



BOARD OF COUNTY COMMISSIONERS
FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

In the matter of the application of:

Freeman – AD2025-0133-APL

The Canyon County Board of County Commissioners considers the following:

Case No. AD2025-0133-APL: The applicant, Wes Freeman, represented by Sid Freeman, is APPEALING the Director's Decision that approved a non-viable land division in the "A" Agricultural zone. The appellant requests the Board of County Commissioners overturn the Director's Decision and deny the non-viable land division. The subject property of approximately 2.65 acres is located at the Southeast corner of Hop Rd and Galloway Rd, also referenced as R38456010A, a portion of the NW quarter of Section 25, T5N, R3W, BM, Canyon County, Idaho.

Summary of the Record

1. The record is comprised of the following:

- A. The record includes all testimony, the staff report, exhibits, and documents in Case File AD2025-0133.
- B. The Director's Decision that approved the nonviable land division was signed on July 10, 2026.
- C. An appeal filed by Sid Freeman was submitted on July 27, 2026, pursuant to Canyon County Code §07-05-07.
- D. All exhibits can be found in the case staff report dated September 16, 2026.

Applicable Law

- 1. The following laws and ordinances apply to this decision: Canyon County Code of Ordinances (CCCO) §01-17 (Land Use/Land Division Hearing Procedures), CCCO §07-05 (Notice, Hearing and Appeal Procedures), CCCO §07-02-03 (Definitions), CCCO §07-15 (Director Administrative Decisions), and CCCO §07-18 (Administrative Land Divisions)
 - a. Notice of the public hearing was provided per CCCO §07-05-01.
 - b. Appeal Procedures: (A) Appeals shall be filed with DSD within fifteen (15) calendar days after the date of the decision. A notice of appeal should include a statement of the reasons for the appeal and must be accompanied with all appropriate fees as established by the adopted fee schedule. (B) At the public hearing held in accordance with this article, the board shall consider the decision of the director and any additional evidence that may be offered by the public, applicant, or director. (C) The board may affirm, reverse or modify, in whole or in part, the director's decision. *See* CCCO §07-05-07(2).
- 2. The Board has the authority to exercise powers granted to it by the Idaho Local Land Use and Planning Act ("LLUPA") and can establish its own ordinances regarding land use, including subdivision permits. *See* I.C. §67-6504
- 3. The Board has the authority to hear this case and make its own independent determination. *See* I.C. §67-6519, §67-6504.
- 4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCCO §07-05-03.
- 5. Idaho Code §67-6535(2) requires the following: The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the

rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record. The County's hearing procedures adopted per Idaho Code §67-6534 require that final decisions be in the form of written findings, conclusions, and orders. CCCO 07-05-03(1)(I).

The appeal, AD2025-0133-APL, was presented at a public hearing before the Canyon County Board of County Commissioners on September 16, 2026, and continued to September 30, 2026. Having considered all the written and documentary evidence, the record, the staff report, oral testimony, and other evidence provided, including the conditions of approval and project plans, the Board of County Commissioners decides as follows:

Table 1. Administrative Land Divisions – Application and Process: CCCO §07-18-05

Compliant			County Ordinance and Staff Review	
Yes	No	N/A	Code Section	Analysis
☒	☐	☐	(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)
			<i>Analysis</i>	A complete application was accepted on November 3, 2025. On November 20, 2025, the applicant provided clarification to their letter of intent (Appeal Staff Report Exhibit 2A2.1). On February 23, 2026, the original applicant sold the subject property. The new owner has signed a master application (Appeal Staff Report Exhibit 2A3).
☒	☐	☐	(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.
			<i>Analysis</i>	The subject property does not contain slopes over 15% according to the USGS slope map (Appeal Staff Report Exhibit 2F).
☒	☐	☐	(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.
			<i>Analysis</i>	The subject property complies with the public nuisance ordinance (Chapter 2, Article 1 of the Canyon County Code), the building code (Chapter 6), and the zoning code (Chapter 7). There are no known code violations or previous conditions on the property.
☒	☐	☐	(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.
			<i>Analysis</i>	The City of Notus, Notus School District, Southwest District Health, Caldwell Fire District, State Fire Marshall, Notus-Parma Highway District, CenturyLink, Intermountain Gas, Idaho Power, Ziply, Black Canyon Irrigation District, Canyon County Sheriff, Canyon County Emergency Management Coordinator, Canyon County Paramedics, Farm Service Agency, Canyon County Assessor's Office, Canyon County Building Department, Canyon County Code Enforcement, Canyon County Engineering Department, Canyon County GIS Department, Idaho Department of Water Resources, Idaho Agricultural Aviation Association, and US Department of Agriculture were notified on November 26, 2025. Black Canyon Irrigation District (BCID) submitted a comment stating that the irrigation canal on the east side of the property has a 100-foot easement (50' on

				either side) and there can be no development within said easement. Additionally, the property has water rights amounting to 1 acre associated with it. BCID requests that the applicant complete a land split application and schedule an appointment with the BCID manager to resolve the concerns of the irrigation district, see conditions 5, 5a, 6, 6a, and 6b (Appeal Staff Report Exhibit 2G1). The applicant was sent the BCIDs comment letter on January 23, 2025. Caldwell Fire Department submitted a comment stating they have no concerns with the subject division as long as all access meets the requirements set forth by the 2018 International Fire Code. The proposed properties have an estimated response time of 4 minutes, with the nearest fire station being roughly 2.5 miles away. Caldwell Fire Department requests that the applicant complete an Administrative Land Division application with their department, see conditions 4 and 4a (Appeal Staff Report Exhibit 2G2). The applicant was sent the Caldwell Fire Department's comment letter on January 23, 2025 Notus-Parma Highway District submitted a comment stating that legal access to the subject parcels does not exist for the intended use. Staff has placed condition 3a on this approval, which will require the applicant to obtain legal access to the subject parcels before obtaining a building permit. Access must meet ACCHD Standards, which includes access being placed at a minimum of 330 feet from the intersection of Hop Rd and Galloway Rd, See conditions 3 and 3a. (Appeal Staff Report Exhibit 2G3). The applicant was sent Notus-Parma Highway District's comment letter on January 23, 2025. The remaining agencies did not submit a comment within the 15-day time period.
☒	☐	☐	(5) Pre-approval Decision: the following shall be provided after receiving pre-approval of the site plan from director. A. Record of Survey with metes and bounds descriptions of all lots that shows access from each parcel complies with the requirements of section 07-10-03: of this chapter, and that includes all existing and necessary easements;	Pre-approval of the site plan submitted in the application was granted on January 29, 2026. A record of survey, along with metes and bounds descriptions of all lots showing access in compliance with §07-10-03, was then submitted and recorded under Instrument Number 2026-026385.
☒	☐	☐	(6) Decision: A. If the application meets the requirements of this section, the director may approve the division. The director may attach conditions to the approval if applicable. B. If the request is approved, the director shall issue a letter of approval setting forth the details and requirements of the division.	The application meets the requirements of section 07-18-05 per the above analysis. This document is the letter of approval and includes the details and requirements (conditions) of the division. See the decision on page 6.
☒	☐	☐	(7) Appeal by Affected Person: Any affected person who is aggrieved by the decision may file a written notice of appeal in accordance with section 07-05-07 of this chapter.	Sid Freeman was aggrieved by the decision and filed a written notice of appeal in accordance with section 07-05-07 of this chapter. The appeal was heard by the Board of County Commissioners on September 16, 2026, and continued to a date certain of September 30, 2026.
☒	☐	☐	(8) Required Language on Approvals: Language from the Idaho Right to Farm Act shall appear on administrative land division approvals.	Idaho Code 22-4503: No agricultural operation, agricultural facility or expansion thereof shall be or become a nuisance, private or public, by any changed conditions

			in or about the surrounding nonagricultural activities after it has been in operation for more than one (1) year, when the operation, facility or expansion was not a nuisance at the time it began or was constructed. The provisions of this section shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.
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Table 2. Administrative Division of Nonviable Parcels in an Agricultural Zone: CCCO §07-18-09

Compliant			County Ordinance and Staff Review	
Yes	No	N/A	Code Section	Analysis
☒	☐	☐	(1)	Purpose: The director shall have the authority regarding the division of nonviable land within an "A" (Agricultural) zone, in whole or in part, where the result of the division limits negative impacts to adjacent agricultural uses.
			<i>Analysis</i>	The subject parcel is zoned "A" (Agricultural).
☒	☐	☐	(2)	Minimum Parcel: The proposed parcel created and its remnant shall be at least one (1) acre in size.
			<i>Analysis</i>	The request creates no more than two (2) residential parcels greater than the minimum lot size requirements for each parcel (Appeal Staff Report Exhibit 2A1). Parcel one (1) is approximately 1.415 acres, and parcel two (2) is approximately 1.265 acres.
☒	☐	☐	(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:
			<i>Analysis</i>	A complete application was accepted on November 3, 2025.
☒	☐	☐	(3)A	Evidence demonstrating the land, in whole or in part, is nonviable for agricultural use; and
			<i>Analysis</i>	Per the applicant's letter of intent (Appeal Staff Report Exhibit 2A2 and 2A2.1), property characteristics such as lot size and shape make the property nonviable in whole for agricultural use. The subject property is currently 2.65 acres. This size does not meet the minimum agricultural exemption for the Canyon County Assessor's office. The subject property is long and narrow, with uneven geometry that makes efficient agricultural operations difficult. This evidence is supported by staff research located in sections 07-18-09(3)B and 07-18-09(5)C.
☒	☐	☐	(3)B	Evidence demonstrating the result of the request will minimize potential negative impacts to adjacent agricultural uses.
			<i>Analysis</i>	According to the applicant's site plan, access will be taken directly from Hop Rd. The Notus-Parma Highway District provided a comment stating that access can be allowed off of Hop Rd, it shall be a shared driveway at least 330 feet from the intersection of Hop Rd and Galloway Rd, see conditions 3 and 3a (Appeal Staff Report Exhibit 2G3). Due to the location of the Notus Canal on the East side of the property (Appeal Staff Report Exhibit 2C), Parcel R38456010A is separated from the adjacent agricultural operation and therefore not expected to cause a negative impact to the adjacent agricultural uses. The Black Canyon Irrigation District provided a comment letter on December 1, 2025, which states that the proposed use can't encroach on any easements in place (Appeal Staff Report Exhibit 2G1). Staff has placed conditions 5, 5a, 6, 6a, and 6b, which minimize these potential negative impacts. During notification of the proposed land division, (0) public comments were received.

☒	☐	☐	(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.
			<i>Analysis</i>	Notification of the request was sent to property owners within 600 feet on November 26, 2025. Zero (0) comments were received by the comment deadline. Notification of the request was sent to Notus-Parma Highway District and Caldwell Fire District on November 26, 2025. See the analysis under 07-15-04 for comment summary.
☐	☐	☒	(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:
			<i>Analysis</i>	----
☒	☐	☐	(5A)	The parcel(s) must be eligible for division; and
			<i>Analysis</i>	Parcel R38456010A is eligible for a land division subject to meeting the criteria below.
☒	☐	☐	(5B)	The subject property shall be in compliance with the public nuisance ordinance (chapter 2, article 1 of this code) and the building code (chapter 6 of this code) before the director can approve the application; and
			<i>Analysis</i>	The subject property complies with the public nuisance ordinance (Chapter 2, Article 1 of the Canyon County Code), the building code (Chapter 6), and the zoning code (Chapter 7). There are no known code violations or previous conditions on the property.
☒	☐	☐	(5C)	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
			<i>Analysis</i>	According to the applicant's letter of intent and clarification email, the subject property has an irregular configuration that makes productive agricultural use extremely difficult. Additionally, according to the applicant's clarification email, the subject parcels' shape and size also make productive agricultural use extremely difficult (Appeal Staff Report Exhibit 2A2.1). According to the Canyon County Soil Suitability map, the subject property consists of Moderately-Suited Class IV soils (Appeal Staff Report Exhibit 2E). According to historical Google satellite imagery, the subject parcel has not been farmed since at least 2004 (Appeal Staff Report Exhibit 2D).
☒	☐	☐	(5D)	The division shall not create a negative impact to surrounding agricultural uses. The director may include conditions of approval to mitigate potential negative impacts.
			<i>Analysis</i>	The division is not anticipated to create a negative impact on the surrounding agricultural use. See conditions 5, 5a, 6, 6a, 6b, and 7 for mitigation of potential negative impacts.
☒	☐	☐	(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.
			<i>Analysis</i>	It does not appear that there has been deliberate action to withhold agricultural land from productive use to qualify for a land division, as the subject parcel has been used the same way by previous owners. This is seen in the historic Google Satellite imagery found in Appeal Staff Report Exhibit 2D.
☒	☐	☐	(7)	Decision, Division of Nonviable Parcel: A. If the application meets the requirements of this section, the director may approve the division into fewer than five (5) parcels from the original parcel. The director may attach conditions to the approval which limits the division or use. B. If the request is approved, the director shall issue a letter of approval setting forth the details and requirements of the division. C. The director shall give notice of the decision granting or denying the application, to those previously notified of the pending application
			<i>Analysis</i>	A. It has been determined that the original parcel has been divided twice, resulting in Parcel R38456, R38456010, and R38456010A. This division will be the third from the original parcel, creating a total of 4 parcels from the original parcel. B. This document is the letter of approval and includes the details and requirements (conditions) of the division.
☐	☐	☒	(8)	Appeal by Affected Person: Any affected person who is aggrieved by the decision may file a written notice of appeal in accordance with section 1 of this chapter.
			<i>Analysis</i>	Sid Freeman was aggrieved by the decision and filed a written notice of appeal in accordance with section 07-05-07 of this chapter. The appeal was heard by the Board of County Commissioners on September 16, 2026, and continued to a date certain of September 30, 2026.
☐	☐	☒	(9)	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.
			<i>Analysis</i>	There are no other divisions available for Parcel R38456010A.
☐	☐	☒	(10)	Required Language on Approvals: Language from the Idaho Right To Farm Act shall appear on administrative land division approvals.
			<i>Analysis</i>	See section 07-18-05(8) for language from the Idaho Right To Farm Act.

Order

Based upon the Findings of Fact, Conclusions of Law and Order contained herein, the Board of County Commissioners **denies** the appeal of Case #AD2025-0133-APL, **approving** the nonviable division of parcel R38456010A, subject to the following conditions as enumerated:

Conditions of Approval

1. All development shall comply with all applicable federal, state, and county laws, ordinances, rules, and regulations that pertain to the property. The Idaho Right to Farm Act (Idaho Code §22-4503) applies to this land use decision.
2. Prior to issuing a building permit, Southwest District Health will need to complete an on-site evaluation and septic permit.
3. Prior to issuing a building permit, the development shall comply with the requirements and regulations of Notus-Parma Highway District as evidenced by an approval letter from Notus-Parma Highway District (**Appeal Staff Report Exhibit 2G3**).
 - a. The applicant shall complete an approach permit application with the Notus Parma Highway District prior to building permit submittal (**Appeal Staff Report Exhibit 2G3**). Evidence shall be submitted to the Canyon County Development Services Department.

4. Prior to issuance of a certificate of occupancy, compliance with the International Fire Code is required (**Appeal Staff Report Exhibit 2G2**), as evidenced by review and an approval letter from the Caldwell Fire Department (CCCO §06-01-09(6) and CCCO §07-10-03(2)).
 - a. The applicant shall complete an administrative land division application with the Caldwell Fire Department prior to building permit submittal (**Appeal Staff Report Exhibit 2G2**). Evidence shall be submitted to the Canyon County Development Services Department.
5. Historic irrigation lateral, drain, ditch flow patterns, and associated easements shall be maintained and protected unless approved in writing by the local irrigation district or ditch company.
 - a. Development shall not encroach on the Black Canyon Irrigation District easement located on the East property line of Parcel R38456010A. (**Appeal Staff Report Exhibit 2G1**).
6. The applicant shall comply with all conditions set forth by the Black Canyon Irrigation District (**Appeal Staff Report Exhibit 2G1**).
 - a. The applicant shall complete a lot split application with the Black Canyon Irrigation District prior to building permit submittal (**Appeal Staff Report Exhibit 2G1**). Evidence shall be submitted to the Canyon County Development Services Department.
 - b. The applicant shall complete a meeting with the Black Canyon Irrigation District Manager prior to building permit submittal (**Appeal Staff Report Exhibit 2G1**). Evidence shall be submitted to the Canyon County Development Services Department.
7. Secondary Residences (CCCO §07-10-27 & §07-14-25) are prohibited on Parcels 1 and 2 as referenced in the Record of Survey (Instrument Number 2026-026385).
8. The construction of driveways and private roads longer than one hundred fifty feet (150') from a public street right-of-way to the most distant portion of an inhabited building and private roads must be approved in writing by the applicable fire district.
9. Prior to building permit issuance, a recorded road user's maintenance agreement and recorded perpetual easements for ingress/egress shall be submitted to DSD in accordance with CCCO §07-10-03(1)B3.

DATED this 22nd day of October, 2026.

CANYON COUNTY BOARD OF COMMISSIONERS

☒ Motion Carried Unanimously
☐ Motion Carried/Split Vote Below
☐ Motion Defeated/Split Vote Below

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

Attest: Jess Urresti, Clerk

By: J. Ross
Deputy

Date: 10.22.26