

AMENDED FINDINGS OF FACT AND DECISION

CITY OF POCATELLO HEARING EXAMINER

HEARING HELD MAY 14, 2026

City Hall Council Chambers, 911 North 7th Avenue, Pocatello, Idaho

Instrument # 22605992
Bannock County, Pocatello, Idaho
05/19/2026 03:18:55 PM No. of Pages: 9
Recorded for: CITY OF POCATELLO
Jason C. Dixon Fee: \$0.00
Deputy: jmcDonald

APPLICANT: Gus Schultz
OWNER: Portneuf Capital, LLC
REQUEST: Conditional Use Permit for potential data center
LEGAL DESCRIPTION: RPPGW000100 and RPCPP044853
GENERAL LOCATION: 1800 River Park Way
STAFF: Jennifer Flynn, Assistant Planner

REQUEST & BACKGROUND:

Gus Schultz is requesting permission to develop land for a data center on the subject property, known as 1800 River Park Way, entailing two parcels encompassing ~59 acres and is zoned Industrial (I) with a Future Land Use Map designation of Industrial. The request is to allow a potential data center to be built on these parcels. City use classifications do not include data centers and the Planning Director as well as the Mayor have determined that the proposed use requires a CUP in accordance with 17.01.160.C.

Per code **17.01.160: USE CLASSIFICATIONS:**

A. Purpose: The purpose of this section is to classify uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics, thereby providing a basis for the regulation of uses in accordance with criteria that are directly relevant to public health, safety, and general welfare.

As noted in section C:

C. Unlisted Use; Authorization of Similar Use:

1. Purpose: It is not possible to contemplate all of the various uses that will be compatible within a zoning district; therefore, unintentional omissions occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with or similar to the listed uses.

2. Process: The director shall render an interpretation, as governed by section [17.02.180](#) of this title.

3. Approval Standards: Approval or denial of an unlisted use application by the director shall be based on findings of whether:

- a. The use is consistent with the intent and purpose of the applicable zoning district;
- b. The use is similar to and of the same general type as the uses listed in the zoning district;
- c. The use has similar impacts as the uses listed in the zoning district; and

d. The use has similar impacts on the community facilities as the uses listed in the zoning district. Community facilities include, but are not limited to, streets, schools, libraries, hospitals, parks, police and fire stations and water, sanitary sewer and storm drainage systems.

4. Other Provisions: The director shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zoning district as either a permitted use or a conditionally permitted use.

Physical Characteristics of the Site: 1800 River Park Way, entails two parcels encompassing ~59 acres and is zoned Industrial (I) with a Future Land Use Map designation of Industrial.

Notification: Notice was posted on the subject property and published in the Idaho State Journal on April 28, 2026. All property owners within three hundred feet (300') of the external boundaries of the subject property have been provided notice of the public hearing in order that they may provide comment on the proposed Conditional Use Permit.

Hearing Examiner Authority to Grant: The Hearing Examiner may approve, approve with conditions, or deny an application for a Conditional Use Permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code section 67-6521) to the City Council pursuant to the process outlined in Pocatello City Code section 17.02.400: Appeals.

CONDITIONAL USE PERMITS (CUP): 17.02.130.A DEFINITION:

Conditional uses are uses that are allowed within a zoning district provided that certain standards (or "conditions") are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the city an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses.

DECISION & CONDITIONS:

Based on review of the application for the conditional use permit, analysis of the staff report, and the applicants' presentation received during the public hearing regarding this conditional use permit application, the Hearing Examiner **denies the conditional use permit**, finding the application does not meet the standards for approval under Chapter 17.02.130 D of Pocatello Municipal Code.

FINDINGS OF FACT:

1. The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the subject property and surrounding area and viewed the subject property on Google Maps. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner states that there is nothing personally or professionally that would not allow an impartial or unbiased decision.
2. City Staff received 95 written comments prior to the public hearing.
3. Over 120 written public comments were received by the time the public hearing closed and over 90 public comments were heard during the hearing.
4. A public hearing was held on Thursday, May 14, 2026, beginning at approximately 5:33 pm and closing at approximately 9:58 pm.

CRITERIA FOR REVIEW: The Hearing Examiner shall review the facts and circumstances of each proposal in terms of the standards listed in the table below:

Table 1. Conditional Use Permit Review Criteria Analysis

REVIEW CRITERIA (17.02.130.D):				
Compliant			City Code and Staff Review	
Yes	No	N/A	Code Section	Analysis
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D1	Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this code unless modified through the CUP process.
			<i>Findings</i>	Yes, this land is zoned Industrial. According to 17.01.160.4.b.2: Heavy industrial: Manufacturing, processing and assembling of semi-finished or finished products from raw materials. A substantial proportion of activities and storage may be undertaken outdoors with resulting noise, glare, vibration, and other potentially adverse impacts. Examples include, but are not limited to, production or processing of chemical, rubber, leather, clay, bone, plastic, stone or glass materials or products; manufacturing and production of large scale machinery; energy production facilities; concrete batching and asphalt mixing; production of metals or metal products including enameling and galvanizing; production of cars, trucks, recreational vehicles, or mobile homes; feed manufacturing; and wood processing. Data centers are an unlisted use in the zoning ordinance. In accordance with 17.01.160.C the Planning Director and the Mayor have determined a CUP is required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D2	Is consistent with the goals and policies of the comprehensive plan of the city.
			<i>Findings</i>	Future Land Use designates the subject property to be industrial for future use. Data centers are most similar to Heavy Industrial uses as described in 17.01.160.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D3	Is compatible with existing and permitted land uses within the general area.
			<i>Findings</i>	This corridor is industrial and if a potential data center use is approved, would be compatible with other industrial uses.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.02.130.D4	Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare.
			<i>Findings</i>	The Hearing Examiner finds that the application does not adequately address that the project could be served by public facilities and services. The applicant should conduct studies/impact analysis for power, water and wastewater capacity, air quality analysis prior to submitting another application. These studies

				should include at a minimum: wastewater discharge quantities; identification of pretreatment systems if needed; potential chemical discharge; water demand calculations; long term electrical infrastructure requirements and environmental impacts related to emissions, water utilization and wastewater discharge.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D5	Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.
			Findings	Adjacent land uses are similar and fit within the industrial use classification. Landscape buffers will be required per City standards.
			17.02.130.D6	Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Findings	Based on the limited information provided, the Hearing Examiner finds that the question of environmental impacts has not been adequately addressed. The applicant has failed to provide sufficient information necessary for meaningful review. Studies including utility impact analyses, environmental assessments, infrastructure mitigation measures, and long-term operational impacts showing that this project meets local, state, and federal standards for emissions, power demands, water utilization, and wastewater discharge.
			17.02.130.D7	Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Findings	The Hearing Examiner finds that the application does not adequately address that the project would not be detrimental to the public interests, health, safety, or welfare of the city. The applicant should conduct studies/impact analysis for power, water and wastewater capacity, air quality analysis prior to submitting another application. These studies should include at a minimum: wastewater discharge quantities; identification of pretreatment systems if needed; potential chemical discharge; water demand calculations; long term electrical infrastructure requirements and environmental impacts related to emissions, water utilization and wastewater discharge.

APPLICANT NOTICE:

Notice is hereby given that this decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section 67-6521) to the City Council, using the process outlined in Municipal Code Section 17.02.400 pursuant to Idaho Code Section 67-8003 within 14 days of this recorded decision.

RESPECTFULLY SUBMITTED this 19th day of May 2026.



Kathleen Lewis, City of Pocatello Hearing Examiner

STATE OF IDAHO)

ss:

County of Bannock)

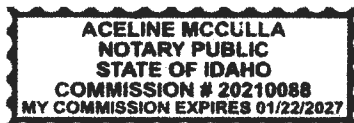
On this 19th day of May 2026, before me, the undersigned, a Notary Public in and for the State, personally appeared Hearing Examiner Kathleen Lewis on behalf of the City of Pocatello, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly sworn, acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Aceline McCulla
Notary Public for Idaho
Residing at Pocatello, Idaho

Seal



FINDINGS OF FACT AND DECISION
CITY OF POCATELLO HEARING EXAMINER

HEARING HELD MAY 14, 2026
911 NORTH 7th AVENUE, POCATELLO, IDAHO

Instrument # 22605957
Barnock County, Pocatello, Idaho
05/18/2026 03:11:06 PM No. of Pages: 4
Recorded for: CITY OF POCATELLO
Jason C. Dixon Fee: \$0.00
Deputy: aleavitt

APPLICANT: Gus Schultz
OWNER: Portneuf Capital, LLC
REQUEST: Conditional Use Permit for potential data center
LEGAL DESCRIPTION: RPPGW000100 and RPCPP044853
GENERAL LOCATION: 1800 River Park Way
STAFF: Jennifer Flynn, Assistant Planner

REQUEST & BACKGROUND:

Gus Schultz is requesting permission to develop land for a data center on the subject property, known as 1800 River Park Way, entailing two parcels encompassing ~59 acres and is zoned Industrial (I) with a Future Land Use Map designation of Industrial. The request is to allow a potential data center to be built on these parcels. City use classifications do not include data centers and the Planning Director as well as the Mayor have determined that the proposed use requires a CUP in accordance with 17.01.160.C.

Per code 17.01.160: USE CLASSIFICATIONS:

A. Purpose: The purpose of this section is to classify uses into a limited number of use types on the basis of common functional, product, or compatibility characteristics, thereby providing a basis for the regulation of uses in accordance with criteria that are directly relevant to public health, safety, and general welfare.

As noted in section C:

C. Unlisted Use; Authorization of Similar Use:

1. Purpose: It is not possible to contemplate all of the various uses that will be compatible within a zoning district; therefore, unintentional omissions occur. The purpose of these provisions is to establish a procedure for determining whether certain specific uses would have been permitted in a zoning district had they been contemplated and whether such unlisted uses are compatible with or similar to the listed uses.
2. Process: The director shall render an interpretation, as governed by section [17.02.180](#) of this title.
3. Approval Standards: Approval or denial of an unlisted use application by the director shall be based on findings of whether:
 - a. The use is consistent with the intent and purpose of the applicable zoning district;
 - b. The use is similar to and of the same general type as the uses listed in the zoning district;
 - c. The use has similar impacts as the uses listed in the zoning district; and
 - d. The use has similar impacts on the community facilities as the uses listed in the zoning district. Community facilities include, but are not limited to, streets, schools, libraries, hospitals, parks, police and fire stations and water, sanitary sewer and storm drainage systems.
4. Other Provisions: The director shall not authorize an unlisted use in a zoning district if the use is specifically listed in another zoning district as either a permitted use or a conditionally permitted use.

PHYSICAL CHARACTERISTICS OF THE SITE: 1800 River Park Way, entails two parcels encompassing ~59 acres and is zoned Industrial (I) with a Future Land Use Map designation of Industrial.

NOTIFICATION: Notice was posted on the subject property and published in the Idaho State Journal on April 28, 2026. All property owners within three hundred feet (300') of the external boundaries of the subject property have been provided notice of the public hearing in order that they may provide comment on the proposed Conditional Use Permit.

HEARING EXAMINER AUTHORITY TO GRANT: The Hearing Examiner may approve, approve with conditions, or deny an application for a Conditional Use Permit. The decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code section 67-6521) to the City Council pursuant to the process outlined in Pocatello City Code section 17.02.400: Appeals.

CONDITIONAL USE PERMITS (CUP): 17.02.130.A DEFINITION:

Conditional uses are uses that are allowed within a zoning district provided that certain standards (or “conditions”) are met that will enhance the compatibility of the proposed use with other surrounding uses. Often conditional uses are unique and their effect on the surrounding environment cannot be determined in advance of a specific proposal for a particular location. Application for a conditional use permit affords the city an opportunity to review the location, design, configuration, and potential impact of the proposed use on surrounding land uses.

DECISION & CONDITIONS:

Based on review of the application for the conditional use permit, analysis of the staff report, and the applicants' presentation received during the public hearing regarding this conditional use permit application, the Hearing Examiner **denies the conditional use permit**, finding the application does not meet the standards for approval under Chapter 17.02.130 D of Pocatello Municipal Code.

FINDINGS OF FACT:

1. The Hearing Examiner discloses that she visited the site to observe the physical character and relationships of the subject property and surrounding area and viewed the subject property on Google Maps. No ex-parte communications took place with anyone prior to the public hearing or during the writing of this report beyond the information gathered or requested at said public hearing. The Hearing Examiner states that there is nothing personally or professionally that would not allow an impartial or unbiased decision.
2. City Staff received 95 written comments prior to the public hearing.
3. Over 120 written public comments were received by the time the public hearing closed and over 90 public comments were heard during the hearing.
4. A public hearing was held on Thursday, May 14, 2026, beginning at approximately 5:33 pm and closing at approximately 9:58 pm.

CRITERIA FOR REVIEW: The Hearing Examiner shall review the facts and circumstances of each proposal in terms of the standards listed in the table below:

Table 1. Conditional Use Permit Review Criteria Analysis

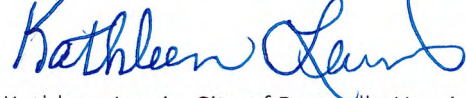
REVIEW CRITERIA (17.02.130.D):				
Compliant			City Code and Staff Review	
Yes	No	N/A	Code Section	Analysis
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D1	Is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this code unless modified through the CUP process.
			<i>Findings</i>	Yes, this land is zoned Industrial. According to 17.01.160.4.b.2: Heavy industrial: Manufacturing, processing and assembling of semi-finished or finished products from raw materials. A substantial proportion of activities and storage may be undertaken outdoors with resulting noise, glare, vibration, and other potentially adverse impacts. Examples include, but are not limited to, production or processing of chemical, rubber, leather, clay, bone, plastic, stone or glass materials or products; manufacturing and production of large scale machinery; energy production facilities; concrete batching and asphalt mixing; production of metals or metal products including enameling and galvanizing; production of cars, trucks, recreational vehicles, or mobile homes; feed manufacturing; and wood processing.

				Data centers are an unlisted use in the zoning ordinance. In accordance with 17.01.160.C the Planning Director and the Mayor have determined a CUP is required.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D2	Is consistent with the goals and policies of the comprehensive plan of the city.
			<i>Findings</i>	Future Land Use designates the subject property to be industrial for future use. Data centers are most similar to Heavy Industrial uses as described in 17.01.160.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D3	Is compatible with existing and permitted land uses within the general area.
			<i>Findings</i>	This corridor is industrial and if a potential data center use is approved, would be compatible with other industrial uses.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	17.02.130.D4	Could be adequately served by public facilities and services such as thoroughfares, transportation facilities, police and fire protection, drainage, refuse disposal, water/sewer and schools, to ensure that the proposed use would not be detrimental to public health, safety, and welfare.
			<i>Findings</i>	The Hearing Examiner finds that the application does not adequately address that the project could be served by public facilities and services. The applicant should conduct studies/impact analysis for power, water and wastewater capacity, air quality analysis prior to submitting another application. These studies should include at a minimum: wastewater discharge quantities; identification of pretreatment systems if needed; potential chemical discharge; water demand calculations; long term electrical infrastructure requirements and environmental impacts related to emissions, water utilization and wastewater discharge.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D5	Would be harmonious in scale, mass, coverage, density, and intensity with all adjacent permitted land uses.
			<i>Findings</i>	Adjacent land uses are similar and fit within the industrial use classification. Landscape buffers will be required per City standards.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D6	Would not adversely affect the environment to a greater degree than had a use permitted outright by the ordinance been established.
			<i>Findings</i>	Based on the limited information provided, the Hearing Examiner finds that the question of environmental impacts has not been adequately addressed. The applicant has failed to provide sufficient information necessary for meaningful review. Studies including utility impact analyses, environmental assessments, infrastructure mitigation measures, and long-term operational impacts showing that this project meets local, state, and federal standards for emissions, power demands, water utilization, and wastewater discharge.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	17.02.130.D7	Would not be detrimental to the public interests, health, safety, or welfare of the city in its proposed location, size, design, and operating characteristics.
			<i>Findings</i>	The Hearing Examiner finds that the application does not adequately address that the project would not be detrimental to the public interests, health, safety, or welfare of the city. The applicant should conduct studies/impact analysis for power, water and wastewater capacity, air quality analysis prior to submitting another application. These studies should include at a minimum: wastewater discharge quantities; identification of pretreatment systems if needed; potential chemical discharge; water demand calculations; long term electrical infrastructure requirements and environmental impacts related to emissions, water utilization and wastewater discharge.

APPLICANT NOTICE:

Notice is hereby given that this decision may be appealed by the applicant or other affected persons (according to the provisions of Idaho Code Section 67-6521) to the City Council, using the process outlined in Municipal Code Section 17.02.400 pursuant to Idaho Code Section 67-8003 within 14 days of this recorded decision.

RESPECTFULLY SUBMITTED this 18th day of May 2026.



Kathleen Lewis, City of Pocatello Hearing Examiner

STATE OF IDAHO)

ss:

County of Bannock)

On this 18th day of May 2026, before me, the undersigned, a Notary Public in and for the State, personally appeared Hearing Examiner Kathleen Lewis on behalf of the City of Pocatello, known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and being duly sworn, acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Aceline McCulla
Notary Public for Idaho
Residing in Pocatello, Idaho

Seal

