



Board of County Commissioners - Staff Report
Barnes-Borchert – Conditional Rezone - CR2020-0003

Hearing Date: September 14, 2020 at 10 a.m.

Development Services Department

<p><u>Applicant:</u> Corey Barnes-Douglas Borchert</p> <p><u>Staff:</u> Julianne Shaw, (208) 454-7340 jshaw@canyonco.org</p> <p><u>Tax ID:</u> R34394</p> <p><u>Parcel Size</u> A 53.8 acre parcel (approximate)</p> <p><u>Current Zone:</u> “A” (Agricultural)</p> <p><u>Comprehensive Plan:</u> Agricultural</p> <p><u>City Area of Impact:</u> Nampa</p> <p><u>Applicable Zoning</u> <u>Land Use Regulations:</u> CCZO §07-05-01, §07-06-07</p> <p><u>Notification:</u></p> <ul style="list-style-type: none">• 8/24/2020 - Agencies• 8/26/2020 – City of Nampa• 8/30/20 - Full Political• 8/24/20 - Radius Notice• 8/26/20 - Publication• 9/7/20 - Posting <p><u>Exhibits:</u></p> <ol style="list-style-type: none">1. Proposed FCOs2. Letter of Intent3. Site Plans4. Parcel Inquiry Findings PI2020-00205. Neighborhood Meeting6. Small Air Photo7. Vicinity Map8. Zoning Map9. Subdivision Map10. Lot Report11. Soil Map12. Prime Farmland Map13. Lot Classification Map14. Nitrate Priority Area Map15. Contour Map	<p><u>Request</u> Corey Barnes/Douglas Borchert are requesting to <u>conditionally rezone</u> a 53.8 acre parcel from an “A” (Agricultural) zone to an “CR-R” (Conditional Rezone/Rural Residential) zone for the purpose of obtaining entitlements in a 1.7 acre portion for residential use. This proposal meets the City of Nampa’s future land use expectations of medium density zoning. The larger portion will be retained for agriculture use only through a <u>Development Agreement</u> limiting development with no residential building permit available to it. The property is located at 18298 North Franklin Blvd., Nampa. The 53.8 acre parcel is referenced as a portion of Section 35, Township 4N, Range 2W, SW TX 17511 IN NWSW and SWNW LS TX 03603, TX97248 and LS S 228' of W 235' of NWSW T74862; Canyon County, Idaho.</p> <p><u>Background</u> The Borchert Family owned 3 original parcels R34392, R34387, and R34398. Each original parcel contained 2 building permits (right to build). As defined in PI2020-0020 (Exhibit 4) three Administrative Land Divisions and a Conditional Use Permit occurred over time which created more parcels, and transferred building permits from one parcel to another. As a result, the 53.8 acre parcel does not have a split or a building permit available, but contains an existing residence on a 4.22 acre drainage area, separated from the agricultural area by an existing irrigation canal, making the farming of the 4.22 acres implausible.</p> <p>To accommodate this request a rezone to change the current zoning from agriculture to residential, followed by the subdivision process to legally plat and record one lot, along with a Development Agreement that restricts all future development of the remaining 52.10 acre agriculturally zoned farm.</p> <p><u>Analysis</u> This conditional rezone will allow the building of a residence on an approximate 1.7 acre portion of the 53.8 acre site. The applicant’s site plan, (Exhibit 3), depicts the approximate location of the home site. The location of the home site is proposed in an area of land that has not been farmed due to the separation of the productive farm land by an irrigation ditch. This conditional rezone will allow the majority of the property to remain in agricultural production through a development agreement.</p> <p>The Canyon County Future Land Use Map designates this area as “Agriculture”. The remaining 52.10 acre property will still qualify for an agricultural exemption through the Canyon County Assessor’s office. The property lies within the City of Nampa’s Impact Area and is designated for Medium Density Residential land uses in the Nampa Comprehensive Plan 2040.</p> <p>The master application and fee were submitted on February 25, 2020 in accordance with CCZO Section 07-06-01(2) (Exhibit 2).</p> <p><u>Surrounding Area & Zoning:</u> The surrounding area is agricultural and residential in nature as shown on Exhibit 8. The City of Nampa boundary abuts the parcel across North Franklin Blvd to the west, and within 826 feet to the north. Within one (1) mile of the subject property there are 26 platted subdivisions for a total of 993 lots and a 0.83 acre average lot size (Exhibit 9)</p>
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<p>16. DRAFT Development Agreement</p> <p>17. ITD comments</p> <p>18. Nampa Engineering comments</p> <p>19. Nampa PZ comments</p> <p>20. CHD4 comments</p>	<p>Subdivision and Exhibit 10 Lot Report). Many of the lots included in the average are located within the city limits of Nampa.</p> <p><u>Soil & Farmland:</u> The subject property contains best suited soil types (Exhibit 11). The property contains prime farmland, if irrigated. The applicant proposes to construct a residence in the southwest corner of the subject property in an effort to retain a majority of the land for agriculture.</p> <p><u>Nitrate Priority Area:</u> The subject property is located within a Nitrate Priority Area (Exhibit 14), therefore Southwest District Health regulations shall be met.</p> <p><u>Access:</u> The property has an existing driveway and access to North Franklin Blvd. The private road will serve 3 parcels upon this rezone, therefore the private road will be required to meet Canyon County Zoning Ordinance 07-10-03 standards, the property owners will need to create a Road Users Maintenance Agreement, along with meeting Canyon Highway District No. 4 requirements (Exhibit 20).</p> <p><u>Agency Responses:</u> Idaho Transportation Department comment: ITD does not anticipate any significant traffic impact to the State Highway system from this development and has no objections to the proposed development (Exhibit 17).</p> <p>The City of Nampa Engineering comments in part: “Franklin Blvd is classified a Principal Arterial with a 50-mph speed limit. As such we appreciate the new lot intends to share the existing access with the adjacent home, as this would have been our request. The typical future right-of-way section for Franklin Blvd is 50’ from section line and request any development respect and/or dedicate this future right-of-way with sufficient setbacks to support future road widening” (Exhibit 18).</p> <p>The City of Nampa Planning and Zoning response noted that this parcel lies within the City of Nampa’s Impact Area and is designated for Medium Density Residential land uses in the Nampa Comprehensive Plan 2040. The City of Nampa has no concerns or comments regarding the conditional rezone of the above referenced property from ‘A’ to ‘C-RR’ at this time (Exhibit 19).</p> <p>Canyon Highway District No. 4 response noted the project will be subject to requirements for right-of-way dedication and/or frontage improvements (Exhibit 20). Existing residential access will serve the proposed residence, and the access approach is required to be improved to meet ACCHD Drawing 106 Standards.</p> <p>No additional agency comments were received for this conditional rezone request at the time of staff report preparation.</p>
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Conditional Rezone Criteria

Standards of Evaluation for a Conditional Rezone (§07-06-07)

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

Yes, the proposed conditional rezone is generally consistent with the following comprehensive plan goals and policies:

Property Rights Policy No. 1- *“No person shall be deprived of private property without due process of law.”*

Property Rights Policy No. 8 – *“Promote orderly development that benefits the public good and protects the individual with a minimum of conflict. The proposed development will be equal with the existing character of the area that contains a mix of parcel sizes. The applicant is restricting the development of the site by entering into a development agreement, which will allow a residence to be constructed in the southwest corner of the subject property and retain the majority of the parcel for agriculture.*

Population Policy No. 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.”* As restricted by the development agreement, the addition of a home site on the parcel would not create an incompatible land use.

Land Use Goal No. 5- *“Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.”* The area currently contains a mix of agricultural and residential uses. The addition of a residence on the parcel would not have a negative impact to the balance that exists in the area.

Land Use Policy No. 1 – *“Review all residential, commercial, and industrial development proposals to determine the land use compatibility and impact to surrounding areas.”* The rezone, as restricted by the development agreement, will not have a negative impact to the surrounding area.

Land Use Policy No. 2- *“Encourage orderly development of subdivisions and individual land parcels, and to require development agreements when appropriate.”* The applicant has agreed to enter into a development agreement to allow a residence to be built on the parcel, and to retain the majority of the parcel for agricultural use.

Land Use Agriculture Policy No. 2- *“Consider the use of voluntary mechanisms for the protection of agricultural lands.”* The applicant is voluntarily entering into a development agreement that will restrict development of the subject property.

Public Services, Facilities, and Utilities Policy No. 3 – *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”* The property is located within Nampa Fire District.

Transportation Policy No. 13- *“Ensure that all new development is accessible to regularly maintained roads for fire protection and emergency services purpose.”* The subject property has frontage on North Franklin Blvd., a public road.

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

When considering the surrounding land uses the proposed conditional rezone is as appropriate as the current zoning designation. However, as restricted by the development agreement, allowing a residence to be constructed on the parcel, will not have an impact to the agricultural & residential nature of the area.

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

The proposed use, as restricted by the development agreement, would not have a negative impact, nor would it change the character of the surrounding area. Constructing a residence on the 1.7 acre parcel will be equal with the surrounding land uses.

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

The conditional rezone will not be injurious to other properties in the vicinity nor will it negatively change the essential character of the area. The applicant has agreed to enter into a development agreement which will restrict the development of the property. No evidence has been provided that the conditional rezone would have a negative impact to the area.

No additional mitigation measures are required.

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

No evidence has been provided to indicate there would be issues with the conditional rezone in regards to adequate water, sewer, irrigation, drainage and storm water drainage facilities.

An individual septic systems and an individual well is proposed for the residence. All requirements of Southwest District Health and Idaho Department of Water Resources shall be adhered to.

F. Does the proposed conditional rezone require road 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?

The proposed conditional rezone will not require road improvements along North Franklin Blvd in order to provide adequate access and will not create an undue interference with existing or future traffic patterns. Private roads serving more than 2 dwellings are required to meet Canyon County Zoning Ordinance standards defined in 07-10-03. A Road Users Maintenance Agreement will also be required. These items will be submitted with the application for building permit.

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

The subject property has frontage on N Franklin Blvd., a public road. The applicant will be required to meet Canyon Highway District No 4 requirements, and an approach permit will be required to be submitted with the application for building permit. (Exhibit 20).

H. 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?

Canyon County Ambulance District, Vallivue School District, Canyon County Sheriff, Pioneer Irrigations District, and Nampa Fire Department were notified of the request and did not provide responses to indicate that the proposed conditional rezone would have a negative impact. Staff has not found that this request will affect essential services. No mitigation measures are proposed.

Comprehensive Plan

As restricted by the development agreement, this request is generally consistent with the Canyon County Future Land Use Map, which designates the property as agricultural. With the exception of the existing and new home

sites, the parcel will be retained in agriculture, thus meeting the intent of the comprehensive plan. The request is also consistent with the following Canyon County 2020 Comprehensive Plan goals and policies:

Property Rights Policy No. 1- *“No person shall be deprived of private property without due process of law.”*

Property Rights Policy No. 8 – *“Promote orderly development that benefits the public good and protects the individual with a minimum of conflict.* The proposed development will be equal with the existing character of the area that contains a mix of parcel sizes. The applicant is restricting the development of the site by entering into a development agreement, which will allow a residence to be constructed in the southwest corner of the subject property and retain the majority of the land for agriculture.

Population Policy No. 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.”* As restricted by the development agreement, the addition of a home site on the parcel would not create an incompatible land use.

Land Use Goal No. 5- *“Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.”* The area currently contains a mix of agricultural and residential uses. The addition of a residence on the parcel would not have a negative impact to the balance that exists in the area.

Land Use Policy No. 1 – *“Review all residential, commercial, and industrial development proposals to determine the land use compatibility and impact to surrounding areas.”* The rezone, as restricted by the development agreement, will not have a negative impact to the surrounding area.

Land Use Policy No. 2- *“Encourage orderly development of subdivisions and individual land parcels, and to require development agreements when appropriate.”* The applicant has agreed to enter into a development agreement to allow a residence to be built on the parcel.

Land Use- Agriculture Policy No. 2- *“Consider the use of voluntary mechanisms for the protection of agricultural lands.”* The applicant is voluntarily entering into a development agreement that will restrict development of the larger subject property.

Public Services, Facilities, and Utilities Policy No. 3 – *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”* The property is located within Nampa Fire District.

Transportation Policy No. 13- *“Ensure that all new development is accessible to regularly maintained roads for fire protection and emergency services purpose.”* The subject property has frontage on North Franklin Blvd., a public road.

Comments

Public Comments

At the time of this report, staff had not received comments from the public regarding the rezone request.

County Agency Comments

Staff informed applicable agencies of the proposed rezone, and the responses are attached as exhibits.

Alternatives

- The Board of County Commissioners may **approve** the conditional rezone and conditions as presented or amended;
- The Board of County Commissioners may **deny** the conditional rezone as proposed and direct staff to make findings of fact to support this decision; or
- The Board of County Commissioners may **continue the discussion** and request additional information on specific items.

Significant Impacts

Staff did not identify significant impacts related to this request.

Recommendation

Staff recommends the Board of County Commissioners open a public hearing and discuss the proposed Conditional Rezone and Development Agreement request.

Staff is recommending that the Board of County Commissioners **approve** the Conditional Rezone request and the Development Agreement with conditions as enumerated.

Staff has provided findings of fact, conclusions of law and conditions of approval for the Board of County Commissioners consideration found in Exhibit 1.



Canyon County Board of County Commissioners

Cory Barnes (Borchert) – Conditional Rezone & Development Agreement

Development Services Department

September 14, 2020

Findings of Fact

1. The applicant is requesting a **Conditional Rezone** of approximately 53.80 acres from an “A” (Agricultural) zone to a “CR-RR” (Conditional Rezone / Rural Residential) zone. The request includes a **Development Agreement** which will restrict the development of the 52.10 acre agricultural parcel. The applicant is requesting a one point seven acre portion (1.7) of the 53.80 acres to be developed as residential, with the remaining acreage retained as agricultural only.
2. The subject property, parcel No. R34394 is located on the east side of North Franklin Blvd., approximately 1,600 ft. north of the intersection of Ustick and North Franklin Blvd., in a portion of the NWSW and SWNW of Section 35, T4N, R2W, BM, Canyon County, Idaho.
3. The subject property is currently zoned “A” (Agricultural).
4. The subject property is designated agriculture on the 2020 Comprehensive Plan Future Land Use Map.
5. The subject property is located within Nampa’s area of city impact.
6. The subject property has frontage on North Franklin Blvd., a public road.
7. The subject property is located within Canyon Highway District #4, Nampa Fire District, Pioneer Irrigation District, and Vallivue School District.
8. The neighborhood meeting was held on 2/13/20, compliant with CCZO §07-01-15.
9. The Planning & Zoning Commission recommended approval of the conditional rezone & development agreement request on August 6, 2020 at 8 PM.
10. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Agency notice was provided on 8/24/20, Newspaper notice was provided on 8/30/20, property owners within 300’ were notified by mail on 8/24/20, and the property was posted on 9/7/20.
11. The record consists of exhibits as provided as part of the public hearing staff report, exhibits submitted during the Planning and Zoning public hearing on 8/6/20 and all information contained in DSD case file, CR2020-0003.

Conclusions of Law

For this request the Board of County Commissioners finds and concludes the following regarding the Standards of Evaluation for a Conditional Rezone (§07-06-07 (7) A):

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

Conclusion: The proposed conditional rezone is generally consistent with the comprehensive plan and future land use map, as restricted by the development agreement.

Finding: Yes, the proposed conditional rezone is generally consistent with the following comprehensive plan goals and policies:

Property Rights Policy No. 1- *“No person shall be deprived of private property without due process of law.”*

Property Rights Policy No. 8 – *“Promote orderly development that benefits the public good and protects the individual with a minimum of conflict.”* The proposed development will be equal with the existing character of the area that contains a mix of parcel sizes. The applicant is restricting the development of the site by entering into a development agreement, which will allow a residence to be constructed in the southwest corner of the subject property and retaining a majority for agriculture.

Population Policy No. 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.”* As restricted by the development agreement, the addition of a home site on the parcel would not create an incompatible land use.

Land Use Goal No. 5- *“Achieve a land use balance, which recognizes that existing agricultural uses and non-agricultural development may occur in the same area.”* The area currently contains a mix of agricultural and residential uses. The addition of a residence on the parcel would not have a negative impact to the balance that exists in the area.

Land Use Policy No. 1 – *“Review all residential, commercial, and industrial development proposals to determine the land use compatibility and impact to surrounding areas.”* The rezone, as restricted by the development agreement, will not have a negative impact to the surrounding area.

Land Use Policy No. 2- *“Encourage orderly development of subdivisions and individual land parcels, and to require development agreements when appropriate.”* The applicant has agreed to enter into a development agreement to allow a residence to be built on the parcel.

Land Use- Agriculture Policy No. 2- *“Consider the use of voluntary mechanisms for the protection of agricultural lands.”* The applicant is voluntarily entering into a development agreement that will restrict development of the subject property.

Public Services, Facilities, and Utilities Policy No. 3 – *“Encourage the establishment of new development to be located within the boundaries of a rural fire protection district.”* The property is located within Nampa Fire District.

Transportation Policy No. 13- *“Ensure that all new development is accessible to regularly maintained roads for fire protection and emergency services purpose.”* The subject property has frontage on North Franklin Blvd., a public road.

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

Conclusion: The proposed conditional rezone is as appropriate as the current zoning designation.

Finding: When considering the surrounding land uses the proposed conditional rezone as appropriate as the current zoning designation. However, as restricted by the development agreement, allowing a residence to be constructed on the parcel, will not have an impact to the agricultural & residential nature of the area.

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

Conclusion: The proposed use is compatible with the surrounding land uses.

Finding: The proposed use, as restricted by the development agreement, would not have a negative impact nor would it change the character of the surrounding area. Constructing a residence on the 1.7 acre portion of the 53.8 acre parcel will be commensurate with the surrounding land uses.

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

Conclusion: The proposed conditional rezone will not have a negative effect to the character of the area.

Finding: The conditional rezone will not be injurious to other properties in the vicinity nor will it negatively change the essential character of the area. The applicant has agreed to enter into a development agreement which will restrict the development of the property. No evidence has been provided that the conditional rezone would have a negative impact to the area.

No additional mitigation measures are required.

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

Conclusion: Adequate water, sewer, irrigation, drainage and storm water drainage facilities and utility systems will be provided to accommodate the proposed use.

Finding: No evidence has been provided to indicate there would be issues with the conditional rezone in regards to adequate water, sewer, irrigation, drainage and storm water drainage facilities.

F. Does the proposed conditional rezone require road 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 will not require roadway improvements to provide adequate access to and from the subject property.

Finding: The proposed conditional rezone will not require road improvements in order to provide adequate access and will not create an undue interference with existing or future traffic patterns.

G. 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 frontage on North Franklin Blvd., a public road.

Finding: The subject property has frontage on North Franklin Blvd, a public road. The applicant will be required to meet Canyon Highway District No. 4 requirements, and an approach permit may be required to be submitted with the application for building permit. The applicant will construct the private driveway to meet Canyon County Zoning Code Standards, and Canyon Highway District 4 approach standards, and record a road user's maintenance agreement at the time of building permit submittal.

H. 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: Essential services will be provided to accommodate the use. No mitigation is proposed at this time.

Finding: Canyon County Ambulance District, Vallivue School District, Canyon County Sheriff, and Nampa Fire Department were notified of the request and did not provide responses to indicate that the proposed conditional rezone would have a negative impact. Staff has not found that this request will affect essential services.

No mitigation measures are proposed.

ORDER OF DECISION:

Based upon the Findings of Fact, Conclusions of Law, and the reasons contained herein the Canyon County Board of County Commissioners orders that Case #CR2020-0003 a request for a **Conditional Rezone** of R34394 from an "A" (Agricultural) Zone to a "CR-RR" (Conditional Rezone - Rural Residential) Zone, be **approved** with the following 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 parcel shall be divided in compliance with Chapter 7, Article 17 of the Canyon County Code in substantial Compliance with the conceptual site plan hereto attached as Exhibit 3 subject to the following restrictions:
3. The property shall be developed in substantial compliance with the submitted site plan, Exhibit 3 and building of a residence/accessory structures shall be limited to a one point seven (1.7) acre portion, separated from the 52.10 acre agricultural area by an irrigation canal. The remainder of the parcel shall be utilized for Agricultural purposes only, restricted by the Development Agreement.
4. Further divisions are prohibited.
5. Secondary dwellings are prohibited.
6. The applicant shall construct the private driveway to meet Canyon County Zoning Code Standards 07-10-03 Private Road and Driveway Standards, and record a Road User’s Maintenance agreement at the time of building permit submittal.
7. The applicant 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.”

The Canyon County Board of County Commissioners also **approve** the **Development Agreement** with **seven (7) conditions** enumerated above in the **Conditional Rezone**.

BOARD OF COUNTY COMMISSIONERS

CANYON COUNTY,

	Yes	No	Did Not Vote
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Commissioner White	_____	_____	_____
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Commissioner Dale	_____	_____	_____
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Commissioner Van Beek	_____	_____	_____
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Attest: Chris Yamamoto, Clerk

By: _____