses which ARE compatible, are not currently permissible in an Ag zone, I concede that a more limited array of uses with a Conditional Rezone would align this property with the surrounding area, albeit at the risk of opening the door to future incompatible Commercial uses in the future. Given the unique and irreplaceable value of this region to the entire County, I'm quite reluctant to approve the concession of a Commercial rezone at this time. I'm convinced that if the County ultimately authorizes a Commercial rezone in this location, even one highly conditioned as proposed, 15 years from now the unique value of this area will be diluted or lost to the County's residents and visitors forever.

On a related note, I'm troubled that Canyon County has not defined the specific uses that fit within the Comprehensive Plan's agritourism map. A thoughtful articulation of those uses is long overdue. As a result, we're now faced with a property owner who would materially benefit from the expeditious application process that a pre-approved list of uses would provide, and has instead patiently endured the grinding wheels of incremental progress while his land lies fallow, unsold, and under-utilized. I believe that the Planning and Zoning Commission could do the County a great favor by sponsoring a working group to either define agritourism-compatible uses, or propose a very limited set of additional allowed uses in the Ag zone to facilitate developments such as being proposed here without the negative impacts of Commercial zoning.

Agritourism: <https://legislature.idaho.gov/statutesrules/idstat/title6/t6ch30/sect6-3003/>