

Director Administrative Decision

Canyon County Code of Ordinances (CCCO) §07-18-05, 07-18-09, 07-10-03 and 06-05-13

Case Number:	AD2024-0001			
Parcel #'s:	R37792			
Applicant/Representative: Matt Wilke				
Property Owners: Richard and Lorna Penner				

<u>Request</u>

The property owners requests administrative divisions of a nonviable parcel in an "A" (Agricultural) zone parcels per CCCO §07-18-09. The parcel ("the subject property") being considered is R37792 (119.61 acres). The result of the request creates ten parcels, eight (8) parcels with residential building permits available and two (2) agricultural-only parcels (Exhibit 1).

The request includes a private road name application to establish access for the proposed parcels. (RD2024-0001).

Property History

- On July 20, 2020, PI2020-0226 identifies Parcel R37792 as having one (1) original parcel.
- On July 21, 2020, PI2020-0234 identifies Parcel R37792 as having one (1) original parcel.
- On August 4, 2020, PI2020-0226 was updated to state that Parcel R37792 contained two (2) original parcels (Exhibit 4).
- On October 27, 2022, a conditional rezone from the "A" zone (Agricultural) to the "CR-R-R" Zone (Conditional Rezone- Rural Residential) on 55-acres of the 119-acre parcel was denied by Board of Canyon County Commissioners (CR2021-0008) (Exhibit 5).
- In September 2024, two (2) of Canyon County's Contract Surveyors reviewed <u>the deed with</u> <u>Instrument #495989 and Patent #1215621</u> (found in Exhibit 4) and stated it was one (1) original <u>120-acre parcel, meaning under CCZO §07-18-07 the parcel would have three (3) administrative</u> <u>divisions available (four (4) residential parcels).</u>

Findings CCZO §07-18-05 - Application and Process:

§07-18-05 (1) The following shall be provided with all applications for land divisions pursuant to this Article:

- A. Application,
- B. Fees;
- C. Site plan showing all lots and access locations;
- D. An irrigation plan (if applicable);
- E. Proof that any required conditions of county approvals are met (if applicable)
- Finding: A complete application was accepted on January 12, 2024 with an amended letter of intent submitted on February 27, 2024 and an additional letter of intent on June 18, 2024 (Exhibits 1 & 2).

§07-18-05 (2) Parcels divided pursuant to this Chapter with slopes greater than fifteen percent (15%) shall not be disturbed without an engineered grading and drainage plan consistent with section 07-17-33(1)C.

• Finding: Based on USGS Slope data, the subject property contains slopes greater than 15% (Exhibit 15).

§07-18-05 (3) The subject property shall be in compliance with the public nuisance ordinance (chapter 2, article 1 of this code), the building code (chapter 6 of this code), and this chapter before the director can approve the application.

• Finding: The subject properties comply with applicable public nuisance, building, and zoning ordinances (Chapter 2, Article 1 of the Canyon County Code). There are no code violations on the subject property.

§07-18-05 (4) Notification of the application shall be provided to the applicable fire and highway districts and shall provide such districts a period of fifteen (15) calendar days from the date of notice to submit comments concerning the application.

• Finding: Notification of the request was sent to the local highway and fire district on March 25, 2024. Middleton Rural Fire District did not provide any comments. Highway District #4 (HD4) states that the applicant was approved for a variance from the Highway District with conditions. The Highway District's comments to this request will be delayed until the variance conditions are addressed (See Exhibit 14 for HD4 Comment Letter).

Findings CCZO §07-18-09 – Administrative Division of Nonviable Parcels in an Agricultural Zone:

§07-18-09 (2) Minimum Parcel: The proposed parcel created and its remnant shall be at least one (1) acre in size.

• Finding: The request meets the minimum parcel size of one (1) acre. (See Exhibit 3).

§07-18-09 (3) Application: The applicant shall submit to DSD an application for a director's administrative decision along with the appropriate fee, including requirements of Section 07-18-05 of this chapter. Submittal shall also include the following:

• Finding: A complete application was accepted on January 12, 2024 with an amended letter of intent submitted on February 27, 2024 and an additional letter of intent on June 18, 2024 (Exhibits 1 & 2).

A. Evidence demonstrating the land, in whole or in part, is nonviable for agricultural use; and

• Finding: The applicant's letters of intent (Exhibit 1 and 2) indicates that poor soils, rolling topography, lack of irrigation water rights, and lack of resources to feed cattle year-round on site, make the parcel nonviable for grazing and economically nonviable.

B. Evidence demonstrating the result of the request will minimize potential negative impacts to adjacent agricultural uses

• Finding: The applicant's additional letter of intent (Exhibit 2), indicates that a traffic impact study is not required, the future collector is moved away from an adjacent property owner and completely on the subject property, the proposed private road (Crooked Tree Lane) is moved away from neighboring properties and are clustered close together, and the size of lots all

demonstrate that the request will minimize potential negative impacts to adjacent agricultural uses. They also suggest a condition of approval on the Right of Farm being added to future CC&Rs to further mitigate potential negative impacts.

§07-18-09 (4) Notifications: Upon acceptance of an application, DSD shall, by mail, provide notification of the proposed division to the owners of parcels which are contiguous to the subject parcel(s) and to the owners of parcels which are within six hundred feet (600') of the external boundaries of the subject parcel(s) and shall provide such individuals a period of fifteen (15) calendar days from the date of the mailing to submit comments concerning the proposed division. Notification of the application shall also be provided to the applicable fire and highway districts and shall provide such districts a period of fifteen (15) calendar days from the date of notice to submit comments concerning the application.

- Finding: Notification of the request was sent to property owners within 600 feet in accordance with CCCO §07-18-09(4) on March 26, 2024 and July 1, 2024 (due to the additional letter of intent). Six (6) letters of opposition, one (1) letter of support, and one (1) letter in neutral were received:
 - David and Konnie Michaelis- Opposed (Exhibit 6) and Neutral (Exhibit 7): Mr. and Mrs. Michaelis state in their letter received on April 4, 2024, that they have rented the subject property for over 25 years for the purpose of cattle grazing. They further state, a neighbor rented it for his cows as well, so the property has been continually utilized for grazing for at least 40 years. They state because it has contained a cow/calf operation they believe it deems this property as a viable agricultural property and due to the property being bordered by crop land, grazing is compatible with the surrounding area. They are also concerned about the addition of eight (8) wells on the property due to the effects it could have on the water table.
 - On July 12, 2024, the Michaelis sent in a letter that stated a proposed land swap agreement between the property owners and themselves is contingent on AD2024-0001 being approved, therefore, they are not contesting the applicant's request at this time (Exhibit 7).
 - Mike Goodell Opposed (Exhibit 8): Mr. Goodell expresses disagreement over labeling this land as nonviable and states its bordered on the west, north, and east by productive farmland. He further states that while the parcel doesn't have a Black Canyon Irrigation right, it can be watered by development of an irrigation well or by rental or purchase of Black Canyon Shares, which is what he did to obtain water for his farm. The letter further outlines that the neighborhood is dominated by large open spaces of agricultural land, dry land, and recreational areas and is concerned that this would encourage further concentrated development in the area. Lastly, the letter further outlines that it doesn't align with the spirit of the 2030 Canyon County Comprehensive Plan and he notes that there was a denial to conditionally rezone this land in June 2022 concerning the same parcel.
 - Nathan McKinney Opposed (Exhibit 9): Mr. McKinney states that he owns the farm on the west and north side of the subject property and is in opposition of this application. He says he often is bailing hay during the night and it is a noisy process that can be disturbing for people who don't understand farming practices, a lot of dust can be formed during his normal farming practices when working the fields for planting and harvest, and there is a smell that occurs when applying manure and compost. Lastly, Mr. McKinney states farming next to a subdivision makes life more difficult for all those involved, both homeowners and farmers, which is why he is opposed to the development.

- Heidi Miller Opposed (Exhibit 10): Ms. Miller states she moved to the country so she could raise chickens and rare heritage breed ducks. With the growth in the area, they have noticed more wildlife on the property and have experienced more loss to the the flock as the habitat of their predators have shrunk. She contends that the subject property is home to local floral and fawna and building on the parcel will have an environmental impact. She also expressed concerns over wells, irrigation water, and easement rights.
- Marnie and Casey Vandenberg- Opposed (Exhibit 11): Mr. and Mrs. Vandenberg state that due to the many residential developments that have been allowed in the area, traffic has increased significantly which has affected their dairy operation. They disagree with the assertion that the land is nonviable for agriculture, as it could be irrigated if the owner procured an irrigation water right or Black Canyon water. They believe it is not consistent with the Comprehensive Plan, Canyon County's ordinance regarding administrative land divisons, and the public's desire for open, agricultural space. They also state concerns regarding new wells and septic systems, residential subdivisions next to agricultural operations, believe the parcel should be subject to subdivision regulations, and is concerned with neighbors complaining about agricultural operations.
- Marcus and Jamie Michaelis Opposed (Exhibit 12): Mrs. Michaelis states that her husband's parents live on the property located directly next to the subject property. In the 40 years since her husband has lived near the subject property, it has been utilized for cattle grazing purposes. She states while it does not have water rights, grazing still deems this property to be agricultural in nature and it is directly surrounded by heavy agricultural operations bordering all sides and is the primary use of all the property in the general area. She further states that the current building permits available on the parcel is more in line with the surrounding residential use and increasing this would be detrimental to the area's agricultural nature with increased traffic causing issues for farmers, more complaints of farming practices, and impede other agricultural processes. Lastly, Mrs. Michealis states it would also have a significant impact on water table resources and adding more wells will worsen the reported well issues.
- <u>Mike Titera- Support (Exhibit 13)</u>: The e-mail states they looked at the conceptual plan and have no issues with the Penners moving forward. They look forward to the Penners getting their approvals and having a neighbor to the north.

§07-18-09 (5) Evaluation and Determination of Application: The director shall evaluate each application on an individual basis and shall exercise discretion in determining whether or not to approve such an application with consideration given to each of the following requirements:

- A. The parcel(s) must be eligible for division; and
 - Finding: Per CCCO §07-18-09(7)A, the director may approve the division into fewer than five (5) parcels from the original parcel if the requirements of the Code. Per Canyon County's two (2) contract surveyors, it has been determined to be one (1) 120-acre original parcel (Exhibit 4), which has three (3) administrative land divisions available (four (4) residential parcels) per CCZO §07-18-07.
- B. The subject properties comply with applicable public nuisance, building, and zoning ordinances (Chapter 2, Article 1 of the Canyon County Code). There are no code violations on the subject property.
 - Finding: The parcel has no known code violations.

- C. The parcel, in whole or in part, shall consist of land with site constraints and/or resource issues, such as lack of water, suitable soils, topography, land compatibility, lot size or configuration, that makes productive agricultural use extremely difficult; and
 - Finding: The applicant's letters of intent (Exhibit 1 and 2) indicates that poor soils, rolling topography, lack of irrigation water rights, and lack of resources to feed cattle year-round on site, make the parcel nonviable for grazing and economically nonviable.
 - Based on the review of all information and comments submitted, there is not enough evidence demonstrating Parcel R37792, approx. 120 acres, suffers from site constraints/resource issues making productive agricultural uses extremely difficult. It is important to note that the letter of intent focuses on agricultural production being economically difficult. CCCO §07-18-09(5) does not include economic viability as a constraint that can be used as evidence.
 - Per CCCO §07-02-03, agriculture is defined as "*Tilling of soil, pasturage, sod/turf farms, horticulture, aquaculture, viticulture, floriculture, raising crops directly from the soil, raising livestock, poultry, poultry products, dairy animals and dairy products, beekeeping or beekeeping products, fur animals, trees grown in row crop fashion, fruits of all kinds and their products, floral and ornamental and greenhouse products, including all uses and facilities customarily accessory and incidental thereto, including, but not limited to, the storage and warehousing of fertilizers or agricultural produce or raw products*" and viable farmland is defined as "Land that is capable of producing marketable farm animals or crops". Information provided by the applicant (Exhibit 1-3) and letters of opposition (Exhibit 6, 8-12) demonstrate the subject property consists of land capable of producing marketable farm animals.
 - <u>The County Assessor's Office states the parcel has an ag-exemption</u>. To qualify for an ag-exemption, the parcel must prove the ground is in agricultural production. The Assessor's office used photos as proof to demonstrate the parcel has been used for cattle (livestock/grazing) which can be found in **Exhibit 17**.
 - The soils on the property are between Classes 3-6 (Moderately Suited to Least-Suited). Per the applicant's Natural Resources Conservation Service Soil Survey (this correlates with Canyon County's Soil Maps), this demonstrates these soils make them more suitable for pasture, rangeland, forestland, or wildlife habitat, which is the historical and current use of the property per the applicant, letters of opposition, and Canyon County Assessor's Office. The Natural Resources Conservation Service Soil Survey from the applicant can be found in **Exhibit 1** and Canyon County's Soil Map can be found in **Exhibit 16**.
 - Slopes are predominantly between 0-9% based on the USGS Slope Map (Exhibit 15).
 - Irrigation water rights currently do not exist for the subject parcel per the applicant's correspondence with Black Canyon Irrigation District (Exhibit 1). Although irrigation water rights do not exist, grazing has existed on the property for at least 40 years and has appeared to not need irrigation water rights to support grazing. The applicant states that the proposed lots with a building permit "...will be able to utilize its proposed well for up to 13,000 gallons of stock water daily," which also demonstrates there is a current opportunity for water (Exhibit 1-2).
 - The applicant also states that the current and previous tenants have not relied solely on the property's vegetative crop and had to bring in sources on site to feed the cattle (such as hay), meaning it cannot support the production of marketable farm animals. Per articles from University of Minnesota Extension and Mississippi State, there are different types of grazing systems (continuous, simple rotational, and intensive rotational grazing

systems). These articles indicate that supplemental feed may be needed for grazing depending on how the property being grazed (length of time, character of land, etc.) **(Exhibit 18-19)**.

- There are conflicts in the applicants' materials. The additional letter of intent submitted in June of 2024 states the 5.04 -9.66 acre lot sizes with a proposed residential building permit <u>will allow each parcel to still be able to develop a viable agricultural use if each lot owner decides to do so.</u> Additionally two (2) agricultural-only parcels are also proposed between 26.80-31.67 acres (Exhibit 2). The letter and survey both implies the subject parcel is viable for an agricultural operation related to producing farm animals (Exhibits 2-3).
- Letters of opposition received indiciate the parcels contain viable, agricultural uses and have been in active agricultural production since the 1980s (Exhibits 6, 9-12).

D. The division shall not create a negative impact to surrounding agricultural uses. The director may include conditions of approval to mitigate potential negative impacts.

- Pursuant to the applicant's additional letter of intent (Exhibit 2), the traffic created by 8 lots is anticpated to be less that 77 trips per day and will not trigger a traffic impact study. The applicant worked with Highway District No. 4 to move a future collector away from an adjacent property owner and completely on the subject property. The applicant states further the property owner has placed the proposed private road (Crooked Tree Lane) away from neighboring properties and are clustered close together to minimize impacts on neighbors. The applicant also suggests adding a condition of approval regarding the Right of Farm Act for future CC&Rs and state that the size of lots mitigate risks in this agricultural area.
- Based on the review of all information and comments submitted, there is not enough evidence demonstrating the development will not be impactful to surrounding agricultural uses. Without any buffers, building envelopes, or mitigation conditions (Canyon County does not enforce CC&Rs), residential development may impact adjacent parcels' agricultural production. Letters of opposition were received with concerns regarding impacts to water/irrigation, traffic, and impacts to farming operations adjacent to the subject parcels (Exhibit 6, 8-12).

§07-18-09 (6) The applicant has the burden of proving that the application meets these requirements.

- A. Deliberate action to withhold agricultural land from productive use strictly to qualify for a land division pursuant to this section shall disqualify such land from treatment under this section.
- Finding: It does not appear that there has been deliberate action to withhold agricultural land from productive use to quality for a land division.

<u>§06-05-13 Private Road Name – Finding</u>

The proposed road names, Crooked Tree Lane, Buck Lane, Cowpoke Lane, and Heads Ups Lane are in substantial conformance with Section 06-05-13. The proposed names are not duplicated by sound or spelling within Canyon County.

<u>Decision</u>

The application to complete the described administrative land division in accordance with CCCO §07-18-05, 07-18-09 (specificially 07-18-09(5) A and C), 07-10-03, and 06-05-13 *is hereby denied based on failure to demonstrate compliance with ordinance criteria.*

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

- Apply for Administrative Divisions in an Agricultural Zone (CCCO §07-18-05 & 07) that are currently available to the parcel. There are currently three (3) administrative land divisions (four (4) residential parcels) available for Parcel R37792 (see Property History for more information)
- <u>Conditional rezone</u> to a "R-R" (Rural Residential) zone with development agreement conditions limiting lot sizes to five acres or larger (\$1,400 application fee, two public hearings). The 2030 Comprehensive Plan describes provisions for 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. If greater than four (4) parcels, platting is required (+\$2,000 application fee).
- <u>Comprehensive Plan Amendment to the rural residential designation and Conditional Rezone to an</u> <u>"R-R" (Rural Residential, two-acre lot sizes)</u>. 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.

Pursuant to CCCO §07-18-09(8), any affected person who is aggrieved by the decision may file a written notice of appeal within 15 calendar days in accordance with CCCO §07-05-07 subject to application submittal requirements and fee.

	10-7-2024
Carl Anderson, Planning Supervisor	Date
State of Idaho)	
SS	
County of Canyon County)	
On this <u>Ith</u> day of <u>October</u> , in the year of 2 personally appeared <u>Carl Anderson</u>	1024, before me <u>Pamela Dilbeck</u> , a notary public, 10, personally known to me to be the person(s) whose
name(s) is (are) subscribed to the within instrum	ent, and acknowledged to me that he (she)(they) executed the same.
	Notary: Gamela Dilbeck
COMMISSION #20224944 NOTARY PUBLIC STATE OF IDAHO	My Commission Expires: 10 14 2028

MY COMMISSION EXPIRES 10/14/2028

Exhibits

Application Materials:

Exhibit 1 – Amended Letter of Intent – February 27, 2024

Exhibit 2 - Additional Letter of Intent - June 18, 2024

Exhibit 3 – Proposed Survey

Property Research Materials:

Exhibit 4 – PI2020-0226 Answer with Deed (Dated August 4, 2020)

Exhibit 5 – CR2021-0008 FCOs

Property Owner Response Letters:

Exhibit 6 – David and Konnie Michaelis Letter of Opposition – April 4, 2024

Exhibit 7 – David and Konnie Michaelis Letter of Neutrality-July 12, 2024

Exhibit 8 – Mike Goodell Letter of Opposition – April 5, 2024

Exhibit 9 - Nathan McKinney Letter of Opposition - April 8, 2024

Exhibit 10 – Heidi Miller – Letter of Opposition – April 9, 2024

Exhibit 11 - Marnie and Casey Vandenberg - Letter of Opposition - April 9, 2024

Exhibit 12 – Marcus and Jamie Michaelis – Letter of Opposition – April 10, 2024

Exhibit 13 – Mike Titera – Letter of Support – July 18, 2024

Agency Response

Exhibit 14 - Highway District No. 4 Response - 3.26.24

<u>Maps</u>

Exhibit 15 – Canyon County Slope Map

Exhibit 16 – Canyon County Soil Map

Assessor's Office Pictures

Exhibit 17 – Assessor's Office Pictures from 2013, 2017, and 2022.

Supporting Evidence

Exhibit 18 – University of Minnesota Extension Article

Exhibit 19 - Mississippi State Extension Article



White Barn Ventures, Inc.

Rick & Lorna Penner 1783 W Brenton St. Middleton, ID 83644

1/11/2024 amended 2/27/2024

Canyon County Development Services 111 N. 11th Avenue Caldwell, ID 83605

Re: Amended Letter of Intent for Administrative Land Division Application with Non-Viable Ag Provision, Private Road & Name, & Building Permit Relocation..

Dear Development Services,

I am writing on behalf of my clients Rick & Lorna Penner. We are requesting that the Director please approve the location of 8 residential parcels, and 2 Ag only parcels that are available for parcel #R3779200000, which is approximately 120 acres.

Zoning

The subject property is in an Agricultural zone on the current zoning map, and is in close proximity to several County subdivisions to the north and east including Star Gazers Estates, Small Wood Trail, and Sand Hollow Estates to name a few, and several administrative splits. There are at least 82 homesites within a 1 mile radius. (See attached pictures)

Parcel Inquiry

I have attached the email from Dan Lister dated March 30, 2023 stating that 5 residential splits are available, plus 3 more if the non-viable Ag ordinance is approved. (See Exhibit "A")

Building Permit Relocation Between Contiguous Parcels

We plan to place the residential lots on the parcel as shown on the attached survey. Each residential lot will be over 5 acres. Due to the topography, we are combining the Land Division application with the building permit relocation process outlined under code 07-18-11 to cluster the permits on the best view sites available on the property as the contour lines on the survey indicate. We had a pre-application meeting with Jenna Petrol, and received feedback that this was possible in the email attached as Exhibit "B".

Matt Wilke | PO Box 7, Middleton, Idaho 83644 | 208.412.9803 | matt@mywhitebarn.com

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Irrigation

There are no surface water rights available from BCID, as shown on the Mylar map provided by Cheyanne Andrade in her email dated 8/17/2020. (Exhibit "C") The map shows that portions of the property has "no water rights classified as irrigable" (blue horizontal stripes), with the remaining land classified as "High and Dry Land", which is above the canal water level for gravity flow.

Each home will utilize a ¹/₂ acre irrigation right provided through the proposed domestic well, which also includes a stock water right of no more than 13,000 gallons per day. (Idaho Statute 42-111)

Access / Collaboration with BCID and HD4

Proposed access will consist of one access onto Harvey Road, and will not negatively impact traffic flows due to the low density of the proposal. Based on 9.52 ADT per household, trips are expected to be less than 77 ADT if all 8 parcels build a home. The Private Road is planned to be gated, and will be gravel.

- HD4: The applicant has worked with HD4 to come up with a solution for reserving a
 future proposed public collector, and is shown on the survey as a "future road", and is
 proposed to be reserved with a deed restriction. The CD4 Board has given preliminary
 approval of the reserved collector shown on Exhibit "D". This will not be built with the
 current proposal and will not be a public access. This Collector is not shown on the
 functional classification map in the current 2030 comp plan.
- BCID: The applicant has gained approval from BCID to cross the Conway Gulch Lateral and is waiting upon final approval from BOR for the crossing permit. (See email Exhibit "E") The crossing is a 24' wide bridge that will span the cement flume walls. The lateral will not need to be piped, and will not be affected by the crossing. There is a 130' easement (65' each side of the centerline) along the Conway Gulch Lateral as was reserved in the original patent deed.

Private Road Name and Private Road Application

The Applicant would like to ask the Director if they can keep the private road one name only. They would prefer to keep the road name, "Heads Up Lane" the entire length as it is a dead end private gated road.

4 total names have been verified by Tony Alemeida, and we have provided a map for placement of each proposed name if Heads Up Lane can not be approved for the entire road. (see Exhibit "F") Once we have a preliminary approval for the Land



Division request and Private Road, we will supply legal descriptions and a Road User Maintenance Agreement to finalize the approval.

School District

The proposed home sizes and values associated with view lots like these will bring in well above median tax value to the Middleton School District, thus assuring the future homeowners will pay above their fair share.

Agencies

The applicant will work with Southwest District Health (SWDH), Highway District 4 (HD4), Middleton-Star Fire District, Black Canyon Irrigation District (BCID), Bureau of Reclamation (BOR), Idaho Power Company, and Idaho Department of Water Resources (IDWR) regarding the development of this property. Any specific requirements or conditions related to these agencies will not exceed the statutory authority of that agency or the county and must lawfully correspond and be proportionate to the impact of the development.

Soils

The subject property is not viable farmland, consisting of low quality soils with 12.6% class 3, and 87.3% class 4, & 6 soils. The property consists of rolling topography, and multiple irrigation canals and drainages cutting up the property, which makes it difficult to commercially farm productively. This type of farm ground lends itself well to a smaller rural residential Ag parcels, where farming can be done on a much smaller scale to utilize the limited irrigation water available, but still be able to produce crops, raise livestock and maintain an agricultural use that compliments the residential uses proposed. (See Exhibit "G")

Non-Viabile Ag use: 07-18-09.

These reasons listed below are applicable for non-viable Ag use in an Agricultural zone.

- 1. Poor soils.
- 2. Lack of Irrigation water rights.
- No income is produced. Prior owner allowed neighbor cattle to use the site as a feeding location, and minimal grazing of cheatgrass in the spring that only brought in \$550 annually. Cheatgrass is not sufficient to sustain viable cattle production.
- 4. Land has never been farmed or cultivated, and is not being withheld from a more viable ag use for the intent of this application.
- 5. Topography is rolling and not flat, with multiple draws, and an Irrigation lateral splitting the property in 2 portions landlocking the western 65 acres, which makes it more difficult for a viable commercial farming operation to succeed.



 During a previous BOCC hearing for a conditional rezone to RR on 10/27/2022 for the previous owner, Mr. Lister explained under the non-viable Ag ordinance, a total of 8 lots could be developed. Commissioner Smith agreed. Commissioner Van Beek also agreed. (See Commissioner Minutes Exhibit "H")

Middleton Fire Station #2

The site is 2 miles north of Middleton Fire Station #2, which is in the process of remodeling and is anticipated to be fully staffed in the near future. (see attached picture)

Summary

Rural estate properties with animal rights are in high demand, and we believe they will remain in demand for the foreseeable future in this area, especially with the views of Bogus Basin to the east, Squaw Butte to the northeast, the Blue mountain range to the west, and the Owyhee mountain range to the south. The site does not contain slopes over 15%. Currently the property only generates \$45.48 in taxes annually. (2023) Improving the property will create a substantial increase in tax income for the county.

The close proximity to BLM land within 8/10ths of a mile to the northeast is accessible by public roads. (see attached picture)

City building lots do not have the open space and Ag potential these properties have, further increasing future demand as the neighboring cities that lack these rural qualities grow into the county which makes these properties increasingly more rare.

For these reasons, I respectfully request that the Director please approve my client's applications.

Thank you,

Matt Wilke White Barn Ventures Inc. Applicant Representative for Rick and Lorna Penner.



775 S. Rivershore Ln., Ste. 120 Eagle, ID 83616

ELECTRONICALLY RECORDED-DO NOT **REMOVE THE COUNTY STAMPED FIRST** PAGE AS IT IS NOW INCORPORATED AS PART OF THE ORIGINAL DOCUMENT

File No. 829031 KG/SM

WARRANTY DEED

Michael Aaron Titera and Briana Beth Titera, husband and wife as to an For Value Received undivided 33% and William R. Titera and Dorothy J. Titera, Trustees of The Titera Family Trust dated 10-3-1996 and restated 3-24-2023 as to an undivided 67%

hereinafter referred to as Grantor, does hereby grant, bargain, sell, warrant and convey unto

Richard Penner and Lorna Richele Penner, husband and wife,

hereinafter referred to as Grantee, whose current address is 2145 200th St. Langley, B.C. v2z1z6 The following described premises, to-wit: Canada

The Northwest 1/4 of the Southeast 1/4 and the South 1/2 of the Northeast 1/4 of Section 10, Township 5 North, Range 3 West, Boise Meridian, Canyon County, Idaho.

This document may be executed in counterparts, each of which shall be deemed an Original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and the same document.

To HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantees(s) heirs and assigns forever. And the said Grantor(s) does (do) hereby covenant to and with the said Grantee(s), that the Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to U.S. Patent reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and current years taxes, levies, and assessments, includes irrigation and utility assessments, (if any) which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: 0

Michael Aaron Titera

Briana Beth Titera



WARPANTY DEED Page 2073

William R. Titera and Dorothy J. Titera, Trustees of The Titera Family Trust dated 10-3-1996 and restated 3-24-2023 as to an undivided 67%

By: Williah J.ter William R. Titera, Trustee

By: Douth I. Estera Dorothy J. Titera, Trustee

State of ______, County of ______

This record was acknowledged before me on _____ by Michael Aaron Titera and Briana Beth Titera

Signature of notary public Commission Expires:

State of NEW YOK, County of Warne

This record was acknowledged before me on $\frac{O(1+2(-2023))}{2}$ by William R. Titera and Dorothy J. Titera, as Trustees of The Titera Family Trust dated 10-3-1996 and restated 3-24-2023.

Signature of notary public

Commission Expires:

Lynne M Betlem NOTARY PUBLIC, STATE OF NEW YORK Registration 01BE6403378 Qualified in Monroe County Commission Expires Jan 27 2024

Warranty DEED Page 30F3

William R. Titera and Dorothy J. Titera, Trustees of The Titera Family Trust dated 10-3-1996 and restated 3-24-2023 as to an undivided 67%

By:_

William R. Titera, Trustee

By:

Dorothy J. Titera, Trustee

State of California, County of Urange

This record was acknowledged before me on $\frac{p4}{20}$ by Michael Aaron Titera and Briana Beth Titera

Signature of notary public Commission Expires: |v|/13/24

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State of _____, County of _____

This record was acknowledged before me on ______ by William R. Titera and Dorothy J. Titera, as Trustees of The Titera Family Trust dated 10-3-1996 and restated 3-24-2023.

Signature of notary public Commission Expires:

EXHIBIT "A page lof 1

RE: [External] Re: Parcel #R37792 Split Potential? / TBD Harvey

Dan Lister <Daniel.Lister@canyoncounty.id.gov>

Thu 3/30/2023 5:51 PM

To: 'Ben Amante' <ben@takemeidahome.com>

Cc: Matt Wilke <matt@mywhitebarn.com>

3 attachments (3 MB) Treasure Valley LLC FCOs.pdf; ADMIN.pdf; DD_Admin_Land_Division_Packet.pdf;

Ben,

Nice to meet you. I believe you initially began discussions regarding the subject property (Parcel R37792) with Sabrina Minshall, Director of DSD. Attached is the decision regarding the rezone that was denied last year for this property (CR2021-0008).

The subject parcel is made of two original parcel (property created prior to September 6, 1979) as shown below.



Each original parcel has the following options via Chatter 7, Article 18 (Administrative Land Division) that does not require rezoning or a comprehensive plan amendment:

- 07-18-07: Original parcels less than 80 acres: one division (2 parcels); If the original lot is 80 to 119 acres: 2 division (3 parcel).
- 07-18-09: Possible to get the full amount of divisions (four parcels per original parcel) by proving the parcels are non-viable and how the division will not impact surrounding agricultural uses.

Therefore, if you were to split the parcels without proving ag non-viability, you can create at total of 5 parcels (2 on the 40 acres piece and 3 on the 80 acre piece). If you were to prove the ground non-viable for ag, you can get a total of eight parcels (4 on each original parcel). Anything more would require a comprehensive plan amendment, rezoning and platting.

Attached is the County Code regarding land divisions and the application. We are currently updating our application forms and submittal checklists. Please check back with us regarding the forms prior to submittal.

Contact me if you have any questions.

Sincerely,

EXMIBIT B PALE 1 of 4

www.mywhitebarn.com

From: Jenna Petroll <<u>Jenna.Petroll@canyoncounty.id.gov</u>> Sent: Wednesday, May 24, 2023 8:56 AM To: Matt Wilke <<u>matt@mywhitebarn.com</u>> Subject: PA2023-0034 Meeting w/ Matt Wilke When: Wednesday, May 24, 2023 2:00 PM-3:00 PM. Where: DSD Conference Room; <u>https://spaces.avayacloud.com/spaces/invites/646e253eba956c2acbc002a3/meet</u>

Good Morning Matt,

Here is the link for our virtual meeting space in case the owner would like to join the pre-application meeting later.

Thank you,

Jenna

Hey ! You've been invited to join Jenna Petroll in Avaya Spaces.

Collaborate with your team anytime, anywhere, Send messages, share files or join a live meeting!

Sent by Jenna Petroll

https://spaces.avayacloud.com/spaces/invites/646e253eba956c2acbc002a3/meet

If clicking the link above doesn't work, please copy and paste the URL in a new browser window instead. If you've received this mail in error, it's likely that another user entered your email address by mistake. If you didn't initiate the request, you don't need to take any further action and can safely disregard this email.

Download the Spaces mobile application

Keep your Spaces close to you and collaborate anytime, anywhere.

EKHIBIT "B" page 2 of 4

RE: [External] Re: PA2023-0034 Meeting w/ Matt Wilke

Jenna Petroll < Jenna.Petroll@canyoncounty.id.gov>

Fri 6/2/2023 3:10 PM

To:Matt Wilke <matt@mywhitebarn.com>

This can all be accomplished on one application. The PBA would just be an add-on to the land division and an extra \$80 charge. I am out all of next week, but I will be back the following week if you would like to meet then.

Thank you, Jenna

From: Matt Wilke <matt@mywhitebarn.com> Sent: Friday, June 2, 2023 3:04 PM To: Jenna Petroll <Jenna.Petroll@canyoncounty.id.gov> Subject: Re: [External] Re: PA2023-0034 Meeting w/ Matt Wilke

Thanks Jenna, that is great!

Is there anything special we need to do, or can we just have the surveyor follow our conceptual idea like this one attached and just submit both applications at the same time?

We technically won't have legal descriptions like a conventional PBA would.

If I need to come in to go over the procedural details I would definitely do so if you have any time in your schedule next week.

Thank you,



Matt Wilke

Owner | Broker

White Barn Real Estate

White Barn Ventures

208.412.9803

matt@mywhitebarn.com

www.mywhitebarn.com

From: Jenna Petroll <<u>Jenna.Petroll@canyoncounty.id.gov</u>> Sent: Friday, June 2, 2023 2:40 PM To: Matt Wilke <<u>matt@mywhitebarn.com</u>> Subject: RE: [External] Re: PA2023-0034 Meeting w/ Matt Wilke

Hi Matt,

I apologize for the delayed response. I spoke with Dan regarding utilizing a property boundary adjustment in conjunction with the non-viable administrative land division to be able to cluster the buildable parcels together and he said he is good

EXITIBIT "B" Page 3 of 4

with that.

Please let me know if you have any questions.

Thank you, Jenna

From: Matt Wilke <<u>matt@mywhitebarn.com</u>> Sent: Friday, May 26, 2023 3:58 PM To: Jenna Petroll <<u>Jenna.Petroll@canyoncounty.id.gov</u>> Subject: [External] Re: PA2023-0034 Meeting w/ Matt Wilke

Hi Jenna,

Did Dan have a chance to review the potential to cluster the administrative splits on this property?

Have a great weekend!

Thank you,



Matt Wilke

Owner | Broker

White Barn Real Estate

White Barn Ventures

208.412.9803

matt@mywhitebarn.com

www.mywhitebarn.com

From: Matt Wilke <<u>matt@mywhitebarn.com</u>> Sent: Wednesday, May 24, 2023 9:02 AM To: Jenna Petroll <<u>Jenna.Petroll@canyoncounty.id.gov</u>> Subject: Re: PA2023-0034 Meeting w/ Matt Wilke

Thanks Jenna!



Matt Wilke

Owner | Broker

White Barn Real Estate

White Barn Ventures

208.412.9803

matt@mywhitebarn.com

EXHIBIT B PAGE 4 of 4 (EMAIL ATTACHMENT)



EXHIBIT C Page 1 of 2

FW: LM&P Farm Property, LLC

Titera, Michael A. <MTitera@gibsondunn.com>

Thu 5/19/2022 4:29 PM

To: Matt Wilke <matt@mywhitebarn.com>

1 attachments (6 MB) T5nR3w_Sec10.pdf;

From Black Canyon.

Mike Titera

GIBSON DUNN

Gibson, Dunn & Crutcher LLP 3161 Michelson Drive, Irvine, CA 92612-4412 Tel +1 949.451.4365 • Fax +1 949.475.4675 MTitera@gibsondunn.com • www.gibsondunn.com

From: Black Canyon Irrigation <bcid@blackcanyonirrigation.com>
Sent: Monday, August 17, 2020 2:39 PM
To: Titera, Michael A. <MTitera@gibsondunn.com>
Subject: LM&P Farm Property, LLC

[External Email] Michael,

Here is a picture of our mylar map. I ask our District Manager, Carl Hayes as to why this particular Sec. had two 40 acre parcels that are labeled out of the district, but have been classified and he couldn't tell me a for sure answer as to why the BOR would do that. You might have better luck if you get a hold of Sandra Ferguson. She is our contact at the BOR and she might be able to answer the questions that you are having about this property.

Sandra Ferguson (208) 383-2206 sferguson@usbr.gov

Hope this helps!!

Cheyanne Andrade

Black Canyon Irrigation District Assistant Clerk 474 Elgin Ave Notus, ID 83656



EXHIBIT "C" page Zof Z

TRACED ... 14 ... 30.29 ...



EXHIBIT "D" CONSISTING OF 1 Page.

EXHIBIT "E" page 10F2

BCID SUB23-18 Penner Lot Splits R4 - Bridge Design Approval Letter

Nick Sparacino <nsparacino@rh2.com>

Fri 12/1/2023 3:15 PM

To:carl@blackcanyonirrigation.com <carl@blackcanyonirrigation.com>

Cc:Olga Powers <opowers@rh2.com>;tyler@blackcanyonirrigation.com <tyler@blackcanyonirrigation.com>;Matt Wilke <matt@mywhitebarn.com>;Rick Penner <rodellhomes@gmail.com>;Hurlburt, William (Kord) <WHurlburt@usbr.gov>;Brown, Bryan P <bbrown@usbr.gov>

1 attachments (16 MB)

2023.12.1-Ltr-SUB23-18_R4 Bridge Crossing_CHayes_PennerLotSplits.pdf;

Mr. Carl Hayes,

Please find the attached bridge design approval letter for BCID SUB23-18 Penner Lot Splits Bridge Design – R4 as requested by the District.

This review is for the bridge design only. We assume additional elements of the entire site, including fencing, old bridge removal, etc will be provided later from the developer.

I have included the Developer on this email to expedite the review process.

I have also included the BOR Engineer to bring him up to speed on the current plans and review, and to help assist the licensing process.

Please let me know if you have any questions.

Have a good weekend,

Nick



Nick Sparacino Staff Engineer| RH2 Engineering, Inc.

16150 N. High Desert Street, STE 201 Nampa, ID 83687 O: 208.874.4107 C: 986.777.0458 nsparacino@rh2.com www.rh2.com

EXHIBIT "E" page 20f2





National Cooperative Soil Survey

Conservation Service

1/11/2024 Page 1 of 5 Irrigated Capability Class—Canyon Area, Idaho (Soil Map)

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Capability Class - II		

Web Soil Survey National Cooperative Soil Survey



Irrigated Capability Class

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
EsB	Elijah-Chilcott silt loams, 1 to 3 percent slopes	3	12.6	10.4%
EvC	Elijah-Vickery silt loams, 3 to 7 percent slopes	4	53.8	44.4%
LkC	Lankbush-Elijah-Vickery silt loams, 3 to 7 percent slopes	4	13.3	11.0%
LkD	Lankbush-Elijah-Vickery silt loams, 7 to 12 percent slopes	6	38.6	31.9%
PhB	Power silt loam, 1 to 3 percent slopes	3	2.7	2.2%
Totals for Area of Interest		121.0	100.0%	

Description

Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, or for engineering purposes.

In the capability system, soils are generally grouped at three levels-capability class, subclass, and unit. Only class and subclass are included in this data set.

Capability classes, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class 1 soils have few limitations that restrict their use.

Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.

Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher












EXHIBIT "H" CONSISTING OF 9 PAGES.

Commissioner Minutes

October 27, 2022 - 10:06 a.m. to 12:20 p.m.

PUBLIC HEARING TO CONSIDER A REQUEST BY TREASURE VALLEY, LLC (MIKE TITERA), REPRESENTED BY MATT WILKE, FOR A CONDITIONAL REZONE FROM "A" (AGRICULTURAL) TO "R-R" (RURAL RESIDENTIAL), CASE NO.CR2021-0008

Commissioners Keri Smith, Pam White and Leslie Van Beek

DSD Planning Official Dan Lister

DSD Director Sabrina Minshall

Matt Wilke, Athila Csikos, April Wilke, Lee Hearst, Toni Gibson, Marcus Michaels, Davis Morgan, David Michaelis, Simone Elison, Edie Hearst, Anita Rex, Myra Garrison, Doug Bruhner, Katie Vandenberg VanVlient, Marnie Vandenberg, Norm North, Heidi Miller, Roger Miller, W.P., Konnie Michalis, Jamie Michaelis, John North

Deputy Clerk Jenen Ross_____

<u>PUBLIC HEARING TO CONSIDER A REQUEST BY TREASURE VALLEY, LLC (MIKE TITERA),</u> <u>REPRESENTED BY MATT WILKE, FOR A CONDITIONAL REZONE FROM "A" (AGRICULTURAL) TO "R-</u> <u>R" (RURAL RESIDENTIAL), CASE NO.CR2021-0008</u>

The Board met today at 10:06 a.m. for a public hearing to consider a request by Treasure Valley, LLC (Mike Titera), represented by Matt Wilke, for a conditional rezone from "A" (agricultural) to "R-R" (rural residential, case no. CR2021-0008. Present were: Commissioners Keri Smith, Pam White and Leslie Van Beek, DSD Planning Official Dan Lister, DSD Director Sabrina Minshall, Matt Wilke, Athila Csikos, April Wilke, Lee Hearst, Toni Gibson, Marcus Michaels, Davis Morgan, David Michaelis, Simone Elison, Edie Hearst, Anita Rex, Myra Garrison, Doug Bruhner, Katie Vandenberg VanVlient, Marnie Vandenberg, Norm North, Heidi Miller, Roger Miller, W.P., Konnie Michaelis, Jamie Michaelis, John North and Deputy Clerk Jenen Ross.

Dan Lister provided the staff report and summary stating that the request is for a conditional rezone of approximately 55-acres of a 120-acre parcel from an agricultural zone to a rural residential zone. This conditional rezone includes a development agreement that limits development of that 55-acres. The applicant has provided a draft development agreement that limits development to 15 residential lots with a minimum lot size of 3.5 acres, would provide pressurized irrigation thru individual wells and drainage would be kept on-site and preserved not to impact the drainage on-site. This property is 2 original parcels created prior to September 6, 1979 so there is ability to divide it further thru the land division process. There is no recorded land division application and they've looked at the historic use of the land which has primarily been leased for livestock grazing. In looking at the site, a majority of the properties in the area are agricultural, it is not located within an area of city impact or identified growth area. The average lot size in the area is 44.51 acres and the 2020 Canyon County Comprehensive Plan designates the property as agricultural. Five platted subdivisions are located within a 1-mile radius of the property

with a 7.99-acre average lot size. The primary zone is agricultural. The most recent plats were completed in 2017 which is Small Wood Trail Subdivision with a 5.23-acre average lot size and consistent with the conditional rezone that was approved in 2013. Two conditional rezones have been approved in that location one in 2013 which was divided for family and one in 2014 to make an illegally split lot a buildable parcel. Site photos were shown to the Board. The only uses that have been approved for this location is an animal cremation service approved in 2019 thru a conditional use permit. Approximately 66-acres is considered farmland of statewide importance if irrigated, used primarily for livestock grazing. Aerial photos show that most of the properties adjacent to the subject property are agriculture or rangeland in nature. The property is located over 1.5 miles from Vandenberg & Sons Dairy, there is a letter in opposition from them regarding this request. The property is not located within an area of city impact, city services are not available to the subject parcel therefore future development will require individual wells and septic systems. The property is not located within a nitrate priority area and wells in the area exhibit low levels of nitrate. The property is located within Black Canyon Irrigation District's jurisdiction but does not have water rights. Future development will be required to provide pressurized irrigation water to all future lots as only one ½ acre can be irrigated by a well and these lots are much larger. The Conway-Gulch lateral bisects the property, stormwater must be retained on site. The subject parcel accepts significant drainage from the north and east, these natural drainages should be preserved thru drainage easements although the drainage path can be reconfigured as part of platting. Middleton School District no. 134 is experiencing significant growth with some schools being over capacity and others near capacity. This development is anticipated to bring an increase of 9 students to the district. For bussing and safety, the district requests the appropriate street size and turnarounds be included for bus access at the time of platting. No comments were received from Middleton Rural Fire District. The property has access and frontage along Harvey Lane which is classified as a major collector by Canyon Highway District no. 4. Access is currently provided by a private driveway along the southern property boundary along Harvey Rd. Access for future residential development would need to be planned through one or more public road approaches. There appears to be adequate site distance along the majority of Harvey Rd. however, site distance would need to be verified prior to preliminary plat approval. Per Canyon Highway District no. 4 standards, any grid of arterial and collector roads will be acquired within or contiguous to the frontage of the development to serve future transportation needs. As conditioned by the development agreement, the proposed 15 lot development is not anticipated to exceed the threshold requiring a traffic impact study and proposed traffic impacts will be mitigated through right-of-way dedication, public road improvements and impact fees. The parcel is located within a 1280-acre TAZ; COMPASS maintains and uses the data as part of the Communities in Motion Regional Transportation plan which uses future population, household and job forecast to determine future transportation needs for the valley. COMPASS forecasts little to no residential growth in the area; this is primarily due to the area not being within an identified growth area or city impact area and that the area is still maintaining conditions, uses and character that support an agricultural use and lifestyle. The Canyon County Comprehensive Plan designates the future land use as agricultural. The parcel is not located within an area city impact. The request

aligns with 1 goal and 3 policies of the comprehensive plan but does not align with 7 goals and 5 policies, including policies within the residential land use category. At the time of the staff report, five comments were received from neighbors in opposition of this request citing the following concerns: the lot sizes are inconsistent with the surrounding area, the development will promote more traffic on existing/burdened infrastructure, the development promotes the loss of farmland, agricultural character and promotes residential development outside the city impact area where amenities and services can be provided, the development will be piecemealed, the developer owns property that touches Freezeout Rd. and could open the door for future development resulting in a large housing development in the middle of ag, the Middleton School District is over capacity and the development will add to the schooling issue, strain on the water table and irrigation access, invasive weeds are encouraged by residential uses of larger lots, lots of open space and impact to wildlife. On July 7, 2022 the planning and zoning commission recommended denial of this request. The FCOs provided to the Board today support that recommendation of denial. The decision options today are to deny as recommended, approve with direction to staff to change the FCOs (approval will require renotification) or table for more information. Late exhibits were received, 4 of those exhibits were provided to the Board yesterday - the PowerPoint from Jamie Michaelis (exhibit 11A), opposition letter from Carol Watkins (exhibit 11B), opposition from Heidi and Roger Miller (exhibit 11C) and Matt Wilke's presentation and a letter he received from Canyon Soil Conservation District (exhibit 11D). Exhibit 11 E is an opposition letter from Bonnie Goodell and Exhibit 11F is an opposition letter from Sullivan Vains.

Matt Wilke offered testimony in favor of the application stating they submitted their letter of application on August 6, 2021. There is an equestrian trail around the perimeter of the property which they believe is a good point they'd like to focus on with the BLM land in close proximity. The site is approximately 55-acres with a conditional rezone on the SE corner. The entire parcel is 120acres and to them it made sense to rezone 55-acres on the east side of the lateral. Part of the reason they chose to the 55-acres vs. the entire 120-acre is because they are doing a conditional rezone and there is a two-year timeframe to get it finalized after approval. Mr. Wilke said he would have preferred to go with a straight rezone to rural residential for the whole 120-acres but after speaking with Kate Dahl in DSD, she suggested the equestrian easement. He said Ms. Dahl's input is what influenced them to go with a conditional rezone of the 55-acres vs. a straight RR rezone of the 120-acres to keep with the character of the area. The average lot size is 3.67-acres per lot, and he noted several subdivisions within ½ mile. There are 82-homes within a one-mile radius of the site. There are many homes within the immediate vicinity which contradicts page 5 of the staff report that states it is predominantly ag with widely scattered homesteads. A property toward the SE corner of the subject property has quite a few lots that are smaller than the proposed lot size. Mr. Wilke addressed taxes paid on other area properties noting that his client only paid \$61 in 2021 for their 120-acre site but other smaller parcels that have been developed paid significantly more. The surrounding area includes BLM ground and the Idaho Youth Ranch. The Middleton Fire Station no. 2 is located 2 miles directly south of the property and was officially purchased earlier in the week. A remodel of fire station will begin in the spring and be fully staffed and operational

within 3 years. This development will help pay for the fire station with impact fees and taxes. He feels the development meets land use goal no. 4 which staff has indicated wasn't met. He cannot foresee a piece of ground in the county that is better suited for residential without disturbing active farm ground; this is absolutely non-viable farm ground, there is no water whatsoever. Historically, this property hasn't been classified with water on 38 of the 55 acres as it was above the lateral. Only about 25-acres had water but the water was removed many years ago. Without water it is impossible to farm the ground and make any money. It is predominantly class 4 soils if it was irrigated, without water they are class 6 soils. Additionally, the property has slopes, and he feels it is much better suited for residential. Mr. Wilke spoke to the uses and limitations of class 4 and class 6 soils. The applicant only makes \$550 annually on the 120 acres for grazing. There are a lot of concerns regarding the aquafer and groundwater; IDWR has a monitoring well 1830' from the site and data shows that over 40 years the aquafer has only dropped about 3' and other well logs around the site have similar static water levels. As part of his presentation, Mr. Wilke showed pictures of the site being in dry ground, nearby homes, sloping landscape and the lateral running thru the middle of the property. A 50-year history of the aquafer - 1969 to 2000 - shows 4' decrease. He feels this development is in a really good area for water.

At the request of Commissioner White, a review of the conceptual drawing with roadways was provided. Mr. Wilke feels they are doing their best to protect the surrounding farmland.

Mr. Wilke explained the property was purchased 2 years ago and has 5 administrative splits available for residential, but this made more sense if you're going to bring in the infrastructure and put in roads. He feels they are taking more strain off ag land by putting residential on non-viable farm ground and thought that was the goal of the county to develop non-viable vs. viable ag ground. Mr. Lister explained that under the non-viable farm ground ordinance, a total of 8 lots could be developed.

Commissioner Smith asked if they would be opposed to applying under the non-viable farm ground ordinance as it is now an option when it wasn't when they originally applied. This would allow them 8 lots on the entire property and give them lots that are more comparable to average lot sizes in the area. Mr. Wilke thinks this might be a viable option for his property owner but thinks the best use of the property would be a little smaller average lot sizes, comparable to the neighboring property. He thinks it's better to have higher density but still a low density at 3.5-acre averages. Per Mr. Lister, the ag zone does allow residential. In this case a lot of the parcels you see with development are original parcels or a land division that created those. There were some conditional rezones that adds a couple splits but code states not to use those decisions as presumptive proof that this area has changed. Mr. Lister also noted that there are older subdivisions that came between 2001 and 2008 – those have 16.6-acre average lot sizes and 5-acre lot sizes - those are older subdivisions or done thru the land division process to keep that same ag zone which is allowed.

Athila Csikos offered testimony in favor of the application. He spoke about the importance of property rights, noting that he is a real estate broker and property rights proponent. He offered suggestions on how to get the younger generation excited about ag land in order to preserve it.

The following people offered testimony in opposition of the application:

Doug Bruhner said he owns 40 acres in the area that they actively farm. He read from FCOs about how this doesn't fit citing concerns he has about the decline in water capacity they are seeing, increased property taxes due to increased housing in the area, and his belief that this will open the door for other subdivisions in the area. He summarized his concerns as being the increased taxes, noise, traffic and threats to water levels. He believes in property rights as long as it doesn't impact others. He doesn't want his lifestyle changed and worries this development will destroy that.

John North spoke about his well that went dry, his inability to get water from Black Canyon Irrigation District noting that any livestock will need to be fed hay as grass won't be able to be grown.

Katie Vandenberg Van Vliet made a request for denial based on recommendations from planning & zoning and staff. She is an attorney with Sawtooth Law Offices and her firm represents the Vandenberg family and their business, Vandenberg and Sons Dairy. She read a statement into the record requesting that the Board deny the case consistent with the recommendation by both staff and planning & zoning. The dairy is family owned and operated and less than 2 miles from the proposed site, they also own land in this general vicinity and purchase feed from the fields that sit directly adjacent to the site. She feels there are 4 major reasons this should be denied -1. application does not meet the conditional rezone criteria, 2. it is not consistent with the comprehensive plan and the public's desire to preserve open ag space, 3. It allows for irresponsible development in the middle of farms that is outside of city sewer and water services which necessitates the construction of individual wells and sewers 4. Residential subdivisions are an incompatible use next to farms and dairies and threaten their future. Constituents have spoken loud and clear in opposition to this. Everyone here has spoken about how their property rights will be injured and she encouraged the Board to listen to those concerns. According to the Secretary of State website, this applicant is an LLC out of California. She urged the Board to hear the voice of the constituency that elected them, they are here today and should matter more than this investment entity from out of state. She feels it is irresponsible to allow growth that is not contiguous with the city, out in the middle of farm ground, where there is not infrastructure to support it. Infill development should be encouraged in and near the city and not allowing urban sprawl out into the middle of farms. She is concerned that under the domestic well exemption these parcels are only going to be able to irrigate ½ acre but they are proposed to be 3.5 acres, so when you're not eligible to irrigate that much without water rights they will essentially just become wastelands; she doesn't foresee this being a beautiful productive ag development as is being proposed. This subdivision is in the middle of farms, it may not be productive ag ground because it doesn't have water rights, but it is in the middle of farms and threatening all the farms around it. It is not compatible, it makes it hard to continue agriculture and it is going to set bad precedent by setting it this far out in the county.

In response to Commissioner Van Beek's question, Ms. Vandenberg Van Vliet provided suggestions for people who would like to move farther out in the county and live a more rural lifestyle. She doesn't believe it is practical to think that young families are going to be able to afford these 3.5 acre lots and build right now and that it is the solution that's been proposed to get younger families out into this area.

Marnie Vandenberg grew up in this area, she has horses but there is no way she could ride a horse down any of the roads and you're not allowed to take horses on anyone else's property including ditch banks. So, while she likes the idea of people being able to ride horses around this subdivision she worries it will lead people to ride in places they cannot be riding. She would rather see them apply for water rights and water this parcel to plant a crop of potatoes or beets and farm the property. She doesn't believe their claim that there are 82 homes in the surrounding area. They have a parcel that is very sandy and are able to farm hay on it without issue. For the record she noted that she agrees with previous comments and the staff report.

Heidi Miller moved here in 2013 looking for a quiet peaceful place but since that time the neighborhood has grown. She is asking for respect for her property rights and privacy. Over the years she has noticed the impact to wildlife and how traffic has increased.

Konnie Michalis explained that the subject property boarders her property on the west and north. Her family has rented the space [subject property] for cattle grazing for the past 25 years, previous to that it was rented for cows; the property has been used continually for grazing for 40+ years. She provided a history of the property ownership and how it is now owned by a gentleman who lives out of state, Mike Titera. Although she likes the gentleman she believes his intent was to purchase the land in order make money and she is against his plan for this subdivision. She believes he fully intends to develop the entire 120 acres as he has purchase two properties adjacent to the SW corner of Freezeout Rd. and Sandhollow to provide for easy access to the back portion of the 120 acres. Her concern regarding the 15-home development is the water table, there are older wells in the area that are not as deep. She feels that the domestic use and a ½ acre of irrigation will cause a real strain on the water table. She doesn't feel that the established neighbors should have to shoulder the costs of \$25K or more for new wells so that Mr. Titera can have his subdivision. The 120 acres is dry land but it is dry grazing land which is agricultural and has been used as such for the past 40+ years. She said that Mr. Wilke argued the property wasn't suitable for growing crops, however, the Board pointed out that well drilling and agricultural irrigation well could make it suitable. She thinks this reinforces the idea as stated in a September 25th Idaho Press article that direct development to areas with less suitable soil is not a cut and dry answer to the

question of where development should happen. The property is almost completely surrounded by farmland and she concurs with all the previous testimony. She hopes the Board will agree this negatively affects the character of the area and should be denied.

Jamie Michalis agrees with all previous comments. She feels this ground is an asset to agriculture, can be used as grazing land and is beneficial. She provided slideshow photos of her family's farming on sloped ground irrigated by pivot. She believes it is possible for this ground to be converted to viable farm ground, there are productive farms with similar topography and soil all over this area and if this ground was indeed converted to viable farm ground, whether it remains as grazing land or reserved for future farming, it is an important piece of the agriculture and should remain as such. As stated at the previous hearing by a planning & zoning commissioner the best use for this space is to leave it as open space. She implored the Board to deny this zoning request.

In response to Lee Hurst's question regarding the ability to rezone, Commissioner Smith confirmed that it is possible to rezone just a portion of a property and that property rights allow a person to make application to rezone any portion of their property. He also had questions about how current the test well data is. He thinks that if this development was restricted to 8 homes they would have more space and believes they can apply for a super-well permit which would allow them to pump increased water to irrigate more than the ½ acre. By merely increasing the lot size you may not reduce the amount of water drawn on the aquafer.

David Morgan said he agrees with what has already been said. He owns property in the area and feels the whole 120 acres will probably be developed.

Simone Elison moved to this area about 3.5 years ago. She spoke about how her and her husband started with a smaller piece of ground and were eventually able to buy something larger; that it takes a lot of hard work and sacrifice to continue acquiring more land if that's what a person chose to do. Idaho is about agriculture and farming and western heritage. She feels like people are coming in from out of state and exploiting native Idahoans and the western lifestyle. She agrees with everything already said and fears Canyon County may be on a slippery slope in destroying fertile farm ground similar to what has happened in Meridian. She thinks that people won't be able to do much with 3.5 acres, that 5 or even 10 acres parcels would be better.

Anita Rex lives outside the notification area and is upset that she was not included. She agrees with everything that has been said. Her well has already run dry and they had to drop the pump lower. She spoke about the school district, stating that Purple Sage Elementary is at 85% and the only school not over capacity; it is not fair to the students already there.

The following rebuttal testimony was offered:

Matt Wilke spoke about test well water logs refuting testimony provided in opposition. The test well was drilled in 1981 and the static water level is 149'; it has only dropped about 3' since

monitoring began in 2000. The bottom of the fluctuating use is due to seasonal use. The aquafer is very stable and if surrounding wells are drilled correctly the depth of the water has been very consistent. He reiterated that here is no water on the site. They are not going to do a pressurized irrigation system because they don't have service water, they cannot get it from Black Canyon Irrigation District as they will not give them water rights for this property. He said that once water has been removed you can't get it back. He feels that just because someone says their well went dry or they had to drop their pump lower doesn't mean that there is an issue with the aquafer. Mr. Wilke spoke about the revenue his family has been able to generate from just a few acres of ag ground; these smaller 3-acre parcels are still ag and can have ag uses. He doesn't feel that these residential areas threaten the dairies, they too need housing for employees. He said there are public roads between this site and the public BLM ground, horses can be ridden down these public roads. They are not imposing on private land owners surrounding the site. He said not everyone wants to live in the city, there needs to be some county development where people can live and do these ag type uses.

Mr. Wilke addressed Board questions about where he lives in proximity to this property, slopes on the property, mitigation for fire hazards, water rights with Black Canyon Irrigation District, the ability to request additional irrigation rights from domestic wells, well log data presented by the opposition, his experience in farming, viability of the ground and how the property was sold/purchased.

The Board accepted late exhibits 11A thru F into the record.

Commissioner Van Beek made a motion to close testimony. The motion was seconded by Commissioner White and carried unanimously.

Commissioner Smith said she agrees with the recommendation made by planning & zoning and staff for the reasons as stated in the FCOs. She agrees with the community that this would change the character of the area and that the property owner has rights that need to be explored such as the non-viable land division application.

Commissioner Van Beek said she understands a rural lifestyle can be very desirable. She is not supportive of a super well and acknowledges there are water issues. She fully agrees with Simone Elison and the sacrifice that may need to be made to own ag property. She concurs with Commissioner Smith in that there are options that may not have been explored at this point, such as the non-viable farm ground option. To her this feels like it would be more of an elite development not a starter development and doesn't believe that farm wages would support ownership it this type of development; there are other options that would be more consistent with the area.

Board discussion ensued as to actions that may be taken to obtain approval.

Commissioner White said that at this time this is neither consistent nor compatible with the area. She thinks there are other ways to approach this.

A motion was made by Commissioner Van Beek to deny case no. CR2021-0008 with direction to staff to include the following actions that could be taken to obtain approval: 1. Explore administrative land division options, 2. Conditional rezone with development agreement with lots sizes consistent with the median lot size in the area and mitigation measures to address impacts to the surrounding agriculture 3. Verification of water rights. The motion was seconded by Commissioner White and carried unanimously.

Staff will make updates to the FCOs for Board signatures later today.

Commissioner Smith noted that this is a final decision pursuant to Idaho Code Section 67-6535 (b), the applicant or affected person may first seek reconsideration within 14 days prior to seeking judicial review.

The meeting concluded at 12:20 p.m. An audio recording is on file in the Commissioners' Office.



Exhibit 2

Amendment to #AD2024-0001

6/18/2024

Hi Emily,

Here are our responses in red to your last email dated 5/2/2024 as a form of amendment to the request, and to provide more evidence on why this parcel is not able to be utilized for productive agricultural use, (in this case, grazing) and how the property owner intends to mitigate potential negative impacts to surrounding agricultural uses.

We hope our responses will help you and the Director make the decision to approve all 8 lots. Please let me know if there are any questions. Thank you.

Dear Matt,

I hope you are well. This email is intended to follow-up with you regarding case #AD2024-0001. At this time, our office <u>cannot</u> make findings in the affirmative for nonviable land divisions for Parcel R37792.

- In the letter of intent it states: "poor soils, lack of irrigation water rights... land has never been farmed or cultivated and is not being withheld from a more viable [agricultural] use for the intent of this application, topography is rolling and not flat, with multiple draws, and an irrigation lateral splitting the property in two (2) portions landlocking the western 65 acres, which makes it more difficult for a viable commercial farming operation to succeed."
 - a) This statement and the evidence provided supports that the property is not viable for crop production, but does not mention how it cannot be utilized for grazing land. In CCZO §07-02-03, the definition of agriculture includes pasturage, raising livestock, and dairy animals and dairy products, not simply crop production as provided in the letter of intent. Additionally, the definition of viable farmland is, "land that is capable of producing marketable farm animals or crops."

Answer...

The property has not been able to produce marketable farm animals based on seasonal grazing alone. This is indicated by its very small annual lease returns from previous owners of \$550 annually or less, and the fact that the tenant grazing the property currently and historically has had to haul hay on to the site to feed the cattle because the property will not sustain a small herd of cattle from start to finish on the sites own vegetative crop production, which is currently and historically cheat grass, weeds, and native plants.

Typically, for dry grazing conditions like are seen on the subject property, you can see 1 AUM (Animal Unit Months) per 7-10 acres on average depending on seasonal rainfall. The subject property is 120 acres, which would be estimated to be 17 AUMs at best for low quality grazing land using a 7 Acre/AUM baseline. (See table below, pg.133, 2012 Idaho Department of Lands Grazing Market Rent Study.) Factoring the grazing season at 6 weeks long in the spring when the cheat grass is green prior to the seed heads forming, then drying out, and becoming unpalatable for safe livestock consumption, and calculating a better than average gain of 2lbs a day per cow, you can only expect to achieve 1,530 lbs. of total weight gain across the 17 head cow/calf herd in 6 weeks. Recent cattle sales at the 5/17/2024 Treasure Valley Livestock auction showed that cow/calf pairs were selling at a top price of about \$1.85 per pound. (Top price was \$2,300 for a 1260 avg weight pair.) That would mean there could potentially be \$2,831 in gross profits produced by the site annually, or \$23.59 per acre best case scenario. (See cap rate calculation utilizing \$24 per acre input below on page 6) This does not factor any expenses for fencing, hauling water, herd health requirements, fuel, labor, death loss, taxes, etc.

AUMs/Acre			Market Range \$/Acre		Assessed Range \$/Acre		
Land Type	Low	High	Land Description	Low	High	Low	High
Good/high quality and medium/fair quality grazing land with high recreational, and unique amenities and appeal	0.12 to 0.14 (6-7 AC/AUM)	0.25 to 0.20 (4-5 AC/AUM)	Primarily valley, high desert, and foothill, terrain, fair to good stock water, well blocked.	\$1,000	\$1,500	\$138	\$331
Good/high quality and medium/fair quality grazing land with modest recreational, and unique amenities and appeal	0.16 to 0.14 (6- 7 AC/AUM)	0.25 to 0.20 (4-5 AC/AUM)	Primarily valley, high desert, and foothill, terrain, fair to good stock water, well blocked.	\$600	\$700	\$75	\$119
Good/high quality and medium/fair quality grazing land with slight recreational, and unique amenities and appeal	0.16 to 0.14 (6-7 AC/AUM)	0.25 to 0.20 (4 5 AC/AUM)	Occasional subby native meadow to primarily foothill, hillside, and medium to higher elevation mountainous terrain, good water, good fences, well blocked.	\$350	\$500	\$36	\$66
Poor/Low quality grazing land	0.11 to 0.10 (9-10 AC/AUM)	0.14 to 0.12 (7-8 AC/AUM)	Desert sage and native grasses, limited stock water, low rainfall.	\$125	\$225	\$24	\$35

Table 8.16 Market Values Summary - Southwest Region, 2010 - 2011

As stated before, the site lacks irrigation water. The lack of water does not allow for the establishment and subsequent growth of grass or hay that would sustain a viable pasture for grazing all growing season, or for viable crop production of any sort.

Many factors need to be considered for viable agriculture land. Canyon County's definition of viable farmland is,"Land that is capable of producing marketable farm animals or crops." County Code 07-18-09(5)(C) states "The parcel, in whole or in part, shall consist of land with site constraints and/or resource issues, such as lack of water, suitable soils, topography, land compatibility, lot size or configuration, that makes productive agricultural use extremely difficult" The definition and criteria do not consist of just the ability to grow or produce something. If the definition is only the ability to produce something that can be sold to someone you can make anything viable farmland, including an asphalt parking lot, if you bring in soil in pots and spend enough money on people and operations. Economic viability is a key component of overall viability and is reflected in the use of the terms "marketable" and "productive." If you kept the cattle on this property throughout the year and they were dependent upon the grazing of this property to sustain their life the cattle would not only be unmarketable they would not survive. Most industry examples of definitions of viable farmland I have researched consider economic factors as well, That said, it is highly unlikely that any property on the county tax roll can create a viable environment for any farm practice to bring animals or crops to market without irrigation water. Currently the property lacks stock water also. Each proposed lot will be able to utilize its proposed well for up to 13,000 gallons of stock water daily. Producing cattle on this property is extremely difficult and not marketable.

Please see the following industry definitions of viable agricultural land as supporting examples :

• Viable Agricultural land can be defined as: Land highly suitable for agricultural production and which will continue to be <u>economically feasible</u> for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

(*Lesher and Conklin 1976*) Howard Conklin was a Professor of Agricultural Economics, and William Lesher was a Legislative assistant to Senator Lugar, Washington D.C. at the time the description was published in 1976.

- Agricultural viability can be also defined as the ability of a farmer or group of farmers to:
 - productively farm on a given piece of land or in a specific area,
 - maintain an <u>economically viable</u> farm business,
 - keep the land in agriculture long-term, and
 - steward the land so it will remain productive into the future (Washington State Conservation Commission)
- b) In email correspondence, it was identified that the property having no irrigation water rights affects its ability to support grazing. Two (2) property owners have attested that the land has been utilized as grazing for around 40 years.

Answer...While the applicant does not dispute that there may have been some form of seasonal cattle grazing on the land in the last 40 years, the applicant is disputing that those cattle were solely relying on the grazing of the subject properties weeds and native plants to grow a marketable farm animal. David Michaelis (southern neighbor, and protest letter) has had to supplement the grazing by hauling hay onto the property, often daily, to sustain his small number of cattle fed on site. This property will not support production of marketable crops or farm animals like cattle without outside feed sources to supplement the grazing or to maintain breeding stock over winter.

The applicants' representative Matt Wilke has farmed and raised cattle in the past, including raising Springers for the Vandenberg dairy for years until about 2018. He has been on the subject property multiple times over the past 3 years and has observed the grazing operation. His opinion on the subject property is as follows; "The property is not a viable grazing operation and will not produce marketable farm animals depending on its grazing allotment alone. The grazing operation would have to be subsidized by hauling in feed to finish animals worthy of the sale ring, as the neighbor David Michaelis has had to do with his cattle. David's animals eventually would

starve to death if they had to solely rely on the dry grazing afforded by the site before and after the spring grazing season."

Cap rate is another good indicator to figure out the feasibility or viability of a farm property. For example, based on the last purchase price of \$8,333/acre & factoring in the small historic lease return of around \$5/acre shows that the property has a .06% Cap Rate. That does not take into consideration the expenses the applicant has been occurring for the bridge that BCID is requiring to cross the irrigation facility, or the fence that BCID will require to be built on each side of the lateral, or the private road that will be built to access the property. Those costs will be well into the six-figure range. That will cause the cap rate to be even less, which is already way under the typical 2-6% cap rate realized by modern viable farm purchasers. This extremely low .06% cap rate is just one of many indicators that the property is not viable farm ground.

expenses and othe	Calculator. The actual capitalization rate may vary depen r factors.	ding on
	Per Acre Total	
	Purchase Price Per Acre	\$ 8,333
	Cash Rent Per Acre	\$ 5
	Property Taxes Per Acre	\$ 0
		Reset
	Capitalization Rate	0.06%

CAPITALIZATION RATE

If you factor in the potential 6 weeks of grazing for 17 AUM, (25.5 total AUM), if the applicant owned the cows, the gross cap rate before expenses would increase to only .29%, still far too low to be viable.

(Farm real estate cap rates typically range between 2-6% and are subject to variance depending on the location, overall market value of the property and other factors affecting its valuation. Calculating Farmland's Potential Rate of Return, FCSAmerica Feb. 05, 2024)

Estimate the profitability or potential return of an investment property of Capitalization Rate Calculator. The actual capitalization rate may vary of expenses and other factors.	ising our lepending on
Purchase Price Per Acre	\$ 8,333
Cash Rent Per Acre	\$ 24
Property Taxes Per Acre	\$ 0
	Reset
Capitalization Rate	0.29%

CAPITALIZATION RATE

In order to approach the 2% cap rate minimum for the current purchase price, this property would need to realize a \$20,400 annual grazing return (\$170/acre), which would be a 3,609% increase (Three Thousand Six-Hundred Nine Percent) over the previous owners \$550 annual return. By the time you add the bridge and fencing that needs to be installed for BCID, the lease return required will continue to increase. Only farms in the area that have irrigation water can realize a lease return over \$170/acre. There is no chance to achieve a lease on a dry piece of desert ground for even close to this amount. Additionally, a 2% annual lease return does not keep up with the cost-of-living increases in the county, which are typically closer to 4% annually.

Even if water shares could be established for the property, installing the infrastructure to irrigate (electricity, pumps, pipe, center pivots, handline, or other forms of sprinklers), adding nutrients to the soils, removing the

greasewood and cheatgrass, and flushing the soil by surface irrigation to drive down salts out of the root zone to eventually grow a crop would be an expensive timely endeavor, and is not economically feasible for any commercial farm operator to do, including the Goodells, Vandenberg's, or McKinney's. The property is not level and cannot be irrigated by gravity irrigation systems. Exhibit "G" (soil map) shows the irrigated capability of the soils are only 12.6% class 3, intermixed with 55.4% class 4, with the remaining 31.9% class 6 soils. The soil's capability is sub-par, adding to the cost of developing the property into viable productive soils. The property will never be prime farmland, even with water.

Because of these reasons, this property has been on the market multiple times in the last 5 years, and no local farm made an offer that was entertained for purchase. The expense to improve the property and lack of irrigation water is primarily the main reason the property has never historically been developed to a higher agricultural use until now. Even if an owner could achieve a \$5,660 annual gross profit for grazing, the property would still not be economically viable by Industry standards. This property is the perfect candidate to be approved for a one-time nonviable land division. It makes sense to apply for all 8 lots now, as that is the only option under 07-18-09 & 07-18-11.

07-18-09:

Onetime Only Division: Once a nonviable parcel in an agricultural zone has been approved, there shall be no other administrative land division from that land regardless of ownership of any of the land involved. 07-18-11:

Onetime Only Division: Once an administrative land division has been approved, there shall be no other administrative land division from that land regardless of ownership of any of the land involved.

Adding residential uses to the property will allow the potential for future Ag uses to be established on the property that do not depend on ag income solely to succeed. This area is also within 1 mile of thousands of acres of Public BLM land to ride horses, and the parcels created with animal rights will be a sought-after product for years to come. These future lots can be considered "residential farms". c) The Assessor's Office has provided photos of cattle being on the property in 2013, 2017, and 2022 and that there is an agricultural exemption currently being used on the property.

Answer...

The current property owner and applicant has not filed for an Ag exemption for taxes. The previous Ag exemption was filed by a previous owner. Ag exemptions for dry grazing ground are typical for property owners in the county, as there is not much income produced on these types of properties, and there is no other means of a tax reduction currently allowed by the county to reduce the tax liability of a "dry" property. The "ag exemption is not listed as a criteria in the county ordinance to obtain an administrative land division. It is also not a definition of viable farmland it simply provides specific criteria to qualify for a tax exemption. Idaho has a lot of tax exemptions and the policy aspects of this, and an administrative land division are stated to be the same. This "ag exemption" should not be a factor in considering the "viability" of farm ground. The Ag exemption could instead be used as a tool when combined with the "dry grazing" assessment to qualify land as non-viable.

The satellite pictures show cattle being fed on site and utilizing the site for calving. There has been seasonal grazing of the cheat grass in the spring, but these photos do not indicate a viable agricultural operation that is solely dependent on crops produced on site to feed cattle for market. In the satellite imagery the staff is reviewing, they should be able to see where there is past feed laying on the dirt that was brought in by the neighbor David Michaelis to feed cattle on the east portion of the land above his home. David knows this land will not sustain cattle production without supplementing feed from an outside source.

As touched on item "b" above, there is another factor to consider for future Ag development on the property. That is the residential use the applicant is applying for compliments an Ag use, in an agricultural zone, and each parcel will still be able to develop a viable Ag use if each lot owner decides to do so. I have attached a document from the USDA, (USDA Beginning Farmers and Ranchers.pdf) that further goes into detail about beginning farmers and ranchers. The USDA recognizes the definition for "Farms" is very inclusive. "Residential farms, are counted as farms".

Allowing development of the 3 requested non-viable parcels to a Residential use in an Ag zone would allow for future potential viable Ag uses to be established by "Beginning operators", where there is not currently an economically effective avenue for a small farm to start operation on the subject property. Most residential farms do not depend on income solely produced by the farm itself.

"Unlike large farms, most small farm operators (less than \$250,000 in gross sales) indicate that their primary occupation is something other than farming."

"The USDA defines beginning farmers and ranchers as those who have operated a farm or ranch for 10 years or less either as a sole operator or with others who have operated a farm or ranch for 10 years or less. Beginning farmers tend to be younger than established farmers and to operate smaller farms or ranches, some of which may provide no annual production."

"Beginning farm operators generally operate small farms and depend on offfarm income. Many beginning operators likely chose farming for its residential amenities, not because they aspired to develop their farms into commercially viable operations. These residential farms are counted as farms because the USDA definition for farms is very inclusive (see box, "Beginning Farmer Definition and Data Sources"). It may be useful to separate beginning farmers interested solely in a farm residence from beginning farmers attempting to develop their farm into a viable commercial farming operation. The latter group may be employing different strategies on and off the farm to increase their potential for success in farming at a commercial level. Although USDA regulation DR 9700-001 is broadly aimed at all beginning farmers, policymakers also intended that some programs focus on commercial viability. For example, Farm Service Agency loan programs, by statute and regulation, are directed toward beginning farmers operating "family size" farms—generally interpreted as those with \$10,000 or more in anticipated gross sales."

(Pages 3-6 Beginning Farmers and Ranchers / EIB-53 Economic Research Service/USDA)

d) At this time, our office would need evidence outlining how the property has affected the property owner's ability to use it as grazing land (not simply crop production).

Answer...

As previously stated, there is no irrigation water to establish, nurture, or propagate a grazing crop. The property stands as dry desert ground as it did when the United Stated originally deeded the land over to the first private owners, the Andersons in 1960, minus any surface irrigation water shares that may have been available at the time. This lack of surface water on the property will not allow for the production of marketable crops or farm animals, as farm animals require more than cheat grass, grease wood, weeds, and dirt to produce a marketable animal. David Michaelis can attest to this fact by the subsidization of grazing with hay for feeding operations on the site. This supplemental hay was grown off site on lands that have irrigation water present.

Furthermore, the original Patent Deed for the property refers to (Act 64 pg. 39), recorded March 31st , 1950, enacted by the United States House and Senate stating more or less; "the Secretary of the Interior can dispose of any tract of withdrawn public land which in the opinion of the Secretary has less than sufficient acreage reasonably required for the support of a family and is **too small to be opened to the homestead entry and be classed as a farm unit under the Reclamation act.**"

This indicates that the property was deemed not viable for a family farm under 1960's standards, and nothing has changed since then.

 The application does not contain any evidence regarding minimizing potential negative impacts to adjacent agricultural uses. Multiple nearby property owners have issued concerns on the proposed land divisions, which have mainly focused on traffic, impeding agricultural processes, and that it would change the character of the area and encourage more residential developments like the proposed application.

Answer....

The traffic created by 8 lots is anticipated to be less than 77 trips per day and will not trigger the need for a traffic impact study. Harvey Road is classified as a Major Collector on the Canyon County Functional Classification map. The applicant has worked with HD4 to move the requested future collector

road north away from the ¼ section line that runs along the north boundary of David Michaelis's property and has reserved the collector completely on the applicant's land to mitigate any future traffic that could potentially negatively impact the neighbors contiguous to the south. The highway district initially wanted a public road built along the Michaelis property to be shared with the applicant on the ¼ section line. (Michaelis's current driveway) Through a variance request hearing, survey, and legal work, and hiring an attorney, the applicant was able to reserve the current route attached as Exhibit "D" on the original application further north of the section line. This cost the applicant time and money for the benefit of the neighbors. Furthermore, as shown on Exhibit "F" of the original application, the applicant has placed the proposed private road (Crooked Tree Lane) internally, away from all neighboring properties, completely isolating the road internally to the applicant's own land. The lots have also been placed away from Harvey Road, and away from other residential areas, which will help keep the homes further out of sight.

The applicant wants to be a good neighbor and has made many efforts in the design as is shown on the conceptual . The lot locations are located internal to the site and are clustered close together to minimize impacts on neighbors. The applicant recently talked to David & Connie Michaelis after receiving word of their letter of opposition. They are much happier after seeing the conceptual layout and were concerned that 8 lots were just going to be placed next to their property after receiving the notice letter from the county.

Although agriculture is protected in Idaho with Idaho Code 22-45, the applicant would also like to propose adding a farm disclosure to future CC&Rs as a condition of approval to mitigate any potential issues with coinciding ag uses in the area that states the following:

RIGHT TO FARM The Penner Development is in an area in which agricultural operations are ongoing and may include, but are not limited to, aerial spraying, the production of crops, and or operation of feed lots and/or dairies. All these activities may result in the production of noise, odors, and other inconveniences that may involve lights or the use of machinery in the nighttime hours. Lot Owners are prohibited from challenging these activities when they are lawfully conducted. The applicants proposed average density is one lot per 15 acres, which is almost double the average density of the 5 platted subdivisions that are located within a 1-mile radius of the property with a 7.99-acre average lot size. The most recent plat is the Small Wood Trail Subdivision with a 5.23acre average lot size that was approved in 2013. Heidi Miller (letter in opposition) lives on a 4-acre lot, contiguous to this subdivision. These large, proposed lots also further mitigate risks to the agricultural area, as they will continue to be agricultural in use once approved, as is defined by the character of the area, and subject property.

In summary, these proposed lots are in an agriculture zoned area and are intended to stay agricultural in use for the foreseen future. Adding residential development rights to each parcel will help to bring in taxes to the county, while also creating an area for residents to explore agricultural uses and lay the groundwork to succeed. This will further protect our agricultural heritage in the county, and not impact it negatively. Providing a small operator with a place to start a small farm or ranch that is not solely dependent on the farm's income is what is being proposed by the nature of the application and is exactly what the applicant intends to do. Rural residential properties like these have animal rights and are far more likely to be occupied by owners that embrace the agricultural lifestyle as opposed to the owners of properties that are served by city utilities that do not allow agriculture or animal activities. Approving these 8 lots will complement the agricultural area and lifestyle and will also increase the amount of taxes the county receives from this land substantially. (2023 taxes were \$45.48).

For these reasons, we respectfully request that our application for all 8 residential lots please be approved.

Thank you,

Matt Wilke, applicant representative for Rick and Lorna Penner.





Canyon County, 111 North 11th Avenue, Caldwell, ID 83605 (208) 454 7458 • (208) 454 6633 Fax • DSDInfo@canyonco.org • www.canyonco.org/dsd

August 4, 2020 RE: Parcel Inquiry for R37792

Question: How many splits available?

07-18-01: ADMINISTRATIVE LAND DIVISIONS FOR ALL ZONES:

(1) Administrative Land Divisions: An administrative land division of an original parcel is allowed in accordance with the following: (An original parcel predates the zoning ordinance of Sept. 6, 1979 and has not been split)

A. For land zoned A (agricultural), the **minimum parcel size is one acre** and an administrative land division of an original parcel is allowed in accordance with the following:

Less than 80 acres	2 residential parcels
80 to 119 acres	3 residential parcels
More than 120 acres	4 residential parcels

B. For all other zones land may be divided into no more than four (4) parcels through the administrative land division process. The minimum parcel or lot area shall be subject to the minimum lot size provisions of subsection <u>07-10-21(2)</u> of this chapter.

The subject parcel dates to a 1961 deed (inst#1215621) that calls out the South ½ of the NE ¼ and the NW ¼ of the SE ¼ of Section 10, T5N, R3W. Each aliquot section is considered an original parcel, with the south ½ eligible for 3 building permits, and the NWSE eligible for 2 building permits for a total of 5 building permits. The 5 building permits could be placed on 5 parcels each with a building permit, or 6 parcels, 5 with building permits, and 1 agricultural only parcel with no permits available.

Any future division after these requires a Comprehensive Plan Amendment (\$2500) to change the future land use designation from agriculture to residential, a Rezone (\$850) to change the current zoning from agriculture to residential, followed by the subdivision process to legally plat and record lots (\$1680 +\$10/lot).

If you have any further questions please contact me. Sincerely,

Kate Dahl Planner III kdahl@canyonco.org 208-455-5958

Planning • Zoning • Building • Code Enforcement

Dedicated to providing quality, efficient and equitable service to the citizens of Canyon County by planning for orderly growth and development through consistent administration and enforcement of County Ordinances.

ANSTRUMENT NO. 495989 379

THAT

HERE THE STATE

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The United States of America,

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We all to inform Genie presents significante, deceting:

WHEREAS, a Certificate of the limit Diffice at Dolse, Idaho, is now deposited in the Bureau of Land Humagement, whereby it appears that full payment has been made by Fred W. Anderson and Clars P. Anderson, according to the provisions of of the Act of Congress of June 17, 1962 (32 Stat. 388) as amended and supplemented, and the Act of March 31, 1950 (64 Stat. 39) for the following described land:

Boise Meridian, Idaho.

T. 5 N., 'R' 3 W.,

Sec. 10, Simil, Witsit.

The area described contains 120.00 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW ENOW YE, That the UNITED STATES OF AMERICA, in consideration of the of the premises, and in conformity with the said Acts of Congress, in such case made and provided, MAS GIVEN AND GRANTED; and by these presents DOES GIVE AND GRANT unto the said Fred W. Anderson and Clars P. Anderson and to their heirs the tract above described; TO HAVE AND TO MOLD the same, together with all the rights, privileges, immunities, and appurtenences, of whatsoever nature, thereunto belonging, unto the said Fred W. Anderson and Clars P. Anderson and to their heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right-of-way thereon for ditches or canels constructed by the authority of the United States.

Excepting and reserving, also, to the United States all the oil and gas in the lands so patented and to it or persons authorized by it, the right to prospect for, mins, and remove such deposits from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of July 17, 1914 (38 Stat. 509). Subject to an easement to the United States, or its assigns, on that part of the land comprising the area included within 65 fest on each side measured at right angles from the centerline of the existing Convay Gulch Lateral, and on that part of the land comprising the area included within 50 feet on each side measured at right angles from the centerline of the existing C.G. 1.1 Lateral, and on that part of the land comprising the area included within 25 feet on each



L & STREAMER CONTRACTOR STREET 10-67567-5

121

Exhibit 5



Board of County Commissioners - Staff Report Treasure Valley LLC - CR2021-0008

Development Services Department

Findings of Fact, Conclusions of Law, and Order

Conditional Rezone - CR2021-0008

Findings of Fact

- The applicant, Treasure Valley LLC, is requesting a Conditional Rezone of approximately 55 acres of a 120-acre parcel from an "A" (Agricultural) zone to a "CR-R-R" (Conditional Rezone, Rural Residential) zone. The request includes a development agreement restricting development to a maximum of 15 residential lots (Attachment A). The subject property, Parcel R37792, is located on Harvey Road north of the Sand Hollow Road intersection, Middleton, ID in the S¹/₂ of the NE¹/₄ and the NW¹/₄ of the SW¹/₄ of Section 10, T5N, R3W, BM, Canyon County, Idaho.
- 2. The subject property is designated "agricultural" in the Future Land Use plan within the 2020 Canyon County Comprehensive Plan.
- 3. The subject property is not located within an Area of City Impact.
- 4. The subject property is located within the Canyon Highway District #4, Middleton Fire District, Middleton School District and Black Canyon Irrigation District.
- 5. A neighborhood meeting was conducted on August 3, 2021 in accordance with CCZO Section §07-01-15.
- 6. On July 7, 2022, the Planning and Zoning Commission recommended denial of the request.
- 7. Notice of the public hearing was provided in accordance with CCZO §07-05-01. Affected agencies were noticed on August 30, 2022. Newspaper notice was published on October 9, 2022. Property owners within 600' were notified by mail on October 4, 2022. Full political notice was provided on April 1, 2022. The property was posted on October 18, 2022.
- 8. The record includes all testimony, the staff report, exhibits, and documents in Case File CR2021-0008.

Conclusions of Law

For this request, the Board of County Commissioners find and conclude the following regarding the Standards of Review for a Conditional Rezone (CCZO §07-06-07(6)):

1. Is the proposed zone change generally consistent with the comprehensive plan?

Conclusion: The proposed conditional rezone is not consistent with the comprehensive plan.

Finding: The Canyon County Future Land Use Map designates the subject property as "agricultural". The request is not located within an Area of City Impact.

The area is still predominantly agricultural in nature with scattered rural homesteads with a 44.5-acre average lot size (14.4-acre median). The requested "CR-R-R" is not consistent with the agricultural and rural character of the existing area and promotes residential development outside a city impact area or residential growth area. The request is inconsistent with the following goals and policies of the 2020 Canyon County Comprehensive Plan including, but not limited to:

Chapter 2. Population

<u>Population Goal No. 1</u>: "Consider population growth trends when making land use decisions."

• <u>Population Policy No. 3</u>: "Encourage future population to locate in areas that are conducive for residential living and do not pose an incompatible land use to other land uses."

Chapter 4. Economic Development

• <u>Economic Development Goal No. 2:</u> "To support the agriculture industries by encouraging the maintenance of continued agricultural land uses and related agricultural activities."

Chapter 5. Land Use

- <u>Land Use Goal No. 2</u>: "To provide for the orderly growth and accompanying development of the resources within the County that is compatible with their surrounding area."
- Land Use Goal No. 4: "To encourage development in those areas of the county which provide the most favorable conditions for future community services."
- <u>Land Use Policy No. 2</u>: "Encourage orderly development of subdivisions and individual land parcels, and require development agreements when appropriate.
- <u>Land Use Residential Policy No. 2:</u> "Encourage residential development in areas where agricultural uses are not viable."
- <u>Residential Land Use Categories (Page 37 of the Comprehensive Plan)</u>: Residential development should be encouraged in or near Areas of City Impact or within areas that demonstrate a development pattern of residential land uses.

Chapter 6. Natural Resources

- <u>Natural Resources Goal No. 1</u>: "To support the agricultural industry and preservation of agricultural land."
- <u>Natural Resources Policy No. 1:</u> "Protect agricultural activities from land use conflicts or undue interference created by nonagricultural development.
- <u>Natural Resources Policy No. 3:</u> "Protect agricultural activities from land use conflicts or undue interference created by existing or proposed residential, commercial or industrial development."

Chapter 13. Agriculture

- <u>Agricultural Goal No. 1:</u> "Acknowledge, support and preserve the essential role of agriculture in Canyon County."
- <u>Agricultural Goal No. 2:</u> "Support and encourage the agricultural use of agricultural lands."
- <u>Agricultural Policy No. 1</u>: "Preserve agricultural lands and zoning classifications."

2. When considering the surrounding land uses, is the proposed zone change more appropriate than the current zoning designation?

Conclusion: The proposed zone change is <u>not</u> more appropriate than the current zone.

Finding: The property and surrounding area are zoned "A" (Agricultural). The area is still predominantly agricultural in nature with scattered rural homesteads with a 44.5-acre average lot size (14.4-acre median). Approximately 66 acres of the subject parcel is considered farmland of statewide importance if irrigated. According to assessors' records the subject parcel has historically been leased for livestock grazing. The requested "CR-R-R" is not consistent with the agricultural and rural character of the

existing area and promotes residential development outside a city impact area or residential growth area. Approximately 66 acres of the subject parcel is considered farmland of statewide importance if irrigated.

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

Conclusion: The proposed conditional rezone is not compatible with the surrounding land uses.

Finding: There are five (5) platted subdivisions within a one-mile radius from the subject property which are predominantly zoned "A" consisting of an average lot size of 7.99 acres. Most of the subdivisions were created prior to the current Comprehensive Plan and County Code.

The entirety of the area around the subject parcel is primarily zoned "A" (Agricultural) with the exception of two (2) "CR-R-R" conditional rezones to Rural Residential, which were approved in 2013 and 2014. Pursuant to CCZO § 07-06-07(3), the previously approved "CR" zone shall not presumptive proof that the zoning or properties in the vicinity of the conditionally rezoned property should be rezoned the same. There have been no recent zoning decisions in the area for anything similar to what the applicant is requesting for the subject parcel.

4. Will the proposed use negatively affect the character of the area? What measures will be implemented to mitigate impacts?

Conclusion: The proposed use <u>will</u> negatively affect the character of the area.

Finding: The 15 residential lots (3.5-acre lot size) promoted by the conditional rezone "CR-R-R" (Attachment A) is incompatible with the existing lot sizes found in the area and inconsistent with residential growth forecasts. The subject property is located within TAZ 2123 (1,290 square acres) which is forecasted to produce seven (7) households between 2010-2040. The result is promoting unplanned growth that may prematurely impact existing agricultural uses while promoting zone development with associated impacts to an area predominantly agricultural and rural in character.

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

- Conclusion: Adequate sewer, drainage, and storm water retention facilities and utility systems will be provided to accommodate the proposed use at the time of development. Platting as a residential subdivision will be required for the proposed development.
- Finding: The following adequate facilities can be provided and demonstrated at the time of platting:
 - <u>Wells/Septic Systems</u>: The property is not located within an Area of City Impact. City services are not available to the subject parcel. Therefore, future development will require individual wells and septic systems. The property is not located within a nitrate priority area with wells in the area exhibiting low levels of nitrates.
 - <u>Irrigation and Drainage</u>: The property is located within Black Canyon Irrigation District (BCID). Future development will be required to provide irrigation water to all future lots and retain stormwater on-site. The subject parcel accepts significant drainage from the north and east. These natural drainages should be preserved through drainage easements although the drainage path can be reconfigured as a part of platting.

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

Conclusion: Legal access will be granted via Harvey Road.

Finding: The property has access and frontage along Harvey Lane, which is classified as a major collector by Canyon Highway District #4. Access is currently taken via a private driveway located along the southern property boundary off Harvey Road. Access for future residential development would need to be planned through one or more public road approaches. There appears to be adequate sight distance along the majority of Harvey Road however, sight distance would need to be verified at the time of preliminary plat approval.

7. Does the proposed development require road improvements to provide adequate access to and from the subject property to minimize undue interference with existing or future traffic patterns created by the proposed development? What measures have been taken to mitigate road improvements or traffic impacts?

- Conclusion: The rezone of the subject property will not cause undue interference with existing or future traffic patterns as proposed. Future impacts can be addressed at the time of platting.
- Finding: Per Canyon Highway District #4 standards, a grid of arterial or collector roads will be required within or contiguous to the frontage of the development to serve future transportation needs. As conditioned by the development agreement, the proposed 15 lot development is not anticipated to exceed the threshold requiring a Traffic Impact Study and proposed traffic impacts will be mitigated through right-of-way dedication, public road improvements and development impact fees.

8. Will the proposed zone change 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. Mitigation would include ensuring that roads are adequate for school busses and that school bus turn-arounds be included.
- Finding: Middleton School District #134 is experiencing significant growth with some schools over capacity and others near capacity. This development is anticipated to bring an increase of nine (9) students to the district which is fewer than developments with smaller lots/higher density. Bussing would be provided for these students and the district requests that appropriate street size and turn arounds be included for bus access at the time of plating.

No other comments from police, fire or emergency medical services have been received.

Order

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Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **deny** Case #CR2021-0008, a conditional rezone with development agreement (Attachment A) of Parcel R37792 from an "A" zone (Agricultural) to an "CR-R-R" zone (Conditional Rezone - Rural Residential).

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

- 1. Consider administrative land division options in the "A" (Agricultural) Zone pursuant to Chapter 7, Article 18 of the Canyon County Code; or
- 2. Consider a conditional rezone with development agreement that includes conditions restricting lot sizes matching the median lot size of the area and to provide mitigation measures to address impacts to surrounding agricultural properties and uses.
 - a. The application shall include verification of water right history on the subject property.

This decision is final. Pursuant to Idaho Code Section 67-6535(b), the applicant or affected person may first seek reconsideration within 14 days prior to seeking judicial review.

APPROVED this 27th day of Otobur	, 2022.		Did Not
1 m	Yes	No	Vote
Commissioner Leslie Van Beek			
Commissioner Keri Smith	\swarrow		
Commissioner Pamela White	~		
Attest: Chris Yamamoto, Clerk			

By: Khun Ross Deputy

Date: 10.27.22

ATTACHMENT A DEVELOPMENT AGREEMENT - CONDITIONS OF APPROVAL

- 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, R37792, shall be subdivided in accordance with Chapter 7, Article 17 of the Canyon County Zoning Ordinance (Subdivisions) subject to the following restrictions:
 - a. Plat shall be limited to no more than fifteen (15) lots.
 - b. Lots shall be a minimum of 3.5 acres in substantial compliance with the conceptual site plan below.
 - c. A pressurized irrigation system is required to serve the subdivision. Historic irrigation lateral, drain and ditch flow patterns shall be maintained and protected. Modification including any crossings shall be approved in writing by applicable governing agencies.
 - d. The subject parcel accepts significant drainage from the north and east. These natural drainages will need to be preserved through drainage easements. The drainage path can be reconfigured as a part of platting.
- 3. The developer 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."





April 2, 2024



Emily Kiester Associate Planner Canyon County Development Services 111 North 11th Avenue #310 Caldwell, ID 83605

> CASE NAME: Penner CASE NUMBER: AD2024-0001 PARCEL#: R37792

Dear Ms. Kiester:

We, David and Konnie Michaelis, have lived at 28495 Harvey Road Caldwell for 43 years. The property case #AD2024-0001 borders our 40 acres on 2 sides. We have rented this property for over 25 years for the purpose of cattle grazing. Before us, a neighbor, Gene Ihli, rented it for his cows. Therefore, the property has been continually utilized for grazing for at least 40+ years. A cow/calf operation is agriculture thus deeming this property a viable agricultural property. The property is bordered on 3 sides by crop land, so grazing is compatible with the surrounding area.

Domestic wells are a concern, especially for us, who have lived longer in the area. Our wells are not as deep and 8 additional wells create the probability that the area's water table will drop. Idaho Code 42-1502 entitles homeowners the right to water ½ acre of land from their domestic wells. Unfortunately, this is often abused by dry landowners causing additional strain on the water table.

We would ask that you consider denying case #AD2024-0001, the request for 8 residential parcels. Instead consider in favor of the 4 existing residential parcels, as in 07-18-07 Standards, plus the 2 ag only partials. We feel that this better reflects an agricultural environment consistent with the surrounding area.

Thank you for thoughtfully considering our concerns.

Sincerely,

Michaeli

Dávid Michaelis

Konnie Michaeles

Konnie Michaelis

Exhibit 7

July 12, 2024



28495 Harvey Rd. Caldwell, ID 83607

RE: CASE NAME: Penner

CASE NUMBER: AD20424-0001

PARCEL#R37792

TO WHOM IT MAY CONCERN:

A proposed Land Swap Agreement between Penner and Michaelis is contingent on the application, CASE #AD2024-0001, being approved. Therefore, we are not contesting the applicant's request.

Respectively,

Hickala

David Michaelis

Konnie Michaelis

Konnie Michaelis

Case AD 2024-0001

Exhibit 8

My name is Mike Goodell and I live on a farm that borders the west side of the parcel in this case. I'm writing today in opposition to the proposed addition of building permits to parcel r37792 for the following reasons.

1- Agriculture Viability

I strongly disagree with the attempt to label this land as nonviable. It's bordered on the west, north and east by productive farmland. These lands are being farmed with the same soils, slopes, drainage, etc... as parcel r37792. The only difference is irrigation and management. While this parcel doesn't have a Black Canyon Irrigation right it can be watered by development of an irrigation well or by rental or purchase of Black Canyon Shares. I have used both these methods to obtain water for my own farm and others in the neighborhood have as well.

2-The Neighborhood

Our neighborhood is dominated by large open spaces of agricultural land, dry land, and recreational area (Idaho Youth Ranch and ditch banks). In a diameter of three miles I believe this eight permit development would easily be the largest. I'm concerned that this could encourage further more concentrated development than our neighborhood has seen. In that regard I don't think it aligns with the spirit of the 2030 Canyon County Comprehensive Plan.

3-Recent Denial

On June 2 2022 Case CR2021-0014 was heard before the Planning and Zoning Commission concerning this same parcel. The issues raised were the viability of the land for agriculture and the impact of additional building permits on the neighborhood. After verbal testimony from several neighbors the committee voted unanimously to deny.

I respectfully urge denial for AD2024-0001 Sincerely Mike Goodell

Mike Goodell Bonnie Doo lell **Ensi gooden** Miche Jorden





MCKINNEY FARMS RY. **NATHAN MCKINNEY, OWNER**

Exhibit 9

REGARDING PROPOSED DEVELOPMENT

CONTACT

14390 Hollow Rd Caldwell, ID 83607 Mckinneyfarms14390@gmail.com April 8, 2024

To: Emily Kiester, Associate Planner,

My name is Nathan McKinney and I farm on the west and north side of this proposed develop Parcel #R37792 Case #AD2024-0001. I am in opposition of this application for additional building permits to this parcel. I often am baling hay during the night when most people are sleeping and as this is a noisy process it can be disturbing for people who don't understand farming practices. We also can create a lot of dust during our normal farming practices when we are working the fields for planting and harvest. Another issue is the smell that occurs when applying manure and compost. Farming next to a subdivision makes life more difficult for all of us involved, both homeowners and farmers, and that is why I oppose the proposed development.

Sincerely, **McKinney Farms** Nathan McKinney, owner









Exhibit 10

Emily Kiester

From:	H M <leesakassnel@yahoo.com></leesakassnel@yahoo.com>
Sent:	Tuesday, April 9, 2024 4:14 AM
То:	Emily Kiester
Subject:	[External] Case Name: Penner, Case# AD2024-001, Parcel# R37792

To whom it may concern,

My husband and I purchased our home in 2011 because it had everything we wanted. Quiet acreage, a vintage home with low to almost no traffic in the area. Coming from a densely populated area, the peace and privacy we gained has been amazing and has made a difference in our overall well being.

Another reason we moved to the country is so we could raise chickens and our rare heritage breed ducks. With the growth in the area we have noticed more wild life on our property. We've experienced more loss to our flock as the habitat of their predators has shrunk. So growth has affected us financially and impacted our ability to provide for ourselves. The proposed parcel is home to local floral & fauna, i.e. wild turkeys, pheasants, fox, skunk and more. Building on this parcel will have environmental impact.

Our neighbors are already having issues with their wells. Where is all the water to come from to support all the people, homes, lawns, and gardens? Will more irrigation water shares be created to provide water? The switch with easement rights for the surrounding area is on our property. This means we have to allow everyone access to our property. This raises a great concern for our privacy, security and safety. Our experience over the years is that not everyone is respectful when coming on to our property.

We do not support homes being built on this parcel. Hoping that a you take our concerns into consideration and you decline their request.

Regards,

Heidi Miller



Casey & Marnie Vandenberg 13618 Goodson Rd. Caldwell, ID 83607 (208) 941-0481 mstampeder@gmail.com

April 9, 2024

Canyon County Development Services ATTN: Emily Kiester, Associate Planner Sabrina Minshall, Director 1115 Albany Street Caldwell, ID 83605 *Via Email to <u>emily.kiester@canyoncounty.id.gov</u>; <u>sabrina.minshall@canyoncounty.id.gov</u>*

RE: Case No. AD2024-0001 Case Name: Penner Parcel No. R37792

To Whom it May Concern,

We write in opposition to the case referenced above, and respectfully request that you deny the Penner's application in its entirety.

We own land in near proximity to this parcel and we are also engaged in the business of dairy farming. Our family's dairy farm is less than two miles away from the proposed residential development referenced above. The dairy began operating in the year of 1980 at 13503 Goodson Road, Caldwell, where the dairy has remained in the same location ever since-for approximately forty-two (42) years. The dairy is owned, operated, and managed by our family, who takes great pride in the dairy's good animal husbandry practices, milk quality, cleanliness, appearance, and overall day to day operations. The dairy is in its third generation of family members participating in the business, and the family intends to continue owning and operating the dairy for many years and generations to come. We farm many acres around the dairy to raise feed for the dairy herd, and we also purchase feed for the herd from several parcels that are directly adjacent to or near the proposed development site. However, due to the many residential developments that have been allowed in this area, traffic has increased significantly, which has made trucking said feed back to the dairy much more difficult than in the past, and has resulted in many altercations with residents in the area who are unfriendly to farmers and agricultural operations. This problem will only grow worse if this residential subdivision is allowed, and will threaten the viability of agriculture in our county.

This development should be denied for many reasons, including, but not limited to the following: (1) the assertion that this is "nonviable land" is false and untrue, as it could be irrigated if the owner procured an irrigation water right or Black Canyon water; (2) this development is inconsistent with the comprehensive plan, ordinance, and the public's desire for open, agricultural space; (3) it allows for irresponsible development that is not contiguous with
the city and its services, and allows for development of individual new wells and septic systems, which threatens our groundwater supply and surrounding landowners' water resources; (4) residential subdivisions are an incompatible use next to agricultural operations, such as the agricultural operations that are in close proximity to this site because of the complaints, harassment, and infringements on our right to farm from nearby residential lot owners; and (5) the method of this application is inconsistent with the Canyon County Zoning Ordinance and is attempting to circumvent the subdivision regulations contained in Article 17.

For example, Canyon County Ordinance § 07-17-03 "Jurisdiction" states that:

"These regulations shall apply to the subdividing of all land within the unincorporated parts of the county and shall include the following:

(1) The subdivision of land into more than four (4) lots, parcels or tracts since September 6, 1979, for transfer of ownership or development.

(2) Any change to a recorded plat.

(3) The following are exceptions to the subdivision requirements of this article:

A. A parcel, resulting from the subdivision of land, that is used exclusively for agricultural purposes (on which there is no permanent dwelling) and is described on the deed, whether including or excluding a public right of way, and consists of one-fourth (1/4) of one-fourth (1/4) of a section of land or forty (40) or more acres.

B. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code and when the dedication of a right of way for public purposes is initiated by a public body.

C. Simple changes to a recorded plat in accordance with section 07-17-19 of this article.

D. A lot or parcel created for the exclusive use of a public or private school, other political subdivisions, or public or private utility facilities.

E. Land that is divided into no more than four (4) from the original parcel in accordance with Article 18 of this chapter."

Because this parcel is being divided into more than four (4) parcels, I strongly believe that the subdivision regulations for this parcel should apply, and that this is an attempt to bypass the public hearing process, which would likely result in another denial, similar to the hearing for this very same parcel that was denied in 2022.

This is also in direct contradiction to the comprehensive plan and the areas of the ordinance that prioritize preservation of agriculture. As stated above, this development will threaten the surrounding farms and will make it that much harder for agriculture in this area of our county to survive. For example, neighbors complain about crop dusting, dust from the fields as they are being worked, legal application of manure/fertilizer to farm ground in accordance with ISDA Nutrient Management Plans, and many other normal and generally accepted farm practices. The traffic has also become extremely dangerous and makes it hard to move harvested crops and large equipment down the roads.

Again, we respectfully urge you to deny this application. Thank you for your time and consideration. We appreciate the important work you do for our county.

Sincerely,

Marnie & Casey Vandenberg

Exhibit 12

Emily Kiester

From:	Jamie Elsberry <jamieelsberry@gmail.com></jamieelsberry@gmail.com>
Sent:	Wednesday, April 10, 2024 11:22 AM
То:	Emily Kiester
Subject:	[External] Case Number: AD2024-0001, Case Name: Penner, Parcel#R37792

Dear Ms. Kiester:

We, Marcus and Jamie Michaelis, have lived at 28273 Harvey Road Caldwell for 11 years. The property case #AD2024-0001 lies just northwest of our property separated by only one other parcel. Our parents property is directly next to the subject property. In the over 40 years since my husband has lived near the subject property it has been utilized for cattle grazing purposes. While it does not have water rights, grazing still deems this property to be agricultural in nature. It also is directly surrounded by heavy agricultural operations bordering all sides and the main use of all property in the general area.

The subject property currently has 4 building/residential parcels which is more in line with the surrounding residential use. Increasing this in any capacity would be detrimental to the area's agricultural nature with increased traffic causing issues for farmers, more complaints of farming practices, and impede other agricultural processes. It would also have a significant impact on water table resources. Many neighbors have already reported well issues in recent years with the increase of new construction in the water table area. Adding additional wells will only worsen the issue for many of us.

It is our hope that you would deny the request for the 8 residential parcels and decide in favor of leaving it as the 4 existing parcels.

Thank you for your time and attention to our concerns.

Sincerely,

Marcus and Jamie Michaelis

Exhibit 1	3
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From: Mike Titera <mike.titera@gmail.com>
Sent: Friday, July 12, 2024 4:59 PM
To: Matt Wilke <matt@mywhitebarn.com>
Subject: Re: Penner Land Division AD2024-0001 / TBD Harvey Road, Caldwell, ID

Matt:

Thank you for reaching out and for providing those materials. We looked at the conceptual plan and have no issues with the Penners moving forward. We look forward to them getting their approvals and having a new neighbor to the North. If you would like a more formal letter of support we are happy to provide it.

Regards, Mike

Sent from my iPhone

On May 14, 2024, at 1:55 PM, Matt Wilke <matt@mywhitebarn.com> wrote:

Hi Mike,

I hope this email finds you well, and you are having a great Spring so far.

I am representing Rick Penner for his application to perfect the administrative land divisions. He is asking for 5 administrative, plus 3 non-viable lots for a total of 8 building lots. I attached the county notice letter and a conceptual plan. The lots are going to be 5 and 10 acres in size, and access will come in from Harvey Road.

Could I bother you for a letter (or email) in support of this plan if it looks good to you? If you have any concerns, could you please let me know? The support from you being a contiguous neighbor to the south would be greatly appreciated, as Rick wants to be a good neighbor for many years to come.

Thanks Mike!

Matt Wilke Owner | Broker White Barn Real Estate White Barn Ventures 208.412.9803 <u>matt@mywhitebarn.com</u> www.mywhitebarn.com Exhibit 14

Emily Kiester

From: Sent: To: Subject: Lenny Riccio <lriccio@hwydistrict4.org> Tuesday, March 26, 2024 8:33 AM Emily Kiester [External] RE: AD2024-0001 Noticing

Emily,

This applicant requested a variance from HD4. The variance was approved with conditions. The conditions are noted below. My comments to the County on this request will be delayed until those conditions are addressed.

Regards,

Lenny Riccio, P.E. Transportation Planner Assistant District Engineer



Highway District No. 4 <u>www.hwydistrict4.org</u> 15435 Hwy 44 Caldwell, ID 83607 Phone: (208) 454-8135 Fax: (208) 454-2008 From: Emily Kiester <<u>Emily.Kiester@canyoncounty.id.gov</u>>
Sent: Monday, March 25, 2024 5:10 PM
To: 'permits@starfirerescue.org' <<u>permits@starfirerescue.org</u>>; Lenny Riccio <<u>lriccio@hwydistrict4.org</u>>
Subject: AD2024-0001 Noticing

Dear Highway District No. 4 and Middleton Rural Fire District,

Attached please find a notification letter regarding a Nonviable Land Division, Administrative Land Division, Private Road, and Building Permit Transfer Application for Parcel R37792 (AD2024-0001) and the master application packet. I attached also attached a clearer version of the survey than what was included in the master application packet for your review.

Pursuant to Canyon County Code Chapter 7, affected agencies will be given 15 days from the date of this notice to submit comments prior to the Director's Decision.

Thank you,



Emily Kiester, Associate Planner Canyon County Development Services Department 111 N. 11th Ave., #310, Caldwell, ID 83605 Direct Line: (208) 454-6632 Email: <u>emily.kiester@canyoncounty.id.gov</u> Website: <u>www.canyoncounty.id.gov</u>

Development Services Department (DSD) NEW public office hours Effective Jan. 3, 2023 Monday, Tuesday, Thursday and Friday 8am – 5pm Wednesday 1pm – 5pm **We will not be closed during lunch hour **

PUBLIC RECORD NOTICE: All communications transmitted within the Canyon County email system may be a public record and may be subject to disclosure under the Idaho Public Records Act and as such may be copied and reproduced by members of the public.

Exhibit 15 Canyon County, ID Web Map



Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA | Nampa

Exhibit 16 Canyon County, ID Web Map



Bureau of Land Management, State of Oregon, State of Oregon DOT, State of Oregon GEO, Esri Canada, Esri, HERE, Garmin, INCREMENT P, Intermap, USGS, METI/NASA, EPA, USDA | Nampa









Exhibit 18



University of Minnesota Extension

University of Minnesota Extension

extension.umn.edu

Grazing and pasture management for cattle

Quick facts

- Producers use grazing to help reduce feed costs and make unproductive cropland productive.
- You should have a grazing plan to make sure you are as efficient as possible in using your grazing forage.
- The different grazing systems include continuous, simple rotational and intensive rotational.
- Rotational grazing is more productive than continuous grazing.
- Overgrazing results in decreased pasture quality and productivity.
- You should have a back-up plan for when things go wrong.

Benefits of grazing

Cost

The highest cost in most, if not all, cattle production systems is feed. Many producers use grazing to reduce costs for their operations. Properly managed pasture-based systems use land efficiently and provide high production per acre.

Marginal land

Not all land can grow row crops. These pieces of land are usually described as marginal. Grazing is a way to grow a crop (grass) on land unsuitable for traditional row crops such as corn and beans. Cows can use the grass and make otherwise unproductive land productive.

Environment

Grazing benefits the land itself. Studies have shown the benefit of grazing as a tool for conserving wildlife habitat and keeping prairie healthy.

Incorporating cover crops into a cropping system has major benefits to the land such as decreased compaction, decreased soil erosion, and decreased run-off. These cover crops can be used as a valuable part of a grazing rotation.

The importance of having a grazing plan

Designing a grazing plan is the first step in your pasture management system. As you follow the planning process, the strengths and weaknesses of your current system will become apparent.

The grazing plan should include all the components of the grazing and pasture system and serve as a guide for management improvements. The amount of grass available is limited and having a plan allows for the full use of the resources available.

Recording and tracking the success of your plan is important because you can then make improvements for the next grazing season.

Map your grazing

You should draw a map or use mapping software to show the boundaries of the land that is available for grazing. Having a map of your system makes it easier to get started on a plan and makes the plan easier to adjust for different conditions from year to year.

- Distinguish land that is owned from land that is rented. There are certain management practices that you can apply to your own land that you may not be able to do on rented land.
- Determine the number of acres of the different land parcels and label these on the map. You can then see what is available and what opportunities you have to improve or better use the resources you have.
- Mapping can show if there is additional land available that could be used for grazing.
 - Cropland next to pasture land may be better used for growing forages.
 - Cropland close to existing pastures is ideal for converting to grazing if pasture expansion is one of the farm goals.

Different grazing systems

Grazing systems range from continuous grazing of one area over a long period to intensive rotational grazing on small areas for short periods.

- Livestock systems that use continuous grazing of a pasture experience both overgrazing and undergrazing of forages.
- A rotational system provides an opportunity for forage plants to rest so that they may regrow more quickly.
- The rotational system provides an opportunity to move livestock based on forage growth, promote better pasture forage utilization, and extend the grazing season.

The advantages and disadvantages of three grazing management systems are listed below.

Download the Cattle Grazing Management Systems poster.



Continuous grazing

A one-pasture system where livestock have unrestricted access throughout the grazing season.

Advantages

- Requires less management.
- Overhead costs are minimal (fence).

Disadvantages

- Lower forage quality and yields.
- Lower stocking rate and less forage produced per acre.
- Uneven pasture use.
- Greater forage losses due to trampling.
- Animal manure is distributed unevenly.
- Weed and other undesirable plants may be a problem.



Simple rotational grazing

A system with more than one pasture in which livestock are moved to allow for periods of grazing and rest for forages.

Advantages

- Can increase forage production and improve pasture condition (20% more compared to continuous).
- Allows pastures to rest and allows for forage regrowth.
- It can provide a longer grazing season, reducing the need for feeding harvested forages.
- Better distribution of manure throughout the pasture.

Disadvantages

- Costs for fencing and water systems can be higher than with continuous grazing.
- Forage production and pasture utilization are not as high as intensive rotational grazing systems.

Intensive rotational grazing

A system with many pastures sometimes referred to as paddocks. Livestock are moved frequently from paddock to paddock based on forage growth and use.

Advantages

- Highest forage production and use per acre (30-50% more compared to continuous).
- Stocking rates can typically be increased.
- More even distribution of manure throughout the paddocks.
- Weeds and brush are usually controlled through grazing.
- It provides more grazing options and reduces the need for mechanically harvested forages.

Disadvantages

- Requires careful monitoring of forage supply.
- Initial costs may be higher due to fencing materials and water distribution systems.
- Requires more management.





Pasture quality and productivity

Good pasture condition is critical to a successful grazing system. Pasture quality may vary greatly from one pasture area to another, but the trend over time should show the direction in which the pasture condition is moving.

Forage grass and legume species each have their own unique growth, persistence, and quality characteristics. Because they respond differently to soil conditions, weather patterns, fertility and grazing management, the plants that are currently growing in your pastures may be different from one area to another.

Evaluating the entire system is important to the success of your plan.

Determining and measuring pasture quality

- First survey what is available. A walk through the pastures is necessary to gather this information.
- The overall coverage and density of forage in your pastures can be rated as thin, average, or thick.
- If the same people are evaluating the pastures every time, you can keep track of the trend.
- Identify dominant species in each pasture and use your map to keep track of what you
 find. If you need help identifying different species contact your <u>local Extension office</u> or
 your local <u>USDA service center</u>.

• For a relatively small cost, a forage sample you collect can be tested by your local forage lab. This information about protein, mineral content and more is incredibly valuable.

How to estimate pasture productivity (forage mass)

There are many methods for determining the productivity of a pasture. Several methods include the use of specialized equipment such as a rising plate meter, falling plate meter, infrared technology or even drones. The simplest methods are accurate and still provide important information. The unit used when determining pasture productivity is pounds of dry matter per acre (lbsDM/acre).

Hula-hoop pasture clipping

Hula-hoops are rigid, usually standard size and durable.

- Toss the hula-hoop into a representative section of your pasture.
- Where the hula-hoop lands, clip (close to the ground) all of the plants within the hulahoop and gather them in a container.
- This sample can be weighed and dried to determine mass on a dry matter basis.
- The conversion to lbsDM/acre is made based on the area of the hula-hoop.

Square pasture clipping

Using a square to sample a pasture is almost identical to the hula-hoop. Some people prefer a square to a circle. The process is the same.

- Using stakes and string or whatever method you decide, build a square in a representative portion of your pasture.
- Then clip (close to the ground) all of the plants within the square and gather them in a container.
- This sample can be weighed and dried to determine mass on a dry matter basis.
- The conversion to lbsDM/acre is made based on the area of the square.

Ruler and pasture height

Using a defined area and clipping a pasture is the most accurate method but can be timeintensive. Based on the density of the pasture we can use the height of the pasture to determine the approximate mass.

To do this, take a yardstick into the pasture, measure the height of the forage in 30 different locations and then calculate the average.

- Thin pasture: 150 lbsDM/acre per inch of height
- Average pasture: 300 lbsDM/acre per inch of height
- Thick pasture: 450 lbsDM/acre per inch of height

Stocking density - How many cows can a pasture hold and for how long?

Knowing the amount of dry matter forage a pasture can produce is only part of the equation. The amount of forage required over the grazing season by each animal and the herd as a whole is what determines stocking density.

The overall goal is to define the proper combination of land, time and number of animals to ensure the sustained, long-term productivity of the pasture. The optimum number of animals on the pasture makes efficient use of the forage without waste but still leaves enough forage to allow quick and complete plant recovery.

Understocking

- Setting the stocking rate too low will result in wasted forage and lost profit potential.
- Long term understocking (under grazing) can result in a less productive pasture as more woody plants take up residence.

Overstocking

- Setting the stocking rate too high for too long will result in lowered intake, lowered animal growth and diminished profits.
- Overstocking (overgrazing) leads to a reduction in desirable plant species and an increase in less desirable plants.
- Overuse also means that livestock must forage for longer periods of time to meet their needs and that results in decreased average daily gain (ADG).

How much do my cows eat?

In general, cows consume between 2 and 4 percent of their body weight in dry matter every day depending on their energy usage. We have to account for losses on the pasture due to trampling so the easiest way to do that is to lump everything into total use for each animal. In general, you can expect a cow to either eat or trample 4 percent of its body weight in dry matter each day.

How much forage does one cow use each day?

forage used/day/cow = (average body weight cow) × 0.04

Example: How much forage does a 1400-pound cow use each day?

1400lbs × 0.04 = 56 lbsDM/day

How much forage does the herd use each day?

daily herd forage requirement = (# of cows) × (forage used/day/cow)

Example: How much forage do ten 1400-pound cows use each day?

10 cows × 56 lbsDM/day = 560 lbsDM/day

Deciding on a stocking density

If you know <u>how much forage</u> a pasture will produce and you know <u>how much forage</u> each cow in your herd will use each day, then deciding on stocking density is the next step.

Time is the all-important factor because the higher the stocking density the shorter time the pasture can be used. The inverse is also true, the longer the pasture is going to be used, the lower the stocking density must be to avoid overgrazing.

How many days can I use a pasture?

Days = (pounds of forage/acre) × (# of acres) / (daily herd forage requirement)

Example: How many days can I graze a 5-acre pasture producing 2500 lbsDM/acre with ten 1400-pound cows?

(2.500lbsDM) × (5 acres) / (560lbsDM/day) = 22 days

How many cows can I put on my pasture?

of cows =(pounds of forage/acre x # of acres) / (cow bodyweight lbs x 0.04 x days on pasture)

Example: How many 1400-pound cows can I put on a 5-acre pasture producing 2500 lbsDM/acre if I want to use the pasture for 40 days?

(2,500 lbsDM/acre) × (5 acres) / (1400 lbs) × (0.04) × (40 days) = 5 cows

Active management

Pasture management is an active process. If no effort or time is put into the system then the return will be minimal to the producer. Continually evaluating and adjusting with guidance from measurable data is the key to success.

How to keep good pasture good

Using the appropriate stocking density to avoid overgrazing and undergrazing while monitoring your pastures for the appropriate recovery time between animal use will keep your pastures in good condition. Sometimes, pastures need just a little more help, and there are several options.

Fertilizing

• Both nitrogen application and manure can be used to fertilize pasture.

- The timing of fertilization and which type you use can have a large impact on pasture quality and productivity.
- For more information on using manure as fertilizer visit the <u>manure management</u> web pages.

Interseeding

- Interseeding uses no-till drills to incorporate seed directly into the pasture.
- Proper preparation of the pasture is important for the success of this technique.
- Pastures should be grazed closely to give the new seedlings the least amount of competition when emerging.

Frost seeding

- Frost seeding is used to improve the density of current pastures.
- Seed is broadcast over the pasture during a time of year when there are many freeze/thaw cycles.
- The action of freeze and then thaw opens up the ground and allows seeds to be incorporated into the soil.
- Like interseeding, pastures should be grazed closely prior to implementing this technique.

How to make poor pasture better

Overgrazed pasture

- Starting a rotational grazing system when a continuous system was previously used will not provide instant results.
- Long term management and rotation will provide the base for good pasture to grow.
- Use techniques such as fertilization, interseeding and frost seeding to give the overgrazed pasture a kickstart.

Undergrazed pasture

- Get animals into the pasture to start using the grass.
- At first, use a high stocking density and allow the animals to graze the grass to near 100%.
- Follow with techniques like fertilizing, interseeding and frost seeding to start improving the pasture.

Complete pasture renovation

- This technique should only be used after other efforts have not worked, or you have consulted an expert on the specific pasture.
- Complete renovation involves using an herbicide to kill the existing plants in the pasture and then reseeding using no-till drills.

• Often the pasture kill is conducted in the fall and the pasture is seeded in the spring. The importance of a back-up plan for pasture management Not everything goes according to plan and that includes pasture management. The weather, livestock themselves, and other factors can put the perfect plan off course. You have to have a back-up plan.

Sacrificial pasture with bedding

You can choose a pasture you will use as your sacrifice pasture. Often, it is worth it to severely damage one pasture rather than damage all of your pastures. Keep your cows dry and out of the mud by putting bedding in the pasture.

Cattle holding area with concrete pad

Concrete can be a valuable and simple luxury. Mud is the enemy of all grazing systems and concrete can be the solution. Using bedding and supplementing feed on concrete is a valuable temporary technique for any grazing system.

Cattle holding building

The ultimate luxury for a grazing producer is a building you can use to confine your cattle when needed and keep them out of the elements while you give your pastures time. How to manage high-stress areas in your pasture Every pasture has areas that will be used by the cows more than others. High traffic areas such as walking lanes, watering areas, feed bunks, shade, wind breaks, and other stress areas should be identified and managed differently from other areas of your pasture.

The best solution is to pour concrete, if possible, to reduce the effect of mud in these areas. You can also use a temporary fence to allow certain areas a rest period from your animals.

Genetic choices for a grazing herd

Fertility

Whether it is dairy or beef, fertility is still the driver of profitability for any cattle grazing system. Producers should keep fertility as the main focus when selecting genetics for their herd.

Longevity

The length of time an animal remains profitable in a system maximizes the return on a producer's initial investment. The initial investment can be raising or buying a replacement. Either way, the longer the animal stays in your herd as a profitable member the better.

Feet and legs

Feet and legs are one of the main factors in the longevity of a cow in both grazing and confinement systems. Cattle on pasture walk more than cattle in confinement and the ability of cattle to move is incredibly important in order to eat grass on pasture. Solid feet and legs should keep a cow profitable in your system for a long time.

Supplementing a grazing herd

The decision to supplement cattle on pasture is determined by several factors.

- Current and future pasture availability are the most important factors. If cattle do not have access to adequate pasture then supplementation might be needed.
- If you know pasture will not be available in time for rotation, you can supplement to preserve the current pasture or delay the move.
- Using body condition scoring to determine ideal weights for your cows can give you insight on whether or not feed in addition to pasture is needed.

Author: Joe Armstrong, DVM, and Brad Heins, Extension educators

Reviewed in 2023

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Please scan the above QR code to visit the live webpage for links.

https://extension.umn.edu/pasture-based-dairy/grazing-and-pasture-management-cattle





MISSISSIPPI STATE UNIVERSITY EXTENSION

Extending Knowledge. Changing Lives.

Can I grow all the feed needed for my cattle?

extension.msstate.edu/content/can-i-grow-all-the-feed-needed-for-my-cattle



Yes, if you balance your cattle numbers with the land area you have for growing pasture and hay. This may average 2 to 3 acres per cow - calf unit, but can vary with the land type, forage species, fertility, animal requirements, and other environmental conditions. By using both warm and cool forages for grazing and hay, a balance can be reached with time. Rotational grazing could increase carrying capacity and forage utilization.

PUBLICATIONS

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NEWS



Extreme weather makes winterkill tough to stop

February 6, 2024 STARKVILLE, Miss.



Common Winter Weeds

January 26, 2024 Whether you have a large lawn, field, or pasture, you've probably had to deal with pesky weeds.





Prolonged drought has reduced hay production

October 20, 2023

Mississippi hay growers harvested at least 28 percent less hay this year than usual because of the drought that reached extreme levels in parts of the state. Brett Rushing, Mississippi State University Extension forage agronomist, said hay producers in the state typically get three cuttings a year, and often four if they manage well and the weather cooperates.

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