

**Board of County Commissioners**  
**Hoagland – AD2023-0110-APL**

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**Decision on Request for Reconsideration**

Request received from Samuel Parry on behalf of Cleon and Patti Hoagland on September 16, 2024.

**Summary of the Record**

1. The record for this request is comprised of the following:
  - A. Testimony and evidence offered at the hearings before the Canyon County Board of County Commissioners (“Board”) including the staff report and exhibits entered into the record. Audio records of the hearings have been made and preserved.
  - B. Finding of Fact, Conclusions of Law and Order issued September 3, 2024.
  - C. Request for reconsideration filed by Samuel Parry on behalf of Cleon and Patti Hoagland on September 16, 2024.

**Applicable County Ordinances**

1. The following laws and ordinances apply to this decision: Canyon County Code §01-17 (Land Use/Land Division Hearing Procedures), ), Canyon County Code §07-02 (Definitions), Canyon County Code §07-05 (Notice, Hearing and Appeal Procedures), Canyon County Code §07-05-07 (Appeal of Director Administrative Decision), and Canyon County Code §07-18-09 (Administrative Decision of Nonviable Parcels in an Agricultural Zone).
2. The Board can sustain, modify or reject the Director’s recommendations. *See* CCC 07-05-07(2).

3. The Board shall answer the following questions in evaluating an appeal of an Administrative Decision of Nonviable Parcels in an Agricultural Zone: a) The parcel(s) must be eligible for division; and b) The subject property shall be in compliance with the public nuisance ordinance and the building code; and 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 d) The division shall not create a negative impact to surrounding agricultural uses. The Board may include conditions of approval to mitigate potential negative impacts. CCC 07-18-09(5).
4. The burden of persuasion is upon the applicant to prove that all criteria are satisfied. CCC 07-18-09(6).

### **Request for Reconsideration**

Parry on behalf of the property owners filed a September 16, 2024 request for reconsideration asking the Board to reconsider findings made by the Board in its written decision. Parry asserts the written findings did not use the applicable standard, did not resolve disputed facts and that the written decision did not capture the Board's oral deliberation. In considering this request, the Board reviewed its written findings and the testimony and evidence in the existing records.

In again reviewing the written decision and record, it is clear that during the hearing the Board understood the appellant's arguments and the evidence offered; however, the Board did not correctly cite the applicable standard from its ordinance in its written decision. The standard for the appellant's application is in Canyon County Code §07-18-09 (5). The "Viable Farmland" definition cited does not contain the decision criteria. There is no dispute that the appellant has met parts A (eligibility for division) and B (compliance with nuisance and building codes). Criteria C and D were in dispute at the Board's hearing.

In this review, the Board did not find a compelling basis to alter its ultimate conclusion on the application; however, the Board will provide a written evaluation of the 07-18-09 (5) C and D criteria here to supplement its initial written.

***Canyon County Code §07-18-09 (5) (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.***

In their application, the appellants seek to administratively divide three parcels of approximately 70 acres total to create 8 lots where a residential dwelling could be permitted. The parcels are R28146010 ("Parcel A"), R28146010D ("Parcel B"), and R28279010 ("Parcel C"). Parcel B is

currently designated as “agricultural only” following a 2021 administrative division to permit a buildable lot.

The appellant supports its argument that the collective parcels meet this standard with testimony and written statements from the Hoagland family that document their first-hand experiences and difficulties in farming the parcels; the opinion on the property from a longtime area farmer; and the opinion of Jerry Neufeld a longtime area crop educator. Neufeld concluded that, in his professional opinion, the property has “site constraints and resource issues that make the viability of his farming [Hoagland’s] farming operation extremely difficult.” Neufeld cites poor soil condition and limited water allocation based on the land’s place on the end of an irrigation lateral as the basis for his opinion. There are also statements in Neufeld’s reporting and statements that contradict this criterion. For instance, Neufeld also indicated that low yield may be attributed to other non-site-specific factors like methods of water application.

A number of neighboring property owners oppose the division. The neighbors cite their observations, some over decades, of the property in agricultural production and their own agricultural successes on what the view as similarly situated land. It’s uncontested that the property has maintained an active agricultural tax exemption and some level of agricultural production historically. It is also uncontested that the property is irrigated.

The appellants seek to divide these 70 acres at one time, or a whole, and largely speak in generalities about the condition of the 70 acres. Based on the letter of intent, if granted, the size of lots would be significant acreages where some agricultural use would continue. The Board in its deliberations and initial written decision advised the applicant to consider applying, as an alternative, where portions of the land can be looked at individually. This is because the appellant’s site-specific concerns are attributed specifically to some areas and thus excludes others (see the Hoagland declarations). As noted elsewhere, the burden of persuasion is on the applicant to demonstrate that this criterion is met.

The applicant has articulated soil and irrigations concerns as the “site constraints and/or resource issues.” Because this application is for a 70-acre area and much of the constraint and resource information is very area specific and cannot be applied generally, the Board does not find that that appellant has shown site constraints and/or resource issues that make productive agricultural use extremely difficult to the whole.

The evidence overwhelmingly shows, based on the Hoagland’s’ and their neighbors’ testimony, that the parcels have been in active agricultural production historically and that the appellant intends some agricultural use to continue. The Board does not interpret “make productive agricultural use extremely difficult” to require a specific economic or yield threshold as the expectation of a property owner can vary widely. Instead, the Board finds that the historic and continual use of the land for agricultural production is sufficient to demonstrate the contrary.

The appellant has not demonstrated that the parcels, in whole or in part, consist of land with site constraints and/or resource issues that make productive agricultural use extremely difficult.

*Canyon County Code §07-18-09 (5) (d) The division shall not create a negative impact to surrounding agricultural uses.*

Upon review of the record, we cannot find that the appellant met this criterion. The appellant bears the burden of persuasion here. The appellants' plan is more akin to a rural residential subdivision than a simple agricultural home-site division. Residential uses often create impacts on agricultural use such as aerial spraying, irrigation distribution or impact agricultural vehicles traffic patterns. The appellant has not shown where the appellant would place new structures. For this reason, we cannot determine if the divisions would create a negative impact.


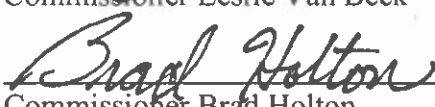
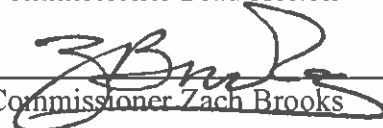
### **Conclusion and Order**

The Board of County Commissioners does hereby **amend** its written Findings of Fact, Conclusions of Law, and Order of Case No. AD2023-0110-APL to incorporate the decision above for the reasons stated. The Board of County Commissioners does hereby further **affirm** its **amended** written Findings of Fact, Conclusions of Law, and Order of Case No. AD2023-0110-APL.

DATED this 14th day of November, 2024.

CANYON COUNTY BOARD OF COMMISSIONERS

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

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

ATTEST: RICK HOGABOAM, CLERK

By:   
\_\_\_\_\_  
Deputy Clerk