



Findings of Fact, Conclusions of Law, and Order

Findings of Fact

1. The applicant, Samuel Parry representing the appellant, Cleon & Patti Hoagland, requests an appeal regarding the denial of AD2023-0110 for a non-viable parcel land division of R28146010, R28146010D, and R28279010, approximately 70 acres, per CCCO §07-18-09.
2. The affected properties are adjacent to 746 and 1055 Southside Blvd., Melba), also referenced as a portion of the SE¼ of Section 01, T1S, R2W, and portion of the NW¼ of Section 12, T1S, R2W, Canyon County, Idaho.
3. Parcel R28146010 was created via an Administrative Land Division creating Parcels R28146011 and R28146010 (AD2021-0016). The parcel was then adjusted to its current configuration in 2021 (AD2021-0185, Exhibit A of Exhibit 5 of the staff report). Parcel R28146010D was created as an agricultural-only parcel in 2021 (AD2021-0185, Exhibit A of Exhibit 5 of the staff report). According to PI2021-0220 (Exhibit B of Exhibit 5 of the staff report), Parcel R28279010 was created via the land division process in 1980. The parcel has a building permit available.
4. On October 6, 2023, the owners submitted an administrative land division application for a non-viable parcel to divide the subject parcels to create eight (8) parcels via CCCO §07-18-09 (AD2023-0110). The application was updated on February 23, 2024, to adjust the proposed parcel and include a private road name (RD2024-0004).
5. On May 6, 2024, Case No. AD2023-0110 was denied finding the parcels to be viable for agricultural use (Exhibit 5 of the staff report).
6. On May 21, 2024, Samuel Parry representing Cleon & Patti Hoagland submitted an appeal to overturn the decision regarding AD2023-0110 finding the request meets the required standards, that adequate evidence was submitted, and that the decision was based on irrelevant facts (Exhibit 2 of the staff report).
7. The subject parcels are zoned “A” (Agricultural). The Canyon County Future Land Use Plan within the 2030 Canyon County Comprehensive Plan designates the subject parcels as “agriculture”.
8. The request was noticed/published per Canyon County Code §07-05-01. Property owners within 600’ of the external boundaries of the parcel and affected agencies were notified per CCZO §07-05-01 on July 19, 2024.
9. All record herein consists of exhibits provided in the public hearing staff report, testimony, and exhibits provided during the public hearing on September 3, 2024, and all information in case file AD2023-110-APL.

Conclusions of Law

Upon review, the Board of County Commissioners finds and concludes the following regarding the Standards of Review for Appeal of Director Administrative Decision (CCZO §07-05-07):

- (1) *Appeal To Board: An affected person aggrieved by a final administrative decision or action of the director that was made pursuant to the provisions of this chapter may appeal to the board.*
- (2) *Appeal Procedures:*
 - A. *Appeals shall be filed with DSD within fifteen (15) calendar days after the date of the decision. A notice of appeal should include a statement of the reasons for the appeal and must be accompanied by all appropriate fees as established by the adopted fee schedule.*
 1. On October 6, 2023, the owners submitted an administrative land division application for a non-viable parcel to divide the subject parcels to create eight (8) parcels via CCCO §07-18-09 (AD2023-0110). The application was updated on February 23, 2024, to adjust the proposed parcel and include a private road name (RD2024-0004).
 2. On May 6, 2024, after considering all evidence provided by the applicant and letters received by neighbors, Case No. AD2023-0110 was denied by the Director of DSD for the following reasons (Exhibit 5 of the staff report):

- a. Per CCCO §07-02-03, viable farmland is defined as “*Land that is capable of producing marketable farm animals or crops*”. Information provided by the applicant, aerials, and letters of opposition demonstrates the subject property consists of land capable of producing marketable farm animals and/or crops.
 - i. The County Assessor’s Office states the parcels have ag-exemptions. Upon conversation with the Assessor’s office, the applicant has benefited from the ag-exemptions for over 20 years. To qualify for an ag-exemption, the parcel must prove the ground is in agricultural production. The Assessor’s office states aerial photos were used to demonstrate areas irrigated by wheel lines/pivot lines for crops and other cattle (livestock/grazing). On Google Earth, reviewing aerials between 2002 to 2022, the parcels appear to be in agricultural production (Exhibit I of Exhibit 5 of the staff report).
- b. Irrigation water rights exist for the subject parcel (Exhibit 4, and Exhibit G of Exhibit 5 of the staff report). Parcels R28279010, R28146010D, and R28146010 appear to irrigate with sprinklers and wheel-line (Exhibit I of Exhibit 5 of the staff report).
- c. Slopes are predominantly between 0-3% except in certain areas of Parcel R28146010D where slopes can be 6-9% (Exhibit C of Exhibit 5 of the staff report).
- d. Any lot size/configuration issues came from the land divisions taken by the Hoagland dividing the parcels over the years (Exhibit A and B of Exhibit 5 of the staff report).
- e. Parcel R28146010D is an agricultural-only parcel (AD2021-0185, Exhibit B of Exhibit 5 of the staff report). Per CCCO §07-17-03(3), an agriculture parcel is described as a parcel *used exclusively for agricultural purposes (on which there is no permanent dwelling)*.
- f. The letter of intent states the 5.93 to 11.81-acre lot sizes will allow forage production and grazing. The letter implies portions of the subject parcels are viable (Exhibit 2 and Exhibit E of Exhibit 5 of the staff report).
- g. Letter of opposition received demonstrates the parcels contain viable, profitable, agricultural uses and have been in active agricultural production since 1974 (Exhibit G of Exhibit 5 of the staff report).
- h. There is not enough evidence demonstrating the development will not be impactful to surrounding agricultural uses. The applicant does not propose any buffers, building envelopes, or other mitigating conditions to ensure residential development created by the request will not impact surrounding agricultural production.

The Director of DSD provided the following options to gain approval of the divisions per Idaho Code §67-6519:

- a. Reapply for an Administrative Division of a Nonviable Parcel in an Agricultural Zone (CCCO §07-18-05 & 09) and provide information demonstrating what portions of the subject parcels are non-viable, what portions are still viable and what measures will be taken to ensure viable ground will be protected.
 - b. Conditional rezone to an “R-R” (Rural Residential) zone with development agreement conditions limiting lot sizes to five acres or larger. The 2030 Comprehensive Plan allows five-acre lot sizes within the agricultural designation. The County Code has not been updated to codify five-acre lot sizes or applicable development standards. Approval is based on the request’s consistency with CCCO §07-06-07(6)A. If approved, a land division application per CCCO §07-18-13 is required if the division does not exceed four parcels from the original parcel (as shown in the Record of Survey provided as part of AD2023-0110). If not, platting is required.
 - c. Comprehensive Plan Amendment to the rural residential designation and Conditional Rezone to an “R-R” (Rural Residential, two-acre lot sizes). The 2030 Comprehensive Plan designates the future land use of the area as “agriculture”. The current zone matches the 2030 Comprehensive Plan designation. If approved, platting would be required to divide the parcels.
3. On May 21, 2024, Samuel Parry representing Cleon & Patti Hoagland submitted an appeal to overturn the decision regarding AD2023-0110 finding the request meets the required standards,

adequate evidence regarding productive agricultural constraints and resource issues was submitted, and that the decision was based on irrelevant facts such as tax exemption status and aerials (Exhibit 2 of the staff report).

3. *At the public hearing held in accordance with this article, the board shall consider the decision of the director and any additional evidence that may be offered by the public, applicant, or director.*
 1. All record herein consists of exhibits provided in the public hearing staff report, testimony, and exhibits provided during the public hearing on September 3, 2024, and all information in case file AD2023-110-APL.
 - a. See Exhibit G of Exhibit 5 of the staff report for comments in opposition to the non-viable land division request.
 2. Property owners within 600' of the external boundaries of the parcel and affected agencies were notified per CCZO §07-05-01 on July 19, 2024. The following comments in opposition were received:
 - a. Christina Schwager (Exhibit 4a of the staff report);
 - b. Jeffery & Donette Robinson (Exhibit 4b of the staff report);
 - c. R. Flint (Exhibit 4c of the staff report);
 - d. Cindy Brown (Exhibit 4d of the staff report);
 - e. K. Alder (Exhibit 4e of the staff report); and
 - The above comments received (Exhibits 4a – 4e of the staff report) express opposition to the requested appeal finding the properties have been in active agricultural production for over 50 years and are concerned about the properties being considered non-viable farm ground and what an approval of that designation will do to their surrounding viable agricultural properties
 - f. Jerry Neufeld (Exhibit 4f of the staff report): A comment letter was received from Jerry Neufeld, retired University of Idaho Crops Extensions Educator, in support of the request (Exhibit 4f). The letter explains the soil and irrigation limitations on the properties making productive agriculture difficult. The letter does not dispute that the land can produce a certain number of crops or livestock feed but finds that production, due to resource issues, is not profitable.
 - Based on the definition of viable farmland (CCCO §07-02-03) and requirements to determine if the property qualifies for a non-viable land division (CCCO §07-18-09), the code does not consider profitability as a factor.
4. *The board may affirm, reverse, or modify, in whole or in part, the director's decision.*

After reviewing all applicable codes (CCZO §07-05-07, 07-17-03, 07-18-05, and 07-18-09) and considering all information a duly noticed hearing, the Board of County Commissioners affirms the decision made by the Director of DSD on May 6, 2024 (Exhibit 5 of the staff report).

Order

Based upon the Findings of Fact and Conclusions of Law enumerated above, the Board of County Commissioners hereby **denies** the appeal **affirming** the decision by the Director of DSD for Case No. AD2023-0110-APL.


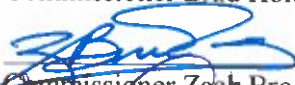

According to Idaho Code §67-6519, the following actions may be taken to obtain approval:

- 1) Reapply for an Administrative Division of a Nonviable Parcel in an Agricultural Zone (CCCO §07-18-05 & 09) and provide information demonstrating what portions of the subject parcels are non-viable, what portions are still viable and what measures will be taken to ensure viable ground will be protected.
- 2) Conditional rezone to an "R-R" (Rural Residential) zone with development agreement conditions limiting lot sizes to five acres or larger. The 2030 Comprehensive Plan allows five-acre lot sizes within the agricultural designation. The County Code has not been updated to codify five-acre lot sizes or applicable development standards. Approval is based on the request's consistency with CCCO §07-06-07(6)A.
 - a. If approved, a land division application per CCCO §07-18-13 is required if the division does not exceed four parcels from the original parcel (as shown in the Record of Survey provided as part of AD2023-0110). If not, platting is required.
- 3) Comprehensive Plan Amendment to the rural residential designation and Conditional Rezone to an "R-R" (Rural Residential, two-acre lot sizes). The 2030 Comprehensive Plan designates the future land use of the area as "agriculture". The current zone matches the 2030 Comprehensive Plan designation. If approved, platting would be required to divide the parcels.

According to §67-6535 of the Idaho Code, the applicant has 14 days from the final decision to seek reconsideration before seeking judicial review.

APPEAL DENIED this 3 day of Sept., 2024.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY,**

	Yes	No	Did Not Vote
 _____ Commissioner Brad Holton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Zach Brooks	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
 _____ Commissioner Leslie Van Beek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: Rick Hogaboam, Clerk

By: 