

Speaker 1 ([00:00:00](#)):

Here we go. Okay, good afternoon. I'm Chairman Brad Holton. I'm gonna bring the meeting to order. This is a continuation of a , , land use hearing on AD2025-0020-APL. , We met on August 20th and , , we didn't get clear through what we needed to get through. Is there anyone in the gallery who hasn't attended a land use hearing before? Okay. So we're gonna assume that you know the rules and I'll , , call you to order if you don't. , Has everyone who has come into the gallery who wants to speak to this board, have you signed up on the sign-up sheet to, to testify? Okay. I'll take that as a yes. All right. So with that, let's have Arbai , , from DSD staff , , review where we've been and, and where we find ourselves here today. Oh, we should, yeah, procedurally let. I'm sorry, Arbai.

([00:01:06](#)):

Let's go ahead and have , , Jennin si - swear you in , , under oath then for those who wanna testify. Thank you.

Speaker 2 ([00:01:15](#)):

Josh Johnson, Arbai and Tony Almeida, TJ Willard, Alan Mills, Matt Wilkie. Okay, everybody raise your right hand. Do you swear or affirm that the testimony you give will be the truth, the whole truth, nothing but the truth, so help you

Speaker 3 ([00:01:26](#)):

God?

Speaker 2 ([00:01:27](#)):

I do.

Speaker 1 ([00:01:27](#)):

Thank you. Okay. Thank you. Thanks for interrupting. Now, Arbai, you can try it again. All right.

Speaker 4 ([00:01:34](#)):

All right. Good afternoon, everybody. So my name's Arbai. I'll be presenting the Arnzen appeal case number AD2025 - 0020 - APL. For some background on the case, the applicant submitted an administrative land division application to divide parcel R37724, the subject property, with an easement reduction from 60 feet down to 28 feet wide and a private road application. Today, we'll be talking about the land division and the easement reduction. According to the applicant, the subject parcel contains three original parcels, each with a land division available as seen in exhibit 2F of the staff report. Based on property history completed on the parcel, the subject property contains two original parcels per exhibit 2E of the staff report. Due to the requested number of divisions exceeding the divisions the property is entitled to via the administrative land division, the request was denied and the applicant submitted an appeal. The appeal was heard on August 20th, 2026, where public testimony was heard.

([00:02:39](#)):

The discussion was mainly regarding land divisions with a brief mention of the easement reduction. During that hearing, the applicant testified that there are previous decisions that were made due to alaquat parts in the past, so the board directed the applicant to provide evidence of those past cases and tabled the case to today, September 15th, 2026. Public testimony is still open. The appellant

submitted his evidence of those past decisions made based on aliquot parts as seen in exhibit one of the addendum. Further details regarding how the cases supported aliquot divisions was not provided prior to the materials deadline. Staff reviewed the cases and found a majority of the cases were original parcels and were able to be divided through the administrative land division process. You can see the ad- addendum and the analysis there in exhibit 2H for the original parcels in the plat books. Case AD2020 - 0096 and PI2020 - 0226 are the only two cases that explicitly state aliquot parts.

(00:03:42):

It was clearly stated by the board that PI2020 - 0226 does not set a precedent for aliquot parts in regards to the Petter case. AD 2020 - 0096 is the one case out of the 15 provided that was determined to be two 40 acre aliquot parts rather than one 80 acre parcel as the legal description in the plat map describes. In some of the cases, additional land divisions were obtained via building permit relocation or non-viable land division, which the applicant was provided as an option to divide the subject parcel further but was not interested in. There is not an overwhelming support of aliquot land divisions occurring.

(00:04:23):

A deed must include a complete legal description to be deemed a separate parcel. The cases that were provided as evidence for supporting aliquot parts may be aliquot sections. However, the parcels were divided due to the fact that it met the original parcel and parcel definition so that it could have been divided. You can see the property history of the cases in exhibit one. The decision was not directly made due to aliquot parts. So for example, if there's a deed that states the southeast quarter of the northwest quarter, that is an aliquot part of approximately 40 acres, but it does not detail where that is located. That legal description can be anywhere, hence why a full complete legal description is needed outlining the section, township and range. In exhibit 2G, the legal description outlines one singular parcel due to the section, township, and range listed once, not twice separating out that aliquot part as its own separate original parcel.

(00:05:21):

As staff, we cannot assume aliquot parts are separate parcels if it's not described as such in the legal description. There was discussion in the August 20th hearing regarding the Bureau of Land Management manual. The county has jurisdiction over the subdivision and land division code, and it's not necessarily has to be consistent with BLM. , During the appellant's closing testimony regarding the aliquot parts, the appellant had stated the code is. Aliquot parts is A40, so you couldn't. And it wouldn't be just how it's described on the deed. So if you have a half of a quarter-quarter in the deed, I would say yes, that's an aliquot part, but every half of a quarter-quarter is not an aliquot part because every deed doesn't describe it that way. Chairman Holton raised the concern of where do aliquot parts end? And the appellant responded that it would not go on for infinite section saying, "Well, that's not the case because you go back to what the deed says and later states it's based on what the description of the deed is," which is what staff- staff is arguing today.

(00:06:22):

The deed must be analyzed on how it's described so there is consistency rather than guesswork or see how, who got fortunate in how the legal description was written. The aliquot part is not described separately in the legal description, therefore not its own separate original parcel that can be divided further. So on screen is that 2023 legal description of the property. The whole deed can be seen in exhibit 2G of the addendum. So if we analyze the legal description to see how it's described, it reads, "The part of the government lot two lying east of a natural drain, which is outlined in green, believe all parties agree that it's a separate original parcel due to its status of being a government lot." Then the

legal description continues on with the southeast quarter of the northwest quarter and all that part of the northeast quarter of the southwest quarter lying east of a natural drain ditch.

(00:07:12):

I wanna highlight that it's described together then ends with all in section seven, township five north, range three west and so on. Based on the parcel configuration and the. Excuse me. Based on the parcel definition in Canyon County Code, it shall be considered as one parcel. Staff recommends the Board of County Commissioners deny the appeal upholding the director's decision. I will now stand for any questions. Thank you.

Speaker 5 (00:07:48):

Questions? I don't have any questions. I appreciate the thoroughness and your, , analysis today from staff's perspective. It's a difficult subject and you did an amazing job.

Speaker 6 (00:08:00):

Questions? I don't know, Mr. Truman.

Speaker 1 (00:08:03):

Okay. Neither do I. So, , if it pleases the commission, is it all right if we just go to public testimony?

Speaker 3 (00:08:11):

Mm-Hmm. Okay.

Speaker 1 (00:08:19):

Do we want the representative to start again? 'Cause To me, the discussion was left at the representative. He was up for rebuttal and this came up to let's have more evidence, so he's provided the evidence to me. I understand that I would be in the procedure of having public testimony follow this at the start of this hearing. Laura, do you see it differently?

Speaker 5 (00:08:49):

No, I don't. So Chairman, just for clarification, are you asking the applicant to provide testimony limited to what we requested he provide for this hearing, meaning that would limit it really to, , case AD2020 - 0096, that's the only qualifier that this was based on out of the 15 that staff analyzed.

Speaker 7 (00:09:19):

I don't, I don't know how you make that determination when that is staff's opinion. That's not necessarily the applicant's opinion. So go ahead. I'm sorry. No, I'm ju - I'm curious if we're basically starting over from scratch as far as testimony is concerned.

Speaker 1 (00:09:39):

No, I, I'm not starting scratch as far as testimony is concerned. We, we did last hearing and we stopped it at, , the challenge of to bring evidence of, to substantiate his, , position. And so that evidence is presented. The public has had opportunity to review that evidence. So now I wanna finish with public testimony about that evidence and then, , the applicant can come back up and do his rebuttal after, after that.

Speaker 7 ([00:10:16](#)):

Then I think the applicant needs to have, be afforded the opportunity to speak about the evidence they brought forward.

Speaker 1 ([00:10:22](#)):

Do you want that first? Do you want the applicant to speak

Speaker 7 ([00:10:27](#)):

First? Yeah. Yeah, because staff just gave their opinion of it, so.

Speaker 1 ([00:10:31](#)):

Okay.

Speaker 8 ([00:10:32](#)):

Procedurally.

Speaker 1 ([00:10:33](#)):

I will follow that. Thank you. All right. TJ or your representative may come forward.

Speaker 9 ([00:10:47](#)):

Thank you, Mr. Chair. TJ Willard, 17842 Sandhol Road, Caldwell, 83607. I appreciate you giving me the opportunity to talk about the evidence I submitted because staff has completely missed the mark on it. , And I don't know how much time you wanna spend on this, but I will go through every single one of these applications that I submitted because the very first one, AD2015-6, if you go to page five of the addendum, exhibit 1A, in the first, , second paragraph, first sentence, parcel.

Speaker 7 ([00:11:26](#)):

Hold on a second. Where, where at?

Speaker 9 ([00:11:30](#)):

In the exhibits, 1A. Okay.

Speaker 5 ([00:11:32](#)):

2015 - 6.

Speaker 7 ([00:11:34](#)):

But which

Speaker 9 ([00:11:34](#)):

Paragraph?

Speaker 7 ([00:11:34](#)):

Sorry.

Speaker 9 ([00:11:35](#)):

The second paragraph in the decision.

Speaker 7 ([00:11:39](#)):

Okay. Thank you.

Speaker 9 ([00:11:40](#)):

It says parcel R28198010 is currently 80.493 acre parcel comprised of two original 40 acre parcels dated 1967 on the old maps. So this is a 80 acre parcel that was described as 240s. This decision is based on two 40s, not 180 because that's how they're described in the deed. So that is example number one. The aloquent parts were separately described and identified as original parcels. Is there any questions about that? Because that, that is the case in point, is that when they're described as individual adequate parts, they were ta - they were taxed as one parcel, but they were described in the deed as two adequate parts. Do you want me to go on?

Speaker 5 ([00:12:35](#)):

Chairman? And TJ, thank you for bringing the information forward that you did. This is what you do every day, and I know that the people that you have here that will probably provide testimony are well versed in this as well, but I need you to walk through, like, I'm looking at this paragraph. I see two 40 acre parcels, so that's what we all see. It was 80 that was broken out. I see a government lot referenced. Help me understand and where I see the aloquate language in there. Help me with that.

Speaker 9 ([00:13:19](#)):

Through the chair, if we go to the next page of that exhibit, you'll see that part of the administrative land division is the division of each of those aloquent parts. So you have the first, there was a property boundary adjustment between parcels, and then the administrative land division of the southwest quarter, the northwest quarter of that same parcel number. Then the next administrative land division is of the southeast quarter, the northwest quarter of that exact same parcel. So those are two adequate part 40s that are identified as original parcels. You can't do an administrative land division if those aren't identified as original parcels.

Speaker 5 ([00:13:53](#)):

Okay. And I'm looking for places where we agree, and I can see that there's been a division that's an administrative process, and I'm still looking. Like where does it say that this is an adloquate part?

Speaker 9 ([00:14:08](#)):

The southwest quarter of the northwest quarter is an adloquate part. That's what an adloquate part is. It's a quarter-quarter of a section.

Speaker 5 ([00:14:18](#)):

Okay. Thank you.

Speaker 9 ([00:14:21](#)):

And then same on the one below it, the southeast quarter of the northwest quarter. I- if you want, we can go to one of the exhibits that have the entire map of a section that breaks down the eloquent parts and that's how they're. That's how you define them, is that label.

Speaker 1 ([00:14:39](#)):

TG, that might be most helpful.

Speaker 9 ([00:14:43](#)):

Now you want me to go through, back through 600 pages of the other -

Speaker 5 ([00:14:46](#)):

Yes.

Speaker 9 ([00:14:47](#)):

To point to where the map is. I think I have a printout of it that I might have the exhibit number. It doesn't have the exhibit number on it, but this is what I'm referring to, so if we can find that in the staff report.

Speaker 1 ([00:15:14](#)):

Well, I seen it in there when I was

Speaker 9 ([00:15:16](#)):

Going through - Is it B1. Document. B14 or B14? Sorry, I didn't wanna kill a bunch of trees and print all these off.

Speaker 5 ([00:15:35](#)):

No, you're good.

Speaker 4 ([00:15:42](#)):

Is it B14?

Speaker 9 ([00:15:45](#)):

I believe so. It says it's my exhibit. It's from my notes.

Speaker 6 ([00:15:59](#)):

Is that after the Idaho State Constitution part?

Speaker 9 ([00:16:04](#)):

I think it's that number eight down there, actually.

Speaker 8 ([00:16:07](#)):

Okay.

Speaker 9 ([00:16:08](#)):

I think I have it on there. Oh, I don't have it labeled on there. You want me to go to the board and explain to you how these are described?

Speaker 1 ([00:16:32](#)):

Would that be helpful?

Speaker 9 ([00:16:33](#)):

I ha - I have it on this sheet, but I don't know if you wanna enter this as a separate exhibit.

Speaker 1 ([00:16:40](#)):

No, let's just go to the board and that'd be fine.

Speaker 9 ([00:16:45](#)):

So this is, this is section seven, right? So when sections are divided, they're vi - divided into adequate parts. So they split these lines and then make these intersecting lines. So this quarter would be the northeast quarter, okay? And that quarter's broken down again into quarters, so that's where you get the quarter quarter. So this would be the northeast quarter of the northeast quarter. This down here would be the southeast quarter of the southeast quarter. And so you can do that in each one of these, and that gets you to your eloquent part.

Speaker 5 ([00:17:18](#)):

Okay.

Speaker 9 ([00:17:18](#)):

Does that make sense?

Speaker 5 ([00:17:20](#)):

Yes, it helps. Thank you.

Speaker 9 ([00:17:22](#)):

So if you. Do you want me to point that out looking at the example of that first decision? So the first one is the southwest of the northwest. So that would be what's labeled here as two, but that these are government lots, but that would be the southwest of the northwest. And then the other one's the southeast of the northwest, so it'd be that one. So in this, in exhibit, I think it's 1A, it'd be these two that are aloquate parts. So my. I, I guess the whole point of me submitting these was to prove that decisions are. These decisions have been made. This, this new interpretation didn't take place until the last few years. And Arbe doesn't know because she's only been here that long. Like, she's only known this one method. And this occurred through Commissioner Smith, , supposedly instructing development service staff to use this 2001 memo again.

([00:18:43](#)):

And so that's when the change occurred. So we can go through every single one of these and I can explain to you, just like this one says, that these are eloquent parts that are individually identified that had administrative land divisions on. Why weren't they combined then? They weren't. And that's, that's

what the evidence I was told to provide is, do you have previous decisions where this wasn't occurring? And I mean, there's no way to track administrative land divisions through GIS or anything like that. So this is just stuff that I remembered. Like these are cases that I remembered that I came up with. DSD was not helpful in that. , I provided the case numbers to them and they provided the documents to you. But this is. I mean, we can go through, we can go through each one if you want to, but this is what you asked for and this is what has been occurring up until about 2021.

(00:19:41):

So I don't, I don't know where you want me to go from here. If you wanna go through every single one, they're all the same and s- staff's review of these cases, she says there's like building transf- transfers. Well, that's because they came from other parcels that were adequate parts. So you're transferring those from an adloquate part, but it's not part of the, part of the decision because you're not actually doing the administrative land division on those parcels. You're doing it on another piece that maybe was a government lot. And that's what some of those cases are. So, I mean, give me direction on what more you want from me because I, I provide you what has happened. And I have additional exhibits that I didn't get in time that I can give you as well, that parcel inquiries that specifically say that these are two separate aloquate parts.

(00:20:32):

And for them to now say, "Well, it has to be complete description." Well, define what a complete description is because the government law isn't a complete description. It doesn't have government lot one, township range and section, and then do the adequate parts. So it's, it's very arbitrary what they're doing, combining the adequate parts, but no other parts of the description. And there's an example deed that I gave, , in the exhibits as well that kind of explains the ridiculousness of this memo and the method that they're using currently is it has like 14 different parcels, and then the variant says township section range, and it's hundreds of acres. So they would look at that and they say, "That's not a complete description. That's one original parcel. That 1200 acres is one original parcel." It's, it's just, it's ludicrous. So, I mean, I, I provided the information.

(00:21:38):

If you want me to go through them, we can go through every single one of them. I can show you that they were based on eloquent part descriptions.

Speaker 5 (00:21:47):

Chairman? Yes. TJ, we had a great time last time you were here, and it was helpful in clearing up some information. So I'm going to say this back because people listening, I think it's fair that people understand, especially this board, if we're making policy decisions on how land divisions are applied. So what you're showing us here, and let's just go step by step, this is a one by one, by one, mile, mile, mile, mile. And within that, each quarter section contains four of those squares. Okay. An aloquate. And that's an adloquate part.

Speaker 9 (00:22:28):

So an aloquate part can be a quarter quarter. Our code defines an adequate part as a quarter quarter, but we also look at halves and just quarters as adequate parts. I mean, they're, they're all adequate parts, but. So

Speaker 5 (00:22:43):

That's where the chairman asked the question last time, how, when do we stop dividing adloquate parts? Because once we section off any part of this one square mile, it, it's a part of an adloquate part.

Speaker 9 ([00:23:03](#)):

So it's already stopped. It stopped in 1979. We can't change the, we can't change the way the property was described in 1979. So that's where it stops. It's, you're looking at the date where originality occurs and what the deed says at that time is what it is. Like, you can't divide those further. And I, I think that's what the fear was, was, well, how far can you make these small? Well, you can't. Like the deed, the deed says what it is. So if it's a quarter quarter, then that's what it is. If it's a half, then that's what it is. If it's a quarter, then that's what it is. Like, you can't divide that further because the deed is only saying that. And so additionally, what I submitted is when this first came up, it was like, "Well, this is confusing." Well, it's not confusing.

([00:23:49](#)):

They're making it confusing on purpose. We submitted a new definition for original parcel and nothing came of it. So their, their claim that this is unclear, it, to me, was just lip service because we offered something to clarify what they thought was unclear and they just threw it in the garbage.

Speaker 5 ([00:24:14](#)):

State for the record what the difference between an adloquate part that we're talking about and a government lot is.

Speaker 9 ([00:24:23](#)):

So government lots are created by running into a irregular boundary. So in some cases, you have rivers, lakes, and those will create government lots because they can't be adloquate anymore, aloquate being equal. So when you run into irregular boundary, it's no longer equal. So government lot is just created. It's still based on the subdivision of sections, but it's no longer equal to all the others because it has a regular boundary. So in a township, you have government lots along the north, you can have government lots along the north and the west boundary of the township because of the curvature of the earth. So as you go further north, lines get closer together. So that's the reason for government lots is irregular boundaries, so they're, they're no longer aloquate 40s. So a government lot and eloquent part are essentially the same thing other than the regular boundary makes them not equal to the others because they can be smaller or bigger than 40 acres.

([00:25:22](#)):

And

Speaker 5 ([00:25:24](#)):

The legal description on a government lot and, , by 1979 is what determines either the government lot or the adloquate part on that?

Speaker 9 ([00:25:34](#)):

Yes.

Speaker 5 ([00:25:35](#)):

Okay.

Speaker 9 ([00:25:35](#)):

So we. If it says government lot one and the southeast quarter of the northeast quarter township section range, those are both the same identif - you'd identify them the same way. It's just a different way to describe it because the one's not adloquate.

Speaker 5 ([00:25:54](#)):

Thank you.

Speaker 9 ([00:25:55](#)):

But it's the same system.

Speaker 5 ([00:25:57](#)):

Okay. Thank you.

Speaker 1 ([00:26:28](#)):

So the sentence you refer to, the first sentence, the parcel is currently an 80.493 acre parcel comprised of two original 40 acre parcels. So if. Laura, help me out. I'm reading this and we're describing it orig - we're describing an 80.493 as a parcel. Then we start the conversation of comprised of, and they still have 0.493 for my brain to deal with. It's not a complete picture because the parcel that you're dealing with is 80.493 acre parcel. It can be described partially as two 40 acre parcels, but you still have the 0.493 somewhere.

Speaker 9 ([00:27:31](#)):

M- Mr. Chairman, so the world isn't flat.

Speaker 1 ([00:27:36](#)):

Oh, I

Speaker 9 ([00:27:36](#)):

Agree.

Speaker 1 ([00:27:37](#)):

I agree. I, I -

Speaker 9 ([00:27:37](#)):

So when you have, when you have an adequate part, they're, they're called 40s, but none of them are ever exactly 40 acres. Okay. So when it, when it says a parcel that's 80.043 or whatever it is - Yeah. They're, based on their mapping, they're, they have to, , assess an acreage. So they're, based on their mapping the GLO maps, how they've got their cadastral mapping done, it's coming up to 80.43 or whatever it is, but it's two adequate parts. Whether those are exactly 40 acres is kinda not relevant because every adequate part isn't exactly 40 acres. It's just a term that's thrown around based on a perfect theoretical world.

Speaker 1 ([00:28:26](#)):

Okay. If everything was flat.

Speaker 9 ([00:28:28](#)):

Yeah.

Speaker 7 ([00:28:30](#)):

Mr. Chairman?

Speaker 1 ([00:28:31](#)):

Yes.

Speaker 7 ([00:28:32](#)):

Is this being referred to by parcel number that's 80.493 acres? Is it, is, because it's being taxed as one 80 acre parcel, but it's actually two 40 acre original parcels?

Speaker 9 ([00:28:48](#)):

Correct. The, the tax parcel identifies both original parcels as one piece. And there's also additional examples in here if we wanna go and, and search through them. There's. It goes both ways. Like they taxed them individually, they have individual tax parcel numbers, and they've combined them. And we talked about that last time was why, why did the assessor do that? And I've never gotten an answer. , And that's why we look at the deed and not what the assessor's done because it goes to what staff said. Well, who's, who's the beneficiary of what the assessor was doing at that time and how they identified it? And I have examples of the opposite in here where they identified the adequate parts individually as tax, tax parcels.

Speaker 5 ([00:29:42](#)):

Chairman, can I ask a question? So inquiring minds wanna know, let's say that what's left over on this imperfect world is that 0.493, which is almost half an acre. Are you saying that that could theoretically be classified as an original parcel? Like if you have the 240 acres, is that leftover remnant gonna be an original parcel?

Speaker 9 ([00:30:05](#)):

Through the chair, no, that's, that's not the case because those eloquent parts, whatever acreage they are, they don't have to add up to that. Like they both might be 40.215 or one might be a little bit bigger depending on how the breakdown of the section goes. So one could be less, one could be more. You're not gonna, there's not that excess acreage. The, those two alquate parts make up that entire acreage no matter what it is.

Speaker 5 ([00:30:32](#)):

Okay. Thank you. Because I'm trying to still get to the question, are we going to have people arguing for that little scrap of land to be theoretically who put, could put a house on half acre if it was that little scrappy piece?

Speaker 9 ([00:30:46](#)):

No, and if you ever look at it, , a warranty deed, title companies won't insure acreage because it's an uncertain thing. Like especially with eloquent parts, government lots, that kind of, that type of stuff. They don't want to insure something that they can't guarantee.

Speaker 8 ([00:31:03](#)):

Okay. So

Speaker 9 ([00:31:04](#)):

You're not going to have something happen because your tax parcel says 80.0, 80.4 and it's 80.6, but it's still those two aliquot parts. Those, those, in the description, it's those two eloquent parts and there's nothing left. So you don't go outside the deed from 1979 on how they're described. The, the acreage is really irrelevant.

Speaker 5 ([00:31:29](#)):

Okay. Chairman, can I ask another question?

Speaker 8 ([00:31:31](#)):

Yes.

Speaker 5 ([00:31:33](#)):

Do, on a fractured aliquot part where you're talking about a natural land division like a, a creek or something that splits that, it's, you're saying that a quarter section of a quarter section is determined and can be split off because that exists and that's, is that true every time and is, are there other exceptions?

Speaker 9 ([00:32:01](#)):

So that would be based on how it existed when the original survey was done. That's how the government lots are created. So like if you have the Boise River, for example, you have them run up to the river and because you can't survey across its public domain, they would, they would stop and that would be a government lot. And so when they start on the north side of the river, that would be a government lot. But you're not, so yes, an aliquot would be divided, but not necessarily because the river would probably take up more than, because they didn't want to make, , government lots too small. So you won't see them like super tiny. So if there was like a little piece of an eloquent part that was above, you have this government lot, but that would be combined into the next eloquent part and be called a government lot because it has greater than 40 acres.

([00:32:46](#)):

Does that make sense? Like you're not, you're not creating new parts. It's, it's already created by original surveys with government lots.

Speaker 5 ([00:32:55](#)):

So I'm going to say that back to you. If there's a remnant of a parcel that's created because of a topographical something, that portion gets absorbed into the next original parcel, which could create that variance in the amount of the acreage, but it's that section of it is a government lot next to an aliquot part.

Speaker 9 ([00:33:23](#)):

Yeah. But now you're getting into the original survey rather, you're kind of getting away from what the deed said. So after the original survey's done, you're no longer creating government lots. Like you can't, you can't split them up, , and create new government lots.

Speaker 5 ([00:33:43](#)):

And, and I wanna give, I guess, validity to what you're saying. There is on Canada Road, I think past Eustic, there's a number of housing units. I don't know if it's the Phyllis Canal that separates that, but those lots are oddly shaped and they do have houses with direct access onto a main thoroughfare, but there are probably pieces that were split by that canal that are government lots rather than a hole that they sold. I don't know.

Speaker 9 ([00:34:14](#)):

No, not something like that. That, that is just done by people. Like canals, canals weren't taken into account by the original survey. Okay. So they aren't government lots. They, I mean, you can split property like that. Let's say you have a, a quarter, quarter section and the canal goes through it, you can say lying north of the canal and lying south of the canal, that adequate part. But the GLO original survey wouldn't do that.

Speaker 8 ([00:34:37](#)):

Okay.

Speaker 9 ([00:34:38](#)):

I mean, it's kind of like our description lying east of the drain. Like it's the same, same deal. Like so they, they split their adequate parts based on a drain going through it, but that, it wasn't done as part of the original survey. You know, I can see that as an adequate part description. That would, that's just a description they would've came up with because it was easy to do.

Speaker 5 ([00:35:02](#)):

Yeah. So Chairman, can I ask another question?

Speaker 8 ([00:35:06](#)):

Yes.

Speaker 5 ([00:35:07](#)):

So in the planning, and obviously, I mean, you're heavily referenced because these are cases that you worked on throughout here, but in a planning world, explain for the board and development services how the government agency functions to do long range planning that's organized, that's part of our comprehensive plan that is orderly and it makes sense, all that. And so if we have these little split off pieces, how, and those are all granted, how do we account for, I guess just, that's my question as a commissioner, whether it's me or somebody that comes behind me, help me understand how we work together in planning to, I guess, facilitate the request for parcels that are asked for today in a, that are in addition to an administrative with this interpretation as opposed to just planning. How, what does that look like for you?

Speaker 9 ([00:36:14](#)):

Through the chair, I, I, I don't know how it affects the appeal of this case because these are entitlements. This isn't, this isn't land use. Like these are entitlements. These are things that the property are already supposed to have available. So I, I don't know that I can address that question because I don't think the comprehensive plan applies to something that's already available.

Speaker 5 ([00:36:40](#)):

And, and today that's what we're talking about is the interpretation of that. But do you see that as problematic with more administrative land divisions applied to a parcel in terms of roads because this has a variance request? Like I'm just trying to figure out as the county does grow and people find their way into places and corners in the county. It's like, wow, was this planned? It doesn't look planned when there's more. I'm, I'm not saying it's bad. I'm just saying how, how do we make a community that is laid out well, that looks like it's been intentionally planned and still preserves the property rights for people?

Speaker 9 ([00:37:26](#)):

I, I don't even know how to address that question because it has nothing to do with the appeal, has nothing to do with the case, and it's kind of theoretical. .

Speaker 5 ([00:37:43](#)):

Chairman?

Speaker 1 ([00:37:44](#)):

Yes.

Speaker 5 ([00:37:45](#)):

Do you care if Josh jumps in? He had his hand up.

Speaker 6 ([00:37:50](#)):

Sure. , I'm gonna agree with Mr. Wellard here on this point because when you're talking about the comp plan and this big overarching kind of look and feel of the county, consider it like this. If the comp plan comes along and says, "We don't want subdivisions in X area, but there's already one there, we don't go rip the houses out of the ground." And I think your point Mr. Wellard is making is the appeal before you is staff get it wrong in saying because the rationale was to use adequate parts to generate more splits based on current code. I think that is the issue before the board right now in a nutshell. So I think that maybe get out of the policy realm and get more down into the weeds for today.

Speaker 5 ([00:38:32](#)):

Thank you.

Speaker 1 ([00:38:44](#)):

Did, , TJ include a land use decision of this board that's been recent that in our findings and facts and conclusions. In our discussion, we said because of procedural, of the procedural mistakes in the past, we were going to approve it, but not to use that as a basis of adequate parts. And I think it's in here, but I cannot find it at the moment.

Speaker 9 ([00:39:12](#)):

Mr. Chair?

Speaker 1 ([00:39:13](#)):

Yes.

Speaker 9 ([00:39:14](#)):

Can I address your question?

Speaker 1 ([00:39:15](#)):

Sure.

Speaker 9 ([00:39:16](#)):

Yes, I included the Pinner case and mostly I included it for the PI, the parcel inquiry, because I have multiple parcel inquiries that do the same thing. And I think that points out, I'm not using the Pinner case as an example of w - of adequate parts being approved. I'm using it as an example of a parcel inquiry that was done and done correctly that the county has now changed course and said it wasn't done correctly. I have other ones that I could submit as well. And that's, that's what I'm proving is there was a change and that's why the Pinner parcel inquiry says one thing and then the decision got changed after because there was a policy change. And that, I mean, that's kind of what you asked me to prove is, was this occurring and did it change? And yes, I think the Pinner case is a prime example of it occurring and it changed.

Speaker 4 ([00:40:12](#)):

So the exhibits that he's referencing is exhibits 1N, 1O, and 1R. I did forget to include 1N, but that was later attached as exhibit 3A.

Speaker 8 ([00:40:25](#)):

Okay.

Speaker 1 ([00:40:27](#)):

Thank

Speaker 9 ([00:40:27](#)):

You. Mr. Chair, I have additional exhibits that I didn't make the timeline that support this. So it, if you want them in addition to, in your decision, I can submit those as well. And parcel inquiries that specifically say these are adequate parts and each adequate part is the original parcel.

Speaker 1 ([00:41:02](#)):

Unless the board approves it, I, procedurally, we don't do that.

Speaker 8 ([00:41:06](#)):

That's fine.

Speaker 5 ([00:41:13](#)):

Chairman, I'll just say I'm not. How big is the file that you have, TJ? The additional cases.

Speaker 9 ([00:41:23](#)):

One piece of paper.

Speaker 5 ([00:41:24](#)):

And I'm, I'm not opposed to that only because -

Speaker 4 ([00:41:29](#)):

That one is in there.

Speaker 5 ([00:41:30](#)):

It's so complicated. Not from their point, but from the board's point. And I appreciate our assistant director jumping in. I will say that it gives me pause when you're referencing policy C decisions that were made. They were so respectfully made by a single commissioner without the support of a board. Maybe that's, I'll just leave that there.

Speaker 9 ([00:42:06](#)):

I believe the pinner, the pinner parcel inquiry was, is included. I have another parcel inquiry that isn't included that, I mean, I don't, since this is verbal testimony, can I just read what it says? The subject parcel is deeded together as 159.86 acres, but consists of three original parcels, the northeast quarter of the northwest quarter, the northwest quarter of the northeast quarter, and the south half of the northeast quarter. I mean, it's, it's the same interpretation, understanding that occurred throughout the county up until the change. And there's that, there's Pinner's. , I could find you a lot more. Some of the approvals are the same way that, , they identified it one way and then it was called out to them and they identified the correct way. So - Chair.

Speaker 5 ([00:43:13](#)):

Chairman? Yes. And TJ, can you clarify for me again? I believe that our staff is saying that a complete legal description, I think this is also in question, must con - include a section township and range reference for each parcel. Is that the understanding you have?

Speaker 9 ([00:43:33](#)):

Through the chair, that, that's what they're saying, but they're not applying it to anything by adequate parts. So like our specific description, right, it's the government lot and the aqua part and the adequate part. It doesn't say township rates and section after government lot. So what is a complete description? It only applies to adequate parts, not government lots. , There's other things I've submitted that are the same thing. So you go to, let's go to, , old subdivisions, their lot block subdivision name, right? So that it's the same thing as a quarter-quarter township range and section is lot one, block one, specific subdivision name. So if you're gonna like apply that same methodology, you need to apply it across the board, not arbitrarily to one thing. So, I mean, this just goes back to the 2001 memo and how arbitrary and capricious it is and how they're trying to pull those out and say, "These are special that we combine and these other things aren't." And these rules apply to aqua parts, but no other type of description.

Speaker 5 ([00:44:44](#)):

So I'm gonna say this back to you, what I thought I heard. You're saying that, and I, I'm not a surveyor, but if I said the southeast quarter of the northwest section, that would be the same as if I had a lot one, section five, township range. Those two are interchangeable. I could, as a surveyor, I could look at that and I could say, "These have different words, but they identify the same property."

Speaker 9 ([00:45:13](#)):

No.

Speaker 5 ([00:45:14](#)):

Okay.

Speaker 9 ([00:45:14](#)):

That's not correct.

Speaker 5 ([00:45:15](#)):

Okay.

Speaker 9 ([00:45:16](#)):

So every adequate part has to have a township ranging section. But if it's in the same township range and section, you don't have to label it after every single adequate part. Same with lot and block. If you have lot one, two, three, and four and five, and you don't include block and subdivision name, it could be any lot one, two, three, four, and five. So there's more than one se - northeast quarter of the northeast quarter. So you have to, I have the identifier of section, township, and range, same as you have to have lot, block, and subdivision. But you don't have to have township range and section after every single adequate part unless there's a change in township range and section.

Speaker 5 ([00:46:00](#)):

And when would that change occur?

Speaker 9 ([00:46:02](#)):

If you change township range and section. It'd be completely different location. So if you have northeast quarter, northeast quarter, and then you go over another section, you have to have a different section label. If you go in another, if, if they're abutting townships, you have to have adequate part, township range section, adequate part township range section. If they're in the exact same section, why would you list township range section again? You, I mean, and if you're going back to 1979, these deeds were typed. Why would you cause more typing? I mean, it, to me, it goes to, if we're saying this about adequate parts, then why are we saying this about lots and blocks in a subdivision? Why aren't we saying this about government lots? It's adequate parts are specifically being targeted for who knows why. Because they say government lots are special. They don't have to have a full legal description.

([00:47:09](#)):

Our deed itself, they're saying it's two original parcels, right? Township arrangement section is only listed once. So what's a com - what's a complete legal description? Our description is a complete legal

description. You can physically identify where that property is on the ground. , An incomplete legal description is you have no idea where it sits on the ground.

Speaker 5 ([00:47:35](#)):

So if I, and I'm sorry, I, these are ignorant for people that are informed users of information, but township range and section, so are we talking about four of these groups on the map up here? Are we talking about one? Are we talking about the whole block? Tell me what that includes. And you can point to it if you want to. I'm a visual learner too.

Speaker 9 ([00:48:02](#)):

So a township is six miles by six miles.

Speaker 5 ([00:48:06](#)):

Okay.

Speaker 9 ([00:48:08](#)):

So every six miles there's a new township.

Speaker 5 ([00:48:11](#)):

Okay.

Speaker 9 ([00:48:12](#)):

Every six miles west, there's a new range or east or west, whatever direction you go. Each one of those townships is split up into 36 sections. So you have 36 northeast quarters of the northeast quarters. So you have to specify which northeast quarter in which section you're in. So you have to know the township range, you have to know the section, and then you can identify the adequate part. Otherwise, if I just said the northeast quarter, northeast quarter, those are all over the place.

Speaker 5 ([00:48:50](#)):

And you can promise that we can all be surveyors at the end of this?

Speaker 9 ([00:48:53](#)):

So I've offered my services to Canyon County for free to review deeds and identify original parcels. I've done that on multiple occasions rather than spending the money that we spend sending it to that guy in 88 County who obviously doesn't read our code. , I've offered those services. I said, "If you have any questions identifying a deed or understanding a deed, I am free and open to the county."

Speaker 8 ([00:49:21](#)):

Thank you.

Speaker 1 ([00:49:31](#)):

Questions? We'll have you back in a bit. Thank you.

Speaker 2 ([00:49:41](#)):

Matt Wilke.

Speaker 10 ([00:49:56](#)):

Good afternoon, commissioners. Matt Wilke, PO Box seven, Middleton, Idaho. , I think, , we just keep getting in the weeds again when we get down into actually reading what an original, , partial description is from the BLM patent deeds. , They, those are legal de- descriptions when they're putting township and range, just like TJ said, so they would start with section, township and range, and then they would go, you know, like the south half of the northeast quarter and the northeast quarter, the southwest quarter. So those were considered legal. They were drafted legally, , according to the government, and then those standards are still in existence today. , We do not need to have a township range and section listed for each aloquate part description on a deed. So like if we had two 40s described on a, on an original patent deed, , we, it only needs to say the township range in section once and then carry on to the individual eloquent parts descriptions.

([00:50:59](#)):

, I get, if you wanted to bring up, , we did have exhibit 3A was the PI for the Pinner case. I believe that was in your staff report. , That one, it's kind of tough to read because the old typing, but that's exactly how they did it. They just listed the township and range in the section once.

([00:51:21](#)):

So we could pull up Exhibit 3A.

Speaker 8 ([00:51:25](#)):

I don't even have a 3A.

Speaker 10 ([00:51:44](#)):

There'll work. If you go down to the deed description, , at the bottom there, and we can kind of zoom in on that highlighted part, that is actually the patent deed from the government in 1960 to the Andersons deeding 120 acres. And it was described. Oh, I'll pull it up so I can see it on my computer a little better. It was described as Boise Meridian, Idaho, township five north range three west, section 10, comma, south half of the northeast quarter and the northwest quarter of the southeast quarter, I believe is what that says. So the comma between the south half of the northeast quarter and the, and then it continues on to the next eloquent parts description, that comma means in the. So that's. In this par- parcel inquiry that Kate Dahl did, she determined that those were two separate eloquent parts descriptions because you can't describe either of those eloquent parts in the same, without a comma.

([00:52:50](#)):

You can't describe them all together. You can't deci - describe 120 acres because part of it's in the south half of the northeast quarter and the other one's in the northwest, northwest quarter of the southeast quarter. So you can't describe 120 acres with just one eloquent part description. , That's why the comma's there. And that comma is known and has been known legally for decades that that means in the. So if there's no comma, like as you, as you see on those, , the south half, and then it goes northeast quarter, th- there's no comma there, so it'd be of the. If, if there's no comma, it means of the northeast quarter. If there's a comma there, it means in the, and that's combining two parcels in a tract. So if we can go back into our definitions, , for instance, , an aloquate part.

([00:53:48](#)):

Aloquate is described as contained an exact number of times in another, and this is in the glossary of BLM surveying and mapping terms. So aloquit, and just that word itself means contained an exact number of times in another, a part of measurement that divides the measurement without a remainder. So that's how we're getting a f - aloquate part. , And then when the. TJ did have an exhibit up there with the multi-colors, and it was showing rods and chains, and that's why a 40 isn't perfectly described by an aloquit part. An eloquent is just. It's, it's a certain number of times within a section, , individually described without a remainder. So if you can't describe a full quarter-quarter section, then that's a- a- along like a ditch or a, or a river or lake, that's where the government lots would come in because they weren't a perfect quarter-quarter section.

(00:54:39):

They were a remaining portion of, like, what a 40 would've been. So, , further on, so the aloquits contain an exact number of times in another, and eloquate parts, according to the glossary of BLM surveying and mapping terms, , is a legal subdivision except fractional lots or further subdivisions any smaller than a legal subdivision. So this. A- and according to the BLM, the smallest legal subdivision on their sections was 40 acres, and then, and, and, or a lot. So a government lot, we all call them government lots through BLM, they just call it a lot, but that's their, that's not a described eloquent part. So, , you get further on into their. I, I, I think it would be really helpful for the board and staff if we could all look at the actual BLM surveying terms and then try to apply it to our code to come up with the right definitions to take the confusion out, because it's really simple.

(00:55:36):

When we look at those commas between the eloquent parts descriptions, that always means in the. And that's why, you know, in prior staff reports and parcel inquiries, , they would see that those were separate parcels. And then a tract has its own definition. A tract is actually can include multiple parcels. So, , a lot of these deeds will say, "Attract li - land described as," and then list these aloquent parts. Well, a tract isn't one parcel, and it's not considered one original parcel in county code. A tract is actually including multiple parcels, , typically, and they can even be in multiple sections. So attractive land containing multiple parcels. So there's, there's a lot more to it than just, . So you gotta be careful when you're using tract, parcel, eloquent part, all those things have really, , important meanings when it comes to surveying and eloquent parts descriptions.

(00:56:27):

Even the comma and the lack of a comma is extremely important. And just like TJ said, , I mean, a lot of this stuff was handwritten in the early 1900s, , and then it got into the typewriters. They just weren't typing out township range sections, , every single aloqua part description and retyping it and, or handwriting it. , It, it, , it was legally able. They were able to legally describe property this way, , and it's been that, done such for years. , I see it for questions. Thank you.

Speaker 1 (00:56:59):

So under your premise, why in the world does the county show so many land divisions or building sites for 120 acres, so many for 80 acres, and so many for 40 acres? Why in the frick do we even have 80 or 120 or a square mile?

Speaker 10 (00:57:18):

Yeah, Mr. Chairman, , well, because of our ordinance - Be very

Speaker 1 (00:57:20):

Careful with your que - your answer, because this is gonna be the deciding point, because that's your argument, and you've been silent about that all of this time, and so you're, you're exposing a complete flaw in the code. So why do we have that? Why hasn't the full public been out in mass about this?

Speaker 10 ([00:57:46](#)):

, Mr. Chairman, if I understand your question correctly, , why we have two, like, like two permits or one split available for a 40, and three permits available for an 80, and over 80 to 120, we have four, and that all comes back to how that deed was described prior to 1979. And just as in the case of the Pinner case, that was two eloquent parts descriptions. So one of them was described as an 80, that was allowed to have three permits, and the other was described as a 40, and that was two permits, and that was prior to 1979. They could have. And, and prior to 79, the government could have described that as three eloquent 40s, and then that would have had the potential for, , six permits, basically. And then we got into the non-viable in the Pinner case, so we were able to do four - Let's,

Speaker 1 ([00:58:34](#)):

Let's don't

Speaker 10 ([00:58:34](#)):

Even go - So we won't even get into that part. We don't

Speaker 1 ([00:58:36](#)):

Want to talk about that.

Speaker 10 ([00:58:37](#)):

Okay.

Speaker 1 ([00:58:37](#)):

Period. 'Cause That's not what this application's

Speaker 10 ([00:58:41](#)):

About. Correct. So it, it really comes down. So we're tying in the county code - uh-huh. , Which prior to 79, the, the way the individual's parcels were described i- i - each one of those was an original parcel prior to 79, if it was described that way on the deed prior to 79. So if it was, , described as just, , an 80, it would have three, three permits. And if it was a, a 40, it would have two. If it had a common between the 80 and the 40 on eloquent parts descriptions, that was determined to be two separate parcels on the deed. We can. I've seen deeds, , that have hundreds and hundreds of acres, , like s- some of the old Wheats deeds, they, they were describing multiple properties on one big long deed that could have been over a thousand acres. , If we were to say, "Oh, that's all one deed, one, and that's all one real parcel," that doesn't make sense.

([00:59:35](#)):

It's really how each one of those properties was described on the patent deed to the original owner prior to 1979, and that's where our code kicks in. And there are properties that, , might have just been a s - you know, they might have just des- described a sec - a whole entire section. Let's say an owner bought an entire section prior to 79. They said, "Okay, all of section 10." Like they, they own section 10. I

mean, do you look at that as just one parcel? The way I would read that in our code is I think you'd have to read that as just one original parcel. The fact of the matter is we don't see a lot like that in our, in our county. So, , and just like in the Pinner case, this wasn't, it wasn't described as 340s, it was described as an 80 and a 40.

(01:00:14):

So that's why we were limited to those five permits. , If it had been described as, as three 40s, we could have had six. , And that's really where the line in the sand is when it comes down to the county code. And then where I think we can clean up our definitions is, is we can use our BLM surveying manuals and stuff that's been known as surveyors for decades. And I think we, that can help fix our, our county code as well on the definition side. So, , you just can't combine two eloquent parts descriptions and call them one parcel. , I know the county tax assessor does that because that's good for their tax side of things and that makes sense. It's all under one ownership, but they're owning multiple original parcels if those, if that land has been described that way since, you know, prior to 79.

(01:00:58):

So that's where we're coming in with, you know, how are we getting how many permits? And, and it's not, I think I heard staff say, you know, it's like, , you know, why is one, one landowner get this many and the next landowner doesn't? It's not based on acreage, it's based on the original patent deed description or the original deed des - it doesn't even have to be a patent deed, but the original deed prior to 79, how was it described for that ground? And, and it's, it, that's really, it's, it could be the luck of the draw for a new owner coming in or, you know, if you, if you understand the code, we really do have a good code in place. It's not, we can't add any more to it. We can't get more splits than that code says. So if you have 120 with an 80 and a 40, you get your five permits.

(01:01:40):

If you, you know, if you just had a, if you had three 40s, you'd have six, so. Okay. All

Speaker 1 (01:01:44):

Right.

Speaker 10 (01:01:45):

Thank you.

Speaker 1 (01:01:46):

Anything

Speaker 5 (01:01:47):

Else? Chairman, that was a great question. I have a question for our assistant director. Can you address the comment about the county not using BLM survey standards as part of what we do? Help me with that. Because that's really, it seems like where we're having some issue.

Speaker 6 (01:02:07):

'Cause The code doesn't say we use a BLM survey standard. It tells us what aliquot is in our definitions. It tells us what an original parcel is in our definitions. That's what we use. That would be a change that could be made to the zoning code to just say determine originality based on the BLM survey manual.

And I'm not a fan of conflating two different things and saying. How do I want to say it? The zoning code is not a surveying document is what I would say to that.

Speaker 5 ([01:02:39](#)):

Thank you.

Speaker 6 ([01:02:40](#)):

That's why we have licensed surveyors like Mr. Willard. I don't agree with him, but that's what I'm saying.

Speaker 8 ([01:02:49](#)):

Okay.

Speaker 6 ([01:02:49](#)):

Dictate in here. How should I put this? Usually when you have code that dictates what a certain profession should do, it's high level and could be a bit vague because for engineering, we're gonna say, "Use your engineering judgment to make X, Y, or Z the outcome of your drainage," for instance. That's why I would say the zoning code is right now saying, "Use the BLM manual for that." Does that make sense at all?

Speaker 5 ([01:03:18](#)):

Well, yes, I think so. And here's what I think I heard, even though there's some constructive feedback that we're conflating, as you've put it, some policy decisions with some interpretation decisions. Long before we occupied these seats, there was a decision made to have a government entity help define the zoning code in a county.

Speaker 8 ([01:03:43](#)):

Okay.

Speaker 5 ([01:03:44](#)):

Okay. And so if what we're clearly declaring is that the zoning code is not the surveying code, to me those are mutually exclusive almost. That we're, we're not trying to make an argument that we're basing our interpretation off of that. So that's not a secret to anybody anymore, but it's clearly stated that we're not. And so what I also understand, and, and I'm gonna put it on the record, you're a person with a master's degree in planning. And so, and the reason I'm saying that is because we have educated and professionals in the room on the surveying side, and you're an educated professional in the planning world. And so we have two different professional, , opinions coming together to try and figure out how a board of county commissioners is supposed to apply and interpret its own code versus, I guess, federal standards. Is that a fair assumption?

([01:04:43](#)):

Let's

Speaker 6 ([01:04:44](#)):

Back up a step.

Speaker 5 ([01:04:45](#)):

Okay.

Speaker 6 ([01:04:45](#)):

My professional background in education has nothing to do with how Canyon County's code is right now or a policy memo that's floating around that tells us how to read deeds.

Speaker 5 ([01:04:55](#)):

Understood.

Speaker 6 ([01:04:56](#)):

I'm not taking ownership of that. What I would take ownership of is one way you could construct a zoning code would have even less to do with surveying. It could be a decision based on limiting or granting more lot splits, depending on how you want to read a deed. We could go further than the appellant wants and allow even more, is what I'm saying. But that would be a zoning and policy decision on your part.

Speaker 5 ([01:05:23](#)):

Right. And for clarification, I see I've , , picked at a scab. There was no implication for you to take ownership of this code?

Speaker 6 ([01:05:33](#)):

No, that's not what I meant.

Speaker 5 ([01:05:34](#)):

Okay. Yeah.

Speaker 6 ([01:05:35](#)):

What I meant was it has noth - , my background did not inform how the code is now.

Speaker 5 ([01:05:40](#)):

Right.

Speaker 7 ([01:05:41](#)):

Mr. Chairman? Yes. And I'm gonna say this because I, it's germane to the discussion happening right now, and I wanna say it now rather, rather than wait till deliberation because I wanna be corrected if I'm wrong. But I think the crux of the issue is in reading these deeds, the memo that was resurrected is in direct conflict. It is the exact opposite of what the specifications for descriptions of land, the BLM manual that is being referred to, that they are in absolute conflict with each other in how the memo states to read a deed versus what the BLM manual states how a deed is supposed to be read. That is, in my opinion, the issue. If we wanna get back to the memo, whether it should be, whether it should exist or not, and if it should be followed. I think we're bringing in all this outside stuff that -

Speaker 4 ([01:06:52](#)):

Chairman, I, I agree with Commissioner Brooks. We should focus on what we have in our code rather than what the BLM is stating, because we wanna focus on what Canyon County says. So we wanna look at what the original parcel is, that definition and the definition of parcel per Canyon County, not looking at what BLM is stating, because that's not what we look at. We review our deeds and cases based off of Canyon County code.

Speaker 7 ([01:07:19](#)):

Mr. Chairman, I would say that is a, that's a different wrinkle that you're bringing into this. We could, we could wholly, because of whoever three are sitting here, have code that is in direct conflict with the status quo from the beginning of surveying in this country. And, and I might argue that's where we're sitting right now. And just because our code says that does not mean that I wanna sit here and continue on participating in something that somebody prior to us sitting here put in place that is not correct.

Speaker 1 ([01:08:04](#)):

Okay. Let's hear from the, , the other people that want to testify and, and then we can take that conversation further. Thank you.

Speaker 8 ([01:08:19](#)):

Thank you. Allen

Speaker 1 ([01:08:21](#)):

Mills. Thanks, Matt. Thank you.

Speaker 8 ([01:08:29](#)):

Ellen Mills, box 206, Middleton, Idaho. I have Excedrin headache number 18. I don't know about you. <Laugh> I think this could somewhat be simplified, but I wanna make a point just to, to go on the record that nobody that I know of, nor is any precedence for breaking down sections into 1640s. Just because our definition of an adequate part calls out a quarter, that doesn't mean that it is an original. And it never has been in my experience since 1979 ever been interpreted that way. So it's as the deed reads, and that's a slight correction too. It's not prior to 79, it's as of September 6th of 79. So I think Commissioner Brooks hit it right on the head. I think the whole thing here is an attempt to try to treat adequate parts differently than the other four means of describing property. You have chains and rods, meets and bounds, lot and block and government lots and inadequate parts.

([01:09:41](#)):

And there was an attempt in that memo to redetermine and reinterpret what an adloquate part was. And I, if we take that back to treating them all equally, I don't think we even have a problem. But if we tried to make adequate parts different than the other four ways of describing property, we'd get into this mess. So, , I would say that it is not that difficult. I can tell you that I don't know of one title company that won't ensure a deed and ownership when it's spelled out two adequate parts descriptions with no township range section, but it does at the end. There's no other way to read it. You have to continue. You would have to willfully stop at the end of the aloquent parts description and not read further to have any confusion. If you read the deed through, it's gonna always to be valid.

([01:10:43](#)):

It's gonna have to have a section, township and range. And so there, I don't see where the confusion is to, and that, that was just a person's interpretation that it had to be right here and it had to be complete there. That's somebody's interpretation of what complete is. Title companies say it's complete. Everybody else, and I think a court of law would say it's complete. I don't see a judge or a jury saying, "Oh, that's, that doesn't mean it's in section. It says it later on, doesn't say it right there." So I think we're making a little bit more of it than it should be. , It just, it just kind of confu - , I don't know what the word is. It's, , consternation, I guess. But if we do go back and just say adequate parts descriptions are no different than the other four ways describing property and learn how to read them, it's not hard. (01:11:45):

One further example, we could say lots one, two, and three and then a comma or no comma, doesn't matter, and lots seven, eight and nine and not describe section township range after every lot. That does not mean they're all one parcel. That's, that's all distinct properties. As long as that's complete at the end, it's complete as, in everybody's eyes that I know of, except for that memo. That took a deviation from the norm. So I will sit for questions.

Speaker 7 (01:12:25):

No questions. Questions?

Speaker 5 (01:12:26):

I don't think so.

Speaker 7 (01:12:28):

Okay. Thanks. Thank you.

Speaker 5 (01:12:29):

Thanks, Alan.

Speaker 1 (01:12:44):

Staff, do you see any points of clarification before we consider closing public testimony? Okay.

Speaker 9 (01:12:54):

Can I get some rebuttal? Mr. Chairman?

Speaker 1 (01:12:57):

You know, that might be fair.

Speaker 9 (01:13:05):

Thank you. I, it's not that I wanna rebut the testimony that was given because I agree with most of it, but I just wanna make some clarifications. You, you'd asked the question about why the 40 gets two permits, 80 gets three, and 120 gets four over 120. And those acreages come from adequate parts, but they a - they apply to other types of descriptions as well. So if you have a government lot that's less than 40 acres, you're still getting the two. Or if you have a meets and bounds description that describes 75 acres, you're only gonna get the two. So it, it applies the, to multiple scenarios, not just the adequate parts. Okay. , and then the talk about the BLM manual and, and how deeds. So the BLM manual is how

the federal government dispersed public lands to private. , I, I think it applies in the, how you read a local part description because it was that system of description, it was created by them.

(01:14:11):

So it applies in that sense, but, , to simplify things, I don't think that this decision weighs on whether we're using definitions of BLM manual or not, because that's left to people like me who have to look at a description and say, "Is that physically on the ground somewhere?" And in majority of the cases, it physically is because it wouldn't be insured if it wasn't. , And then staff said they, they based their reasoning on county code, but I, I think that's inaccurate because I wanna take us right back here to the beginning to the definitions in county code. And what staff is using is a memo, which is not county code, to combine these adequate parts. So let's go back to the nuts and bolts of this. An original parcel, a parcel of platted or unplatted land as it existed on September 6th, 1979, including any property boundary adjustments as defined, as defined in this chapter and any reduction in area due to creating a parcel for the exclusive use by Kenyon County, municipality within Kenyon County, a local highway district, Idaho transportation department, utility company, or corporation of the jurisdiction of the Idaho Public Utilities Commission or other local, state and federal agency.

(01:15:31):

So we know an original parcel is something that existed as it existed on September 6th, 1979. So what is a, a parcel definition in Canyon County Code? A track of land described by meets and bounds, chains, rods, or adloquate parts or by lot and block. Landed, land that is described by meets and bounds that includes all or parts of multiple pre-existing parcels or portions of plot of lots, all of which are not separately defined or labeled as separate parcels or lots shall be considered one parcel.

(01:16:11):

Canyon County Code, definition of adequate, the length of one side of a quarter-quarter section, one / 16, the one / 16 section contains 40 acres more or less. So if we strictly read and use the definitions in Canyon County Code, I don't understand how this memo is legal. It's the memo itself is in violation or not following the ordinance and its definitions. So to be able to say, to use the or - the memo as a reasoning for taking this one description, eloquent parts, when the parcel has many different types of descriptions and taking it and treating it special is very arbitrary and capricious. So to make things simple again, let's keep them simple and just use the definitions in the code and the code itself. And that's all I've been asking from the very beginning since this memo has came back alive. I will stand for any other questions.

Speaker 8 (01:17:26):

Questions?

Speaker 5 (01:17:33):

I guess, Chairman, we historically don't have our legal put a legal opinion on the record, just that's awkward. But, , I, I'm interested. I mean, there's compelling arguments that are made by Mr. Wellard, and so I, and there's compelling arguments that are made by our staff. I'm neither an attorney nor a surveyor nor a long range planner, not any of that. But I'm asked to be, render a qualified opinion on my interpretation of a code that, to his point, if we're following code, I'll turn and ask either Arbe or Josh, has this memo, the elusive memo, ever been codified?

Speaker 6 (01:18:34):

No.

Speaker 5 ([01:18:35](#)):

Thank you.

Speaker 6 ([01:18:37](#)):

Can I elaborate further?

Speaker 5 ([01:18:38](#)):

Sure.

Speaker 6 ([01:18:39](#)):

These policy memos that float around these various departments, they're supposed to be a temporary thing till you change the code.

Speaker 5 ([01:18:45](#)):

Okay.

Speaker 6 ([01:18:45](#)):

I'll leave it at that.

Speaker 5 ([01:18:48](#)):

And did we define temporary? How long has this been floating around?

Speaker 6 ([01:18:52](#)):

I heard 2001 from the appellant. I don't have it in front of me. I'm

Speaker 5 ([01:18:55](#)):

Sorry.

Speaker 6 ([01:18:56](#)):

Sure. It's when it's dated is 2001.

Speaker 5 ([01:18:58](#)):

Okay.

Speaker 6 ([01:19:00](#)):

Okay.

Speaker 5 ([01:19:01](#)):

It's a quarter of a century.

Speaker 6 ([01:19:04](#)):

Bit long in the juice for my comfort level.

Speaker 4 ([01:19:06](#)):

Okay. Thanks. The most up to date interpretation that we could be using is from 2023.

Speaker 5 ([01:19:15](#)):

And h - and so, Chairman, thank you for your tolerance. What are the significant changes between the 2001 and the 2023 memo, or are there any?

Speaker 4 ([01:19:26](#)):

Most of it is similar. , The way that it's described, the 2023 interpretation is just more clear on how to read those legal descriptions.

Speaker 9 ([01:19:40](#)):

Mr. Mr. Chair, how many pages is the 2000 - ish memo? One. How many pages is their new memo? 14?

Speaker 4 ([01:19:52](#)):

Not the top of my head, but I can check.

Speaker 9 ([01:19:57](#)):

It, it can be so much simpler. They're, they're making something simple very complicated. And so the memo came out. The memo went away. There's, in the decisions I submitted, there's, I think, four, maybe five different directors, , development service directors who signed these. And then the memo came back. And then there was another memo, a new memo, because they didn't wanna use the old memo, even though the new memo is saying something very similar. So it's, it's a bureaucracy that's trying to write code. I mean, plain and simple. Why? I don't know. I can't tell you why. Why, why are adequate parts being singled out? If you wanna take away building rights, you'd be better off attacking some of these old subdivision lots. Take that away. That's gonna be way more impactful the number of building permits than it is adequate parts. Why not government lots?

([01:21:03](#)):

They're part of the public land survey system as well. Just my opinion, but I say go back to the code and what the code says. The code is, the code is actually pretty clear.

Speaker 5 ([01:21:16](#)):

Chairman? Yes. And you're making the same survey argument in the interpretation of the county's definition for chains, rods, that each one of those means and. And so if you go back to that, Arbai, and put that up, , it's the county's definition of original parcel. Thanks, Arvi. Go to the code

Speaker 9 ([01:21:37](#)):

Of the browser because your memo - It, it's the definition of parcel.

Speaker 5 ([01:21:40](#)):

I'm sorry. Thank you.

Speaker 4 ([01:21:51](#)):

You want the definition for original parcel or just parcel?

Speaker 5 ([01:21:55](#)):

It's what you had up here just a minute ago, and it's what Mr. Wellard referred to.

Speaker 7 ([01:21:59](#)):

Not everything on that slide is actually in code. Right. We're going

Speaker 6 ([01:22:04](#)):

To the code on the website right now.

Speaker 8 ([01:22:07](#)):

Thank you.

Speaker 5 ([01:22:15](#)):

And can you stop scrolling? If you go back there, just caught my word. We were talking about temporary. So there's lots of things in there, but, , it's fine. You can just go to the parcel. Once I use temporary right there, six, seven nights. Come on down. Okay. So there it is right there. Thanks, Arvi. So a parcel is a, you're saying, if I heard what you said correctly, in a survey, a comma means and. I wrote this down. There's one. Okay. And comma means and the no comma means of the. So if we apply that here, and the part attractive land described by meets and bounds.

Speaker 9 ([01:23:12](#)):

Commi- Commissioner VanBeek, can I, can I stop you? No. Yeah.

Speaker 5 ([01:23:14](#)):

Because

Speaker 9 ([01:23:15](#)):

You're, you're trying to apply the rules of adequate part descriptions by the BLM to everyday English language of what a comma means. And- And I don't think the two are intermixing.

Speaker 5 ([01:23:29](#)):

And, , I, my point on this was that they would be separate. It didn't. Thank you for the clarification.

Speaker 8 ([01:23:38](#)):

The,

Speaker 5 ([01:23:38](#)):

The - Your argument is that each one of these describes a parcel. Is that what you're saying?

Speaker 9 ([01:23:43](#)):

No, these, these are methods of describing a parcel. Okay. So the, it's, it's listing the methods of how parcels are described.

Speaker 5 ([01:23:51](#)):

Thank you.

Speaker 9 ([01:23:51](#)):

So they can be meets and bounds description. They can be by chains, which is just a measuring tool. Mm-Hmm. I don't know why they put it, put that in there, but rods, another different measuring because the, they're, they're used in descriptions, , or aliquot parts or by law and block. So it, it's just listing the methods of describing, legally describing land.

Speaker 5 ([01:24:19](#)):

We were driving at the same end. You just said it a little bit better than I did. Thank you.

Speaker 1 ([01:24:39](#)):

Any other questions for DJ?

Speaker 7 ([01:24:41](#)):

No, Mr. Chairman.

Speaker 1 ([01:24:42](#)):

Okay.

Speaker 8 ([01:24:44](#)):

Thank you.

Speaker 1 ([01:25:37](#)):

How would you like to proceed?

Speaker 7 ([01:25:48](#)):

Mr. Chairman, first, I would like to make sure that we're on the same document because as we were talking through this, like, , exhibit three something, and the one that's dated September 15th, there, I don't have an exhibit three with a letter after it. So, I mean, I have August 20th open. I have September 15th open. It's on the website.

Speaker 4 ([01:26:25](#)):

I had included it in the, , exhibits in the addendum as, I believe, Exhibit 1N, but I then forgot to include it, so then I later added it as exhibit 3A. So I can pull that up here. That's the Penn or PI that was being referenced.

Speaker 1 ([01:26:41](#)):

That's why I couldn't find it quickly.

Speaker 4 ([01:26:46](#)):

So that's this one here.

Speaker 7 ([01:26:52](#)):

I have that one. I have that open. I didn't know I was supposed to go to the land use page.

Speaker 1 ([01:27:02](#)):

It's on the agenda page. There's three that are posted on the agenda page. These right here.

Speaker 8 ([01:27:14](#)):

Okay.

Speaker 7 ([01:27:35](#)):

Okay, so when I click on it, it's the September 15th one, so I've had the right one open, I guess.

Speaker 8 ([01:27:41](#)):

Okay. All right.

Speaker 1 ([01:28:07](#)):

Do we want to see the multi-page policy and the original policy of 2001?

Speaker 7 ([01:28:15](#)):

I guess, Mr. Chairman, since you brought it up, I, I wanted to mention that as well, knowing there. I don't, I don't recall a 14-page memo coming to us, so I know it was before your time, so. Oh, thanks. <Laugh> Well, if it was 2023, but that. And a previous director, so I'm a wee bit concerned because 2023 is our first year being here. , But if we had an update to a one-page memo with 14 pages, that seems like the wrong direction for me. And the fact that hopefully I'm not just having amnesia and we actually really didn't see

Speaker 1 ([01:29:05](#)):

It. Oh, I hope not. I hope we really never saw it.

Speaker 4 ([01:29:10](#)):

Chairman, commissioner, so there's the 2001 interpretation, so it's two pages, and then the 2023 interpretation is three pages.

Speaker 5 ([01:29:27](#)):

Chairman?

Speaker 8 ([01:29:28](#)):

Yes.

Speaker 5 ([01:29:30](#)):

And may- maybe we can't maybe just a yes or no. I- I'm interested if this is the document that TJ was referencing or if there's yet a different one. October.

Speaker 9 ([01:29:47](#)):

Through the chair, I. That's one of the documents. I- I don't know if it's not part of the memo itself, but they have a long document that helps them identify research properties, . I thought I submitted it in the original stuff of this because it came up. It was provided to me in another case. So I though I submitted it. I was going back to the original, , documents for this case. I though I submitted them, but.

Speaker 5 ([01:30:14](#)):

But you are confident that there's a 14-page document that is involved in evaluating this, the criteria for this?

Speaker 9 ([01:30:24](#)):

14 might include this 2023 memo, but there is, there are additional pages as to how to interpret, , research properties that interpret and decide what original decision or original parcels are.

Speaker 4 ([01:30:42](#)):

Is this what you're referencing?

Speaker 6 ([01:30:47](#)):

That's an SOP. Yeah. That's not.

Speaker 7 ([01:30:53](#)):

Mr. Chairman?

Speaker 8 ([01:30:54](#)):

Yes.

Speaker 7 ([01:30:57](#)):

I don't wanna get bogged down with the memo thing <laugh> other than the one pager that was from 2001. I am ready to put a barrel in the middle of this room and light it on fire. So I don't know how we get to that point or even discuss, , if there's two of us that wanna get to that point and what that means, but I would like to know which document I need to look at to see what the decision was so that we can discuss the points that we agree and do not agree with it and how we even adjudicate this thing at this point if we are to close public testimony and deliberate.

Speaker 6 ([01:31:41](#)):

You're talking about you wanna go through the policy memo and say we agree with it? Okay. Not,

Speaker 7 ([01:31:46](#)):

Not the memo.

Speaker 6 ([01:31:46](#)):

Uh-Huh.

Speaker 7 ([01:31:49](#)):

Just, just this particular application, like which file do I need to open up and see the dec - where the decision is because now I'm, I'm playing with over 500 pages of paper here. Where do I need to go to see what the original decision was that precipitated this appeal?

Speaker 6 ([01:32:12](#)):

Director's decision.

Speaker 7 ([01:32:13](#)):

Yes. Okay. 'Cause Otherwise I don't know how we, , deliberate and actually make a decision. It's the. Okay, so it's the August 20th.

Speaker 4 ([01:32:37](#)):

So on the August 20th, , staff report, so it's gonna be page 115 in that, , August 20th staff report.

Speaker 7 ([01:32:49](#)):

Thank you very much.

Speaker 1 ([01:34:24](#)):

I don't know that I'm even ready to deliberate. I need to take some time and read clear through this again because I did get muddled just like you did. . Where would you two like to go? Y'all wanna make a decision without me, I'm fine with that too, but I'm not ready to make a decision.

Speaker 5 ([01:34:47](#)):

And Chairman, I'm looking at the director's decision. I think there's three that the director identified that were non-compliant, but it would require going back to that section of code and it, again, is interpretation, which. I just asked the questions, but there's still a lot of information here that is pivotal on how, in my humble opinion, on how we go forward. I want to make clear, competent decisions so that people don't have to look back and question whether we understood it or whether there was a bias that wasn't supported. Those are important to me as a commissioner in this seat. And I, I will say I do appreciate the time that Mr. Wellet has dedicated to trying to, , I guess just provide information from his standpoint. I also appreciate what our staff has done. Having been a part of three different boards, this is not territory that the boards were willing to weigh into.

([01:35:59](#)):

It's difficult. These, the questions are awkward and uncomfortable and they require legal interpretation, my humble opinion and, and a potential change. Those, those are big. And so I don't necessarily agree with, disagree with you, Chairman. , I, I hate punting again.

Speaker 1 ([01:36:25](#)):

It's Thursday afternoon, 1:30.

Speaker 7 ([01:36:30](#)):

Wanna close public testimony?

Speaker 1 ([01:36:33](#)):

, I'm okay with that. , Let me think that through.

Speaker 5 ([01:36:39](#)):

And Chairman, I guess I would. We have it open right now. I'd rather leave it open if we have additional questions, just like. I don't know.

Speaker 7 ([01:36:48](#)):

Well, we can ask.

Speaker 5 ([01:36:50](#)):

But if we had a question of clarification for - We,

Speaker 1 ([01:36:54](#)):

We can ask the staff, but we don't necessarily

Speaker 7 ([01:36:57](#)):

Ever ask any individual.

Speaker 5 ([01:37:00](#)):

And to Commissioner Brooks?

Speaker 7 ([01:37:01](#)):

It says you can ask whenever. But - Well then

Speaker 1 ([01:37:05](#)):

I have the power.

Speaker 5 ([01:37:07](#)):

Well, to Commissioner Brooks' point, what he started out with is that there should be an opportunity to rebut. So if there are questions that come up in looking at this -

Speaker 1 ([01:37:19](#)):

We're, we're. We will continue. We take no additional public testimony, although the people who have been sworn in who choose to return, we will be open to ask question, further questions for clarification. Does that make sense?

Speaker 7 ([01:37:34](#)):

I second your motion.

Speaker 1 ([01:37:35](#)):

Okay.

Speaker 7 ([01:37:36](#)):

Okay.

Speaker 1 ([01:37:36](#)):

I'll make that a motion. , I move that we continue, , to. Is it the 24th? 24Th at 1:30, , this business and, , we're leaving, , we're closing any additional public testimony, but those who have been sworn in and who have testified, if they're available to, , be present, we may have additional questions for them during, , our, , time before deliberations.

Speaker 7 ([01:38:07](#)):

I second.

Speaker 1 ([01:38:08](#)):

Okay. Motion's been made and segmented. All those in favor say aye.

Speaker 8 ([01:38:13](#)):

Aye.

Speaker 1 ([01:38:13](#)):

Aye. Aye. Motion carries. All right. Let's consider ourselves then adjourned till we reconvene on next Thursday. Thank you.