



HEARING EXAMINER

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In the matter of the application of:
Westensee – CR2025-0017

The Canyon County Hearing Examiner considers the following:

The applicant, Evan Westensee, is requesting a conditional rezone of approximately 6.05 acres from the “A” (Agricultural) zone to the “CR-RR” (Conditional Rezone – Rural Residential) zone. If approved, the applicant plans to proceed with an administrative land division application to divide the parcel into three (3) residential parcels with the restriction of no secondary residences.

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 CR2025-0017.

1. All exhibits can be found in the case staff report dated September 24, 2026, and the continuance memo dated October 8, 2026.

Applicable Law

1. The following laws and ordinances apply to this decision: Canyon County Code of Ordinances (CCCO) §01-17 (Land Use/Land Division Hearing Procedures), CCCO §07-05 (Notice, Hearing and Appeal Procedures), CCCO §07-06-01 (Initiation of Proceedings), CCCO §07-06-07 (Conditional Rezones), CCCO §07-10-27 (Land Use Regulations (Matrix)), Idaho Code §67-6511 (Zoning Map Amendments and Procedures), and §67-6519 (Application Granting Process).
 - a. Notice of the public hearing was provided per CCCO §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 CCCO §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 CCCO §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. Any hearing examiner appointed by the board shall perform such duties as assigned by the board pursuant to Idaho Code section 67-6520. *See CCCO §07-03-07.*
4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCCO §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. CCCO 07-05-03(1)(I).

The application, CR2025-0017, was presented at a public hearing before the Hearing Examiner on September 24, 2026, and October 8, 2026. 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 Hearing Examiner decides as follows:

Conditional Rezone Standards of Evaluation

Standards of Evaluation – CCCO §07-06-07(6)A: The presiding party shall review the particular facts and circumstances of the proposed conditional rezone. The presiding party shall apply the following standards when evaluating the proposed conditional rezone:		
County Ordinance and Review		
Criteria Met?	Code Section	Criteria
Yes	1	Is the proposed conditional rezone generally consistent with the comprehensive plan?
Analysis		The proposed conditional rezone change is generally consistent with the Canyon County Comprehensive Plan for 2030. The Future Land Use Map in the 2030 Comprehensive Plan designates the parcel as "Residential" (Staff Report Exhibit C2.9). The applicant is requesting a conditional rezone to the Rural Residential zone. "The R-R district provides rural transitional areas to create a boundary between agricultural and urban areas. These areas are generally conducive to small-scale farming operations and compatible with non-agricultural uses" (Page 26, 2030 Comprehensive Plan). The property's proximity to the City of Middleton, approximately 0.76 miles to the east, places it within an area anticipated for gradual residential transition while remaining outside city limits. The request aligns with the following goals and policies of the 2030 Comprehensive Plan: • <u>Property Rights Goals and Policies:</u> ○ G1.01.00: "Protect the integrity of individual property rights while safeguarding public health, safety, and welfare." ○ P1.01.01: "No person shall be deprived of private property without due process of law." ○ P1.01.03: "Ordinances and land-use decisions should avoid imposing unnecessary conditions or procedures in development approvals." Canyon County values the applicant's and surrounding property owners' private property rights and may support the applicant's project and the surrounding property owners' rights by adding mitigating conditions to the proposed conditional rezone (CCCO Section §07-06-07). <i>See the recommended conditions of approval.</i> • <u>Population Goals and Policies:</u> ○ P2.01.01: "Plan for anticipated population and households that the community can support with adequate services and amenities" ○ G2.02.00: "Promote housing, business, and service types needed to meet the demand of the future existing population." The Future Land Use Map designates the area as Residential, indicating anticipated residential growth. Agency comments indicate that public services can accommodate the proposed development. • <u>Land Use and Community Design Goals and Policies:</u> ○ P4.03.02: "Encourage the development of individual parcels and subdivisions that do not fragment existing land use patterns."

	○ 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 require conditions of approval to promote compatibility.” ○ G4.04.00: “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.” ○ P4.04.04: “Maintain a balance between residential growth and agriculture that protects the rural character.” ○ P4.07.01: “Plan land uses that are compatible with the surrounding community.” The surrounding area contains existing residential subdivisions in all directions, demonstrating a development pattern that is compatible with Rural Residential zoning. The proposed conditional rezone, together with the recommended conditions of approval, promotes compatibility with surrounding land uses. <i>See the recommended conditions of approval.</i> • <u>Housing Goals:</u> ○ G11.1.00: “Encourage opportunities for a diversity of housing choices in the County.” ○ G11.02.00: “Maintain the rural character of Canyon County while providing sufficient housing without fragmenting agricultural and natural resources.” The Rural Residential zone provides Canyon County residents with a diversity of housing choices to maintain the rural character due to the larger lot sizes.										
Criteria Met?	2	When considering the surrounding land uses, is the proposed conditional rezone more appropriate than the current zoning designation?									
Yes											
Analysis	In consideration of the surrounding land uses, the proposed conditional rezone to “R-R” Rural Residential is more appropriate than the current zoning designation of “A” (Agricultural). The requested Rural Residential zoning provides a transition between agricultural land and more intensive residential development. The surrounding area primarily contains residential uses with some interspersed agricultural uses. To the north, south, east, and west, there are residential subdivisions (Staff Report Exhibits C2.1, C2.3, and C2.6). The Rural Residential (R-R) zone would be more appropriate than the Agricultural (A) zone as this area appears to have been transitioning steadily to contain more residential uses. Within 1-mile of the subject property, there are forty-one (41) platted subdivisions with an average lot size of 1.63 acres and six (6) subdivisions in platting with an average lot size of 1.25 acres. In the immediate vicinity, Northslope Estates #1 Subdivision (platted in 2004) is found approximately 0.13 miles to the south with an average lot size of 2.85 acres. Willis Estates Subdivision (platted in 2008) is also found approximately 0.21 miles to the west with an average lot size of 1.93 acres. The applicant’s request to rezone the property to rural residential is consistent with the average lot sizes found within subdivisions in the area and are actually larger than many of the surrounding subdivision lots (Staff Report Exhibits C2.3, C2.6 and C2.10). Pursuant to Canyon County ordinance CCCO §07-10-25(2) the purpose of the “R-R” zoning district is to encourage and guide growth in areas where a rural lifestyle may be determined to be suitable. Adjacent Existing Conditions (Staff Report Exhibits B2.1 and B2.3): <table><tr><th>Direction</th><th>Existing Use</th><th>Primary Zone</th><th>Other Zone</th></tr><tr><td>N</td><td>Agricultural Uses with homesites, some agriculturally zoned parcels with residences, and residential uses</td><td>R-R</td><td>A</td></tr></table>			Direction	Existing Use	Primary Zone	Other Zone	N	Agricultural Uses with homesites, some agriculturally zoned parcels with residences, and residential uses	R-R	A
Direction	Existing Use	Primary Zone	Other Zone								
N	Agricultural Uses with homesites, some agriculturally zoned parcels with residences, and residential uses	R-R	A								

	S	Agriculturally zoned parcels with residences (Northslope Estates #1 Subdivision)	A	CR-C1 and CR-C2
	E	Agricultural Uses and Residential Uses	R-R	A, R-1, C1, and City of Middleton
	W	Agricultural Uses with homesites, some agriculturally zoned parcels with residences (Willis Estates Subdivision), and residential uses	A	R-R and R-1
	"A" (Agricultural), "R-R" (Rural Residential), "R-1" (Single-Family Residential), "C-1" (Neighborhood Commercial), "C-2" (Service Commercial), "M-1" (Light Industrial), "CR" (Conditional Rezone)			
Surrounding Land Use Cases Within the Past 5 Years (Staff Report Exhibit C2.10):				
1. CU2025-0018 – Staging Area/Contractor Shop – Approved 2. SD2022-0028 – Final Plat (Green Hills Landing No. 1) – Approved 3. SD2018-0019 – Preliminary Plat (Green Hills Landing Sub) – Approved 4. RZ2021-0016 – Rezone from AG to R-1 (Guijaro) – Approved 5. CU2022-0032 – School – Approved 6. CR2022-0033 – Rezone from AG to CR-R1 (Kelley) – Approved 7. RZ2019-0034 – Rezone from AG to R-1 (Mortensen) – Approved 8. CR2022-0007 – Rezone from CR-C1 to CR-C2 (Payne) – Approved 9. RZ2022-0006 – Rezone from AG to CR-R1 (Phoenix) – Approved 10. SD2024-0001 – Plat (Ridgeland Estates Sub) – Approved 11. SD2023-0008 – Plat (Sleep Hollow Sub #2) – Approved 12. SD2020-0010 – Preliminary Plat (Spring Hills Ranch Sub) – Approved 13. CU2022-0031 – RV Storage – Approved 14. RZ2021-0053 – Rezone from AG to R-1 (Thornton Gallup LLC) – Denied 15. SD2019-0008 – Plat (Trison Estates Sub) – Approved 16. RZ2019-0040 – Rezone from AG to R-1 (Wangsgard) – Approved 17. CR2022-0026 – Rezone from AG to CR-R1 (Woodruff) – Approved				
The land use cases in the past 5 years demonstrate a trend to contain more residential uses. It is important to note that the parcel to the southwest of the subject property (Parcel R34479) was denied because the request for an R-1 zoning was found to be too dense for the area, and Middleton School District capacity impacts and Fire impacts were not adequately addressed (RZ2021-0053). The subject property does not appear to have the same issues due to the smaller scale nature of this request (See Staff Report Exhibit E3 for Highway District No. 4 comment and Staff Report Exhibit E6 for Middleton School District comment).				
Criteria Met?	3	Is the proposed conditional rezone compatible with surrounding land uses?		
Yes				
Analysis	The proposed conditional rezone to Rural Residential (CR-RR) is compatible with the surrounding land uses. Per the applicant’s letter of intent and site plan, the proposed conditional rezone is intended to facilitate the development of three (3) residential parcels of approximately two (2) acres and restricting of secondary residences (Staff Report Exhibits B2, B3 and B7). The surrounding area contains a mixture of agricultural uses, residential uses on a variety of acreage sizes, and approved residential subdivisions. The proposed three parcel development at approximately two (2) acre lot sizes is consistent with this existing pattern of development (Staff Report Exhibits C2.3, C2.6 and C2.10).			
	This area has been transitioning to contain more residential uses as evidenced by the surrounding land use decisions in the past five years and average parcel size within subdivisions. In the past five years, six (6) rezones have been approved from the agricultural zone to a residential zone, and six (6)			

	subdivision plats have been approved. The average lot size of current and future subdivisions in the area is 1.30 acres and 1.56 acres, respectively, which is consistent with the applicant's request. As conditioned, the proposed development is not anticipated to interfere with adjacent agricultural production, nor detract from established residential uses (Staff Report Exhibits C2.6 and C2.10). 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. See further analysis located in 07-06-07(6)A2 and A4.	
Criteria Met?	4	Will the proposed conditional rezone negatively affect the character of the area? What measures will be implemented to mitigate impacts?
Yes		
Analysis	The proposed conditional rezone will not negatively affect the character of the area. Because development is limited to three approximately two (2) acre parcels, the proposal maintains the area's rural residential character while limiting impacts associated with more intensive residential development. Any necessary measures to mitigate impacts are detailed below. Character of the Area: The surrounding area contains a mixture of agricultural uses and rural residential development, including multiple existing and approved subdivisions to the north, south, east, and west of the subject property (Staff Report Exhibits C2.1, C2.3, and C2.6). The proposed three-parcel development with an average parcel size of (2) acres is consistent with the established development pattern while maintaining the rural character of the area. Within 1-mile of the subject property, there are forty-one (41) platted subdivisions with an average lot size of 1.63 acres and six (6) subdivisions in platting with an average lot size of 1.25 acres. (Staff Report Exhibits C2.1, C2.3, C2.6, and C2.10). The Following Measures Will Be Implemented to Mitigate the Impact: The applicant is proposing to limit the development to three (3) parcels with a minimum lot size of two (2) acres and prohibiting secondary residences (Staff Report Exhibits B2 and B7). <i>See condition number 4c.</i> Any future proposal to create additional residential parcels would require a subsequent rezone and a subdivision plat. <i>See condition number 4a.</i>	
Criteria Met?	5	Will adequate facilities and services including sewer, water, drainage, irrigation and utilities be provided to accommodate proposed conditional rezone?
Yes		
Analysis	The project will have adequate sewer, water, drainage, irrigation, and utilities to accommodate the proposed conditional rezone based on the analysis contained herein. Sewer: Per the applicant's land use worksheet, individual septic systems are proposed for the development. (Staff Report Exhibit B4). Per Southwest District Health's (SWDH) comment letter, the proposed development does not require a Nutrient Pathogen Study unless the proposal will be for a subdivision plat with 5 or more lots, the applicant will need to apply for a sub-surface sewage disposal permit and conduct test holes to determine site suitability on each parcel, but there are not any concerns with rezoning the property if the applicant meets all of SWDH's requirements (Staff Report Exhibit D1). Water: Per the applicant's land use worksheet, domestic water will be provided via individual domestic wells (Staff Report Exhibit B4). Future well construction shall comply with applicable Idaho Department of Water Resources requirements.	

Drainage: Per the applicant's land use worksheet, stormwater is retained onsite (Staff Report Exhibit B4). Irrigation: The parcel is served by Black Canyon Irrigation District (BCID). Comment received from BCID requests that the property owner contact their office to split the irrigation water on the property (Staff Report Exhibit E4). The property owner shall use surface irrigation water if available per State Statute 67-6537, 31-3805, and 42-111. Use of water from a domestic well for irrigation is restricted for up to a half-acre as specified in State Statute in 42-111(a). Per the applicant's land use worksheet, irrigation water is provided via an irrigation well (Staff Report Exhibit B4). To address irrigation on the property, staff has proposed that at the time of application for an administrative land division: an irrigation plan must be submitted to Canyon County Development Services, and the irrigation plan shall be reviewed and approved by the local irrigation district per Idaho Code §67-6537(1). Additionally, staff is also recommending that BCID requirements be met at the time of an administrative land division (<i>see recommended conditions of approval #2 and #3</i>). Utility: Utility agencies, including Idaho Power, Intermountain Gas, CenturyLink, and Ziply, were notified of the application on April 20, 2026 and August 20, 2026. No agency comments were provided by those services at the time the staff report was written. Utility service will be coordinated during subsequent development permitting.		
Criteria Met?	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?
Yes		
Analysis	The proposed conditional rezone will not require public street improvements to provide adequate access to and from the subject property to minimize undue interference with existing and future traffic patterns created by the proposed development. Highway District No. 4 is not requiring roadway improvements.	
	Highway District No. 4 (HD4) states in their comment letter, "the two (2) additional residential lots are not anticipated to significantly impact the existing or proposed transportation system. Traffic impacts from the new development will be mitigated by collection of transportation impact fees at the time of building permit issuance" (Staff Report Exhibit E3).	
Criteria Met?	7	Does legal access to the subject property for the conditional rezone exist or will it exist at time of development?
Yes		
Analysis	The subject property does have legal access for the conditional rezone, and it will exist at the time of the development. The property takes access off of two private roads, Canyon Lane and Hidden Canyon Lane.	
	Highway District No. 4 states in their comment letter that, "The subject property is currently served by a gravel driveway approach onto the Canyon Lane cul-de-sac." The comment letter states that the point of access will serve the future subdivision and all current parcels and that the existing approach location is suitable for the proposed residential use (Staff Report Exhibit E3).	
	Currently, there is an access easement running north-to-south on the eastern boundary of the property for Parcel R34462 to take access from the public portion of Canyon Lane through Canyon Lane private road. There is an access easement and a RUMA between parcels R34462 and R34462010 (Staff Report Exhibit B3). Pursuant to CCCO §07-10-03, private roads serving more than 100 average daily trips must be paved. Trip generation per dwelling is 9.52 trips/day per ITE, "Trip Generation 9th Edition", rates for single-family detached housing. Total ADT for a private road is the total daily trips for the total dwellings entitled on properties using any segment of a private road. The current private road is serving multiple parcels including R34467, R34468, R34468010, R34467010, R34462010, R34469, and	

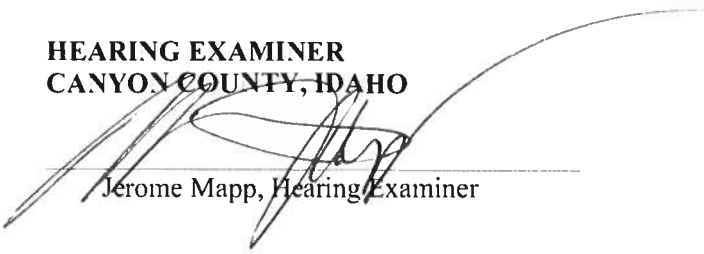
R34489010. Compliance with CCCO §07-10-03 shall be demonstrated prior to building permit issuance, including paving requirements if the applicable average daily trip threshold is met. During the September 24, 2026, hearing, public testimony raised concerns regarding the use of Hidden Canyon Lane (Private) for access to two additional lots. Concerns included the approximately 20-foot width of the road and its dead-end configuration. The applicant offered to provide a turnaround on the subject property to address these concerns. The Hearing Examiner continued the case to October 8, 2026, to allow additional information regarding access to be provided. On October 1, 2026, Staff spoke with Highway District No. 4, which indicated that an additional access may be taken from either Canyon Lane (Private) or Hidden Canyon Lane (Private). Following the continued hearing, a turnaround was not required as a condition of approval. Any additional turnaround requirements remain subject to review by the applicable agencies. The Hearing Examiner also found that the RUMA, Instrument No. 1993-14981 (Staff Report Exhibit B8), does not limit the number of access points permitted from Hidden Canyon Lane (Private). The Hearing Examiner found that legal access to the subject property exists and will exist at the time of development. <i>See recommended Condition of Approval number 6.</i>		
Criteria Met?	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?
Yes		
Analysis	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. Schools: Middleton School District sent in a comment letter on August 6, 2026, stating that the school district doesn't typically comment unless it is a larger project, but based on the demographic information, the project would add 1.5 – 2 students (Staff Report Exhibit E6). It is not anticipated that any impact or accommodations will be needed for the proposed use. Police: The Canyon County Sheriff's Office is required to provide services to Parcel R34462. Overall, the use is not anticipated to be significant enough to cause a negative impact or require additional public funding. Agency comments were sent out on April 20, 2026, and August 20, 2026, and no comments were received by the Sheriff's Office. Fire Protection Parcel R34462 is under the jurisdiction of the Middleton Fire District. Middleton Fire District is required to provide services to the parcel. Prior to issuance of a certificate of occupancy, the property owners shall comply with all Fire District requirements per State-adopted IFC, and as evidenced by review and approval documentation from the applicable fire district. All development shall comply with the 2018 International Fire Code and codes set forth by Canyon County. Agency notice was sent on April 20, 2026, and August 20, 2026, and no comments were received by the Middleton Fire District. Emergency Medical Services: Canyon County Ambulance District responded with estimated response times for three (3) nearby stations on August 4, 2026: Station M53 has an estimated response time of 7.17 minutes, Station M52 has an estimated response time of 9.83 minutes, and Station M51 has an estimated response time of 11.89 minutes (Staff Report Exhibit E5).	

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Hearing Examiner recommends **approval** of Case # CR2025-0017, a zoning map amendment from Agricultural to Conditional Rezone Rural Residential.

DATED this 22 day of October, 2026.

HEARING EXAMINER
CANYON COUNTY, IDAHO


Jerome Mapp, Hearing Examiner

State of Idaho)

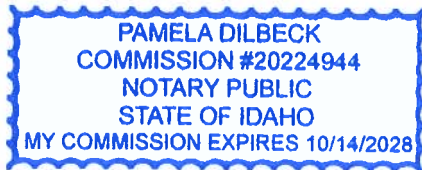
SS

County of Canyon County)

On this 22nd day of October, in the year 2026, before me Pamela Dilbeck, a notary public, personally appeared Jerome Mapp, personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (she) executed the same.

Notary: Pamela Dilbeck

My Commission Expires: 10/14/2028



ATTACHMENT A

RECOMMENDED CONDITIONS OF APPROVAL

1. The development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the subject property and the proposed use.
2. At the time of application for an administrative land division, an irrigation plan must be submitted to Canyon County Development Services. The irrigation plan shall be reviewed and approved by the local irrigation district per Idaho Code §67-6537(1) prior to submittal to Canyon County's Development Services Department.
3. At the time of application for an administrative land division, Black Canyon Irrigation District (BCID) applicable requirements shall be met as outlined in their comment letter in **Staff Report Exhibit E4**. Evidence of compliance with BCID requirements shall be an approved irrigation district document indicating completion of requirements.
4. The subject property, approximately 6.05 acres, shall be divided in compliance with Chapter 7, Article 18 (Administrative Land Divisions) of the Canyon County Code of Ordinances (CCCO) and shall not exceed three (3) residential parcels (**Staff Report Exhibits B2 and B3**).
 - a. No additional residential parcels shall be created from the subject property without approval of a subsequent rezone and a subdivision plat.
 - b. The minimum lot size for parcels created shall be two (2) acres.
 - c. Secondary residences are prohibited.
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. Commencement (or "commence") shall be as defined in CCCO §07-02-03 (Definitions Enumerated).
6. At the time of application for an administrative land division, access shall be established. One new access shall be taken off of Canyon Lane (Private), and one new access shall be taken off of Hidden Canyon Lane (Private).