

Speaker 1 ([00:03](#)):

Okay, this is Chairman Brad Holton. I'm gonna bring the hearing back to order. We've been on a short recess. It's case number AD2025-0020-APL. , Any thoughts before I proceed?

Speaker 2 ([00:22](#)):

Chairman?

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

Yes.

Speaker 2 ([00:26](#)):

There's been a lot of good testimony that's been necessary, I think, to ferret out. Updates that need to be made to the code. I have just a suggestion. I don't know if it's plausible or not, but, , TJ has made an argument and found ambiguity in the code. I would suggest that we allow this decision to be made as he's presented and appealed. But this is where I wanna swing to legal with the caveat that we would put a moratorium on any decision that wants to declare an adloquate part, an original parcel, until we get through the workshop and make, have that public input that's been talked about and define clearly for people wanting to make application, people that are landholders, staff wanting to try and interpret and make decisions, which ultimately lands at the board level on how to interpret.

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

So is, are you posing a question or making a statement?

Speaker 3 ([01:40](#)):

Yes. <laugh>

Speaker 4 ([01:43](#)):

And chairman, commissioners, is that whether the board can essentially stop those?

Speaker 2 ([01:49](#)):

For, yes, because we're in, actively in the process. The interpretation as it's presented, even though it's been said differently, does change how the land divisions will roll forward, whether that's good or bad, that's not my point in this. My point is that we need clarification and we need to figure out how to either codify a memo or how to have that permanently. Really the issue is we need to redefine what this looks like in the code because everybody's looking to go back. I think legally we are on good ground to be able to establish policy, even if it's not based on PLSS, that's what I heard. But if it is based on that and we want to start looking at eloquent parts and government lots as original parcels, that is different. Even though that may have been done prior to us being in these seats, it represents a change.

([02:51](#)):

There has to be, I think everybody agrees, a public hearing process. I can't help what was done before. I don't think two wrongs make it right. I don't wanna make a policy decision of that magnitude, , based on what's been brought forward, but still giving credit to the applicant for their expertise and equally so to our staff for how they're looking at it. It, we're at an impasse. We've had hours of testimony on this with

an inability to come, and I don't even feel like I have all the information. We've got court cases, we've got suggested policies, we've got, , declarations that people aren't knowledgeable, are knowledgeable. I would like to not string this out, so that's my first proposal to decision this, to look at this as three parcels, and then to hold on everything else until we can get a, a more clear definition.

Speaker 4 ([03:53](#)):

, Chairman, commissioners, I probably want staff input on that because I don't know that we have anything pending that's similar to this. I mean, they pointed out Penner and I haven't poured through that case, but this seems to be the outlier that's been pointed out. It's more recent, but I don't know that there's any. And I wasn't here the first day of these hearings, so I don't know that there was any other evidence put on the record of other inconsistencies necessarily. And I think Ray may have gone through all the cases. So if there, you've got this one -

Speaker 2 ([04:23](#)):

Uh-Huh.

Speaker 4 ([04:24](#)):

That could be.

Speaker 2 ([04:25](#)):

And so if that's in fact true, then this wouldn't jam up the whole land use division application process. We would specifically be looking at interpretation of eloquent parts as original parcels.

Speaker 4 ([04:41](#)):

Yeah, I don't know that it would be a good idea to stop. I think it's flag. You flag anything that has related to this and that we scrutinize that or staff scrutinizes those a little as if we have some pending changes happening on the ordinances. But I'll have staff weigh on, weigh in on that if that would be something that would even need to be done at this point. I think they can run conti- continuously. You can be making ordinance changes and you can decide cases.

Speaker 2 ([05:08](#)):

Well, i- in this instance, I don't feel like I have even a, a basis of really solid footing for decision making because there's been good arguments on both sides. So I don't want to do this repeatedly because I'm not interested in that.

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

Mr. Chairman -

Speaker 4 ([05:24](#)):

Respectfully, look at the evidence. Argument is important, but look at the evidence you have in front of you as well.

Speaker 2 ([05:30](#)):

Okay. Thank you.

Speaker 6 ([05:31](#)):

Mr. Chair, can I clarify something because -

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

Hold, the, correct me if I'm wrong here, the discussion is not centered around whether or not an adequate part can be an original parcel. It's centered around the interpretation of the deed and how many actual parcels exist. So I'm totally not in favor of what she's suggesting for this because it doesn't even apply to this in my opinion. Okay.

Speaker 6 ([06:05](#)):

Mr. Chair, I just wanna clarify because it w - Commissioner Van Beek said that I said that there's some lack of clarity in the code and that is not my opinion whatsoever. I think the code's perfectly clear. I think it, you could make things clear for staff because there's no one being here presenting, , against our appeal. The only thing you're hearing is from staff that is counter to what I've been arguing. , So there, there are no two sides. There's, there's the side that we presented and the side that staff's presented. The public in general is not here arguing what staff's arguing. And I feel that because this isn't my first case, this isn't my first client. I've been doing this for 21 years and this is how the public feels regarding their properties. , So to clarify, I don't think that there's any misunderstanding in the code.

([07:04](#)):

I think the code, how it reads, goes against the way staff is interpreting it with this, with this memo. And that is why I appealed this case is because the code does not support what staff is doing, how the staff is, , interpreting what original parcel is and the definitions in the code. Everything's been from staff's been saying, "Well, we do it this way, this way, and this is what the code..." Well, they pointed to none of that in the code. I pointed you directly in the code that supports my position. And the code is clear when it comes to adequate parts. There may be other parts of the code that I said aren't clear, but the code is very clear in what original parcel is and what a parcel is. So in my opinion, the code is perfectly clear when it comes to the matters of this case.

([08:06](#)):

Mr. Chair, also, Mr. Allen Mills wanted to address some of the questions that have been asked in this hearing, if you would allow him some time.

Speaker 1 ([08:18](#)):

What's the board say?

Speaker 5 ([08:20](#)):

He was sworn in.

Speaker 3 ([08:24](#)):

Okay. Thank you. I've been sworn out more than sworn in. Allen Mills Box 206, Middleton, Idaho. I just had a couple points. , One of procedure is, , we don't hear legal back here hardly at all. , I don't know what the microphones are doing, but we, we've not been privy to, of any of the conversations there.

Okay. Or it could be me and my hearing aid, but I, I talked to others and they're having trouble too. Okay. So

(09:08):

This is kind of why I suggested long time ago workshops. This is, this is far more simple than what's being presented. The, the memo was created 23 years after the ordinance. For 23 years, there was no inconsistency. The memo created that inconsistency. And then it's been back and forth since then argued. But if you read the memo closely, the argument to make the one, in one parcel has a caveat. You must read the last part after the and to complete the description. Just above that, it says it's not complete. You have to willfully quit reading the, the sentence to make the case that it's one parcel. If you read that closely, I think you'll find that that is just inconsistent in itself. So we take that away and we wouldn't be here today. , Again, it comes back to reading the legal description on the deed.

(10:11):

There's no making something out of it since 79 that wasn't existing as of 79. If it had three description 79, you can't make it six after that and get any entitlements. So the only thing this one memo would do is take away rights that people have had and even have property or parcel inquiries telling them they have it. And now we're avoiding some of those if we reinstitute the memo. And I was understanding that the memo had actually been taken away just a couple years ago, so it just seems to not want to drown. It just wants to keep popping up to the surface. So, -

Speaker 5 (10:56):

Mr. Chairman.

Speaker 3 (10:57):

That's my testimony.

Speaker 5 (11:01):

So did you just say the definition of parcel is the same way it is today that it was in 1979?

Speaker 3 (11:09):

Yes.

(11:10):

379, everybody that owned property in Canyon County could have taken any number of splits. They just would've had the plat after four. But some of the old subdivisions you see, they didn't have to go through a rezone or anything. They just, they had that right. So in 79, all property rights were watered down and taken away to the point where we have the 79 ordinance telling us now what we have. And we've had it since that point. And people have relied on that big time. Even Farm Credit uses that to base loans to farmers out here. They give that value. And if we start messing with that, we've started messing with people's bank accounts and, and their futures. So I, I think this is not as complicated as it is being made. It's just the memo goes away, go back to the interpretations from 79 that were consistent and if you wanna fool with changing the ordinance, but not by memo.

(12:15):

<Laugh> You can see what happens with, with that.

Speaker 1 ([12:23](#)):

Okay. Thank you. Thank you. I wanna have a couple questions answered by legal and executive session. Are you guys amenable to consider that?

Speaker 2 ([12:55](#)):

Sure.

Speaker 1 ([12:55](#)):

Okay.

Speaker 3 ([12:58](#)):

So -

Speaker 2 ([12:59](#)):

You meant D? D. Okay. Chairman, I move that the board adjourns to executive session granted under Idaho Code 742061, subsection D, records exempt from public disclosure.

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

You want F in there? Communicate with legal counsel.

Speaker 2 ([13:14](#)):

And F, to communicate with the board's legal counsel regarding pending or likely litigation.

Speaker 1 ([13:19](#)):

Okay.

Speaker 5 ([13:19](#)):

I second.

Speaker 1 ([13:20](#)):

Okay. Motion's been made and seconded. What say you, Commissioner Van Vee?

Speaker 2 ([13:23](#)):

Yes.

Speaker 1 ([13:24](#)):

Commissioner Books?

Speaker 5 ([13:24](#)):

Yes.

Speaker 1 ([13:25](#)):

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Commissioner Holton says yes. Motion carries unanimously. , Commissioner will recess into our entryway, , with legal counsel. Let's consider ourselves in, in recess.

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