



Board of County Commissioners
Amy Mallard – AD2024-0046-APL

Findings of Fact, Conclusions of Law, and Order

Findings of Fact

1. The appellant, Amy Mallard, requests an appeal regarding the approval of Case No. AD2024-0046, a request by Idaho Power for a utility facility--Greenleaf Substation.
2. The subject property, parcel R36328010 (2.65 acres), is located at the northeast corner of the intersection of Top Road and Lower Pleasant Ridge Road.
3. Parcel R36328010 was created via an Amended Administrative Land Division creating Parcels R36328 and R36328010 (AD2024-0077 amending AD2014-26 see Exhibit III.e.). The agricultural parcels do not currently have residential building permits available.
4. On July 23, 2024 the application, AD2024-0046, for a utility facility was approved through a Director's Decision process (§07-15-03) by Planning Supervisor, Carl Anderson (Exhibit II.b.).
5. Notice of Decision was sent to property owners within 600 feet on July 25, 2024 providing for a 15 day appeal period from the date of the notice.
6. On August 9, 2024, Amy Mallard submitted an appeal to overturn the decision regarding AD2024-0046 citing safety concerns, property values being affected, noise concerns, and disruption of the agricultural scenic landscape.
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 "Residential".
8. The subject property, R36328010, lies within the Greenleaf area of impact. The Greenleaf Comprehensive Plan identifies the future land use for this property as "Agriculture".
9. The request was noticed/published per Canyon County Code §07-05-01. Property owners within 600' of the external boundaries of the parcels were notified per CCZO §07-05-01 on September 10, 2024. Affected agencies were notified on September 9, 2024.
10. All record herein consists of exhibits provided in the original case file AD2024-0046, staff reports, testimony, and hearing materials, and all information in case file AD2024-0046-APL.
11. On October 17, 2024 the Board of County Commissioners conducted a public hearing for case file AD2024-0046-APL. The Board upon consideration of all materials and testimony upheld the Director's Decision with modified conditions and voted 2 to 1 to deny the appeal.

Conclusions of Law

Upon review, the Board of County Commissioners finds and concludes the following regarding the Standards of Review for an Appeal of a 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 July 23, 2024, a Director Decision was signed by Carl Anderson, Planning Supervisor, approving a utility facility for an Idaho Power sub-station after considering the staff analysis, all public and agency written testimony for AD2024-0046.

2. On July 25, 2024 the notice of decision was sent to property owners within 600 feet notifying them of the decision approving the requested utility facility permit and providing appeal procedures. Property owners were provided 15 calendar days from date of notice of decision.
3. On August 9, 2024, Amy Mallard submitted an appeal to overturn the decision regarding AD2024-0046 citing safety concerns, property values being affected, noise concerns, and disruption of the agricultural scenic landscape. Fees were paid at the time of submission (see Exhibit I.).
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 October 17, 2024, and all information in case file AD2024-0046-APL and the original application AD2024-0046.
 2. Property owners within 600' of the external boundaries of the parcel and affected agencies were notified per CCZO §07-05-01 on September 9 and 10, 2024.
 - a. The following new comments in opposition were received:
 - Bruce Hume (Exhibit V.a. of the staff report);
 - b. The following comments in support were received:
 - Galen and Priscilla Smith (Exhibit V.b. of the staff report)
 - Ken Yellen (Exhibit V.c. of the staff report)
 3. The Board of County Commissioners considered the Standards of Review for Director Decision §07-15-03 (7):
 - A. Review of Application: Compliance with granting an administrative approval shall be within the discretion of the director following a full review of the facts as stated on the application and as received as a result of the required notification process. The burden of persuading the director to grant a permit is on the applicant. The director shall consider the uses of the surrounding properties in the determination of the compatibility of the proposed utility facility with such uses. The Board specifically considered the definition of compatibility for the standard of review.

§07-02-03 Definitions: COMPATIBILITY: 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.

In review of compatibility the Board took testimony including oral and written testimony regarding neighborhood concerns with placing a utility facility adjacent to the residential development in the area. Testimony included health concerns from EMF, loss of property value, loss of view shed, agriculture, and that there are much more appropriate locations in the nearby industrial areas. Idaho Power provided additional materials addressing the appellant concerns including additional EMF information, studies and distances to residences, and noise levels at property lines. They also provided information as to why they chose the location including that the property is in the transmission corridor identified for this area of the county in the 2023 Transmission Corridor Study, site locations where owners had been approached for purchase within identified search area, and the cost considerations to all Idaho Power customers. The facility is being proposed to provide services to existing and future customers in the Greenleaf area based on projections for required service in this area.

The Board found that the code does not have provisions to protect one's view shed. The property is not intended to be agricultural into the future as the County's Future Land Use is identified as residential. The Canyon County 2030 Comprehensive Plan Chapter 7: Public Services, Facilities, and Utilities, Goal G7.01.00 states, "*Endeavor to continue providing reliable public services, public safety facilities, & public utilities that support existing developed areas and future growth,*" and

policy, P7.01.04 stating, "Encourage co-location and joint use of utility corridors and facilities." The proposed facility is intended to serve area properties and there is an existing transmission line and utility corridor adjacent to the proposed facility. Idaho Power did attempt to locate the facility where there were fewer homes in the immediate vicinity as shown and discussed in Exhibits V.e. and V.f. The Board indicated that they were not provided with evidence indicating specific harm such as evidence indicating a reduction in property value or the inability to sell their homes. No market comparables for properties near sub-stations were provided as evidence to support the loss of value in the testimony.

B. Additional Conditions: The director may require additional land use related conditions as are necessary to protect the health, safety and welfare of the residents of parcels within six hundred (600) feet, as well as conditions that would protect the uses of surrounding properties.

The Board amended the conditions of approval to provide for specific landscaping and berm requirements similar to a photo of an Idaho Power facility at Beacon Light and Linder that was provided by Idaho Power in Exhibit V.f. appendix C page 4. The Board stated in response to Staff's request for specificity of which sides of property and if the precast concrete wall was to remain as a condition: 1. Landscaping and berms on the south and west sides of the facility; 2. The precast concrete wall to remain on all sides as originally conditioned.

C. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application.

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 & 07-15-(01-03)) and considering all information at a duly noticed hearing, the Board of County Commissioners affirm the decision made by the Director of DSD on July 23, 2024 (Exhibit II.b. of the staff report) with revised conditions and denies the appeal.


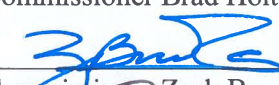

Order

Based upon the Findings of Fact and Conclusions of Law enumerated above, the Board of County Commissioners hereby deny the appeal AD2024-0046-APL, affirming the Director Decision for approval for Case No. AD2024-0046 with revised conditions herein.

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 19th day of November, 2024.

**BOARD OF COUNTY COMMISSIONERS
CANYON COUNTY,**

	Yes	No	Did Not Vote
 Commissioner Brad Holton	<u>X</u>	_____	_____
 Commissioner Zach Brooks	<u>X</u>	_____	_____
 Commissioner Leslie Van Beek	_____	_____	_____

Attest: Rick Hogaboam, Clerk

By: J. Ross, Deputy Clerk

ATTACHMENT A

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.
2. The development shall comply with the requirements of Golden Gate Highway District #3 at the time of development.
3. The development shall not disrupt or destroy existing irrigation facilities serving adjacent or adjoining properties (downstream/upstream users).
4. Idaho Power shall provide a landscape and fencing plan to DSD for review and approval prior to construction of the facility. The perimeter of the subject facility shall be fenced with minimum six (6) foot tall pre-cast stamped concrete walls and be landscaped on all side with drought tolerant landscaping (rock, trees, and shrubs) maintained in living condition. Care should be taken to ensure adequate site distance for traffic safety at the intersection of Top Road and Lower Pleasant Ridge Road is maintained.
5. The landscaping shall include berms and trees on the west boundary and south boundary of the Idaho Power facility in substantial compliance with Exhibit V.h. Idaho Power Appendix C. Photos labeled "Beacon Light Substation in Eagle, ID. (Beacon Light and Linder Road)" and attached hereto as Attachment B. The berm shall be six to eight feet in height with a mix of deciduous and evergreen trees and shrubs.
6. Buildings to be located within the facility shall be permitted in accordance with building code requirements.
7. The applicant shall complete the administrative land division, amending AD2014-26, to reflect the division of parcel R36328, providing for the 2.65 acre utility facility parcel. An amended record of survey shall be recorded and provided to DSD and the amended land division application shall be recorded by the applicant upon DSD approval of the application.

ATTACHMENT B

Idaho Power's Response – Appendix C

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Beacon Light Substation in Eagle (Beacon Light Rd and Linder Rd)



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