



Land Use and Building Department

Findings of Fact, and Conclusions of Law

Application: Appeal of Administrative Decision for

OTD 2025-02

Hearing Date: July 17, 2025

BEFORE THE ELMORE COUNTY PLANNING AND ZONING COMMISSION

In the matter of an Appeal of an Elmore)	OTD 2025-02
County Land Use and Building Department)	
Administrative Decision for the Denial of a)	FINDINGS OF FACT,
One Time Division of Property for parcel)	CONCLUSIONS OF LAW,
RP05S10E272540.)	AND ORDER)
)	

In Re: OTD-2025-02 came before the Planning and Zoning Commission ("**Commission**") as a public hearing item on July 17, 2025, for the Appeal of the Elmore County Land Use and Building Department ("**Department**") Administrative Decision for OTD-2025-02 ("Appeal"), for the denial of a One Time Division of Property for an Elmore County property located on parcel RP05S10E272540 (the "**Site**").

The Site is zoned Agriculture (AG), and it is located on a Portion of the SW1/4, Section 22, Township 5 South, Range 10 East, B.M. The One Time Division application for the Site was submitted to the Department in April 2025. In an email communication dated May 28, 2025, the Appellant was informed that the proposed application would not qualify for either a One Time Division of Property or a Farm Development Right application as the proposed procedure didn't meet the standards prescribed by Sections 10-2(Farm Right Development) and 10-3 (One Time Division) of the Elmore County Zoning and Development Ordinance ("**Ordinance**"). The Applicant decided to make a One Time Division request to the Department, where staff denied the request. Following the Administrative Decision by the Department denying the One Time Division, the Appellant appealed the Administrative Decision to the Commission. The Department held a Commission public hearing for the appeal of the Administrative Decision for OTD-2025-02 on July 17, 2025. Staff report and background was presented by staff. Staff recommended denial of the appeal as it is not in compliance with §10-3-4 of the Ordinance which states:

In order to approve a One Time Division, the Director shall find that the proposed property boundary adjustment complies with the following standards:

- 1. The one-time division created no more than two (2) parcels; and*
- 2. The one-time division created larger than one (1) acre parcels; and*
- 3. The parcel or lot being divided was created prior to January 20, 1994, or a parcel of land that was of record in the Elmore County recorder's office after January 20, 1994, and the boundaries of the parcel being divided have not changed except as specified in this Ordinance; and*
- 4. That if the property was reduced by governmental action that the property was following the minimum property size requirement of the applicable zoning district and Ordinance prior to the decrease in property size; and the decrease in property size was caused by acquisition through prescription, purchase, or other means as provided in Section 10-3-5 (A); and*

5. *The subject property requesting a one-time division is not a platted lot within a subdivision.*

Additionally, as per Section 10-3-4 of the Ordinance, “the proposed division shall result in two (2) parcels and must comply with the design and dimensional standards of this Ordinance, except when the parcel of record has been diminished by governmental action.

The application was denied by the Director for failing to meet standard #3 and the dimensional standards as prescribed above. Records from the Assessor’s Office provided records showing that the parcels current configuration was created on November 11, 1995 which indicated that the subject parcel had been altered since January 20, 1994 and as such Finding #3 in Section 10-3-6 could not be made. The Application also requested to split the existing 41.26 acres into two parcels sized 27.05 acres and 14.21 acres, falling below the required 40 acres for properties in the AG zone district, as such the proposed One Time Division did not comply with this dimensional standard prescribed in Section 10-3-4.

The Appellant was present at the public hearing and provided testimony regarding the proposal and what led up the Appeal of the administrative decision denying the One Time Division. Members of the public signed up to testify in this matter. The property owner and his son signed up in support of the Appeal. No one signed up in opposition to the Appeal. After the public testimony and rebuttal from the Appellant, the Commission Chairperson closed the public hearing. Upon conclusion of the public hearing, the Commission closed the record to additional evidence and commenced deliberations on the Appeal. After making findings and conclusions in accordance with the applicable law, the Commission upheld the administrative decision, denying a One Time Division for OTD 2025-02.

FINDINGS OF FACT

If any of the Findings of Fact are deemed to be conclusions of law, they are incorporated into the Conclusions of Law section. The following findings shall be based upon the Application and analysis and recommendations of the Elmore County Land Use and Building Department record.

1) The Commission finds that the Application is comprised of:

- A.** Appeal application form prepared and submitted by the Appellant, Eric Howard of J.J. Howard Engineering, for the One Time Division Administrative Decision, and
- B.** Payment of Application Fees as required by the Land Use and Building Department’s Fee Schedule.

2) The Commission finds that the Applicant is:

J.J. Howard Engineering
5983 W. State St, Suite D
Boise, ID 83703

3) The Commission finds the following facts as to the procedural matters pertaining to the Application:

- I.** On June 26, 2025 the Department provided the applicant with the Administrative Decision to deny OTD 2025-02.
- II.** On June 27, 2025 the Department accepted an Appeal of the Elmore County Land Use and Building Department Administrative Decision application along with the application fee per § 7-3-2 (A) of the Elmore County Zoning and Development Ordinance Zoning Ordinance.
- III.** On June 30, 2025, the Department deemed the Appeal application complete and set the matter for a Public Hearing on July 17, 2025.

- IV. In accordance with sections § 7-3-5 (C) of the Zoning Ordinance, the Department mailed Notice of the Public Hearing to surrounding landowners on July 9, 2025, for the Public Hearing.
- V. In accordance with section § 7-3-5 (A) of the Zoning Ordinance, the Public Hearing Notice was published in the Mountain Home News (newspaper) on July 2, 2025.
- VI. In accordance with section § 7-3-5 (B) of the Zoning Ordinance, the Public Hearing Notice was posted on the property on July 10, 2025.
- VII. The Commission opened the public hearing on July 17, 2025 and received verbal and written information regarding the Appeal.
- VIII. The Commission commenced deliberations on the Appeal.
- IX. At the conclusion of the testimony, the Chairperson closed the public hearing.
- X. Thereafter, the Commission held a roll call vote and moved that the Administrative Decision be upheld, and the One Time Division be denied for OTD 2025-02.

4) The Commission finds the proposed Appeal consists of the following:

The One Time Division application was submitted for this Site in early April 2025. At the time, the Appellant was informed that the site would not be eligible for a One Time Division. The Applicant decided to make a One Time Division request to the Department, where the Director denied the division based on the application not meeting the requirements prescribed in Section 10-3-4 of the Elmore County Zoning and Development Ordinance. Following the Administrative Decision by the Department denying the One Time Division request, the Appellant appealed the Administrative Decision to the Commission.

5) The Commission finds the following facts and circumstances pertaining to the Site:

A. Assessors' Parcel Number: RP05S10E272540

B. The "Owner" of the Site is:

Wesley Wootan

C. Site Characteristics:

Property Size: 19.97 acres.

Existing Structures: N/A

Slope: The proposed site is not on slopes greater than 15%.

Flood Zone: The proposed site is not located within any designated flood zone.

Zone District: AG (Agriculture)

6) The Commission finds the current zoning of the Site is as follows:

Based on the officially adopted Elmore County Zoning Map (as amended by subsequent Zoning Map Amendments adopted by the Board of County Commissioners), and the Comprehensive Plan, the current zoning for the Sites is Agriculture (AG) Base Zone with a Land Use designation of Agriculture.

7) The Commission finds the Sites are surrounded by other agricultural parcels of

similar nature.

8) The Commission finds the existing services and access to the proposed site are as follows:

Based on the officially adopted Elmore County Zoning Map and materials found in the Department's file for OTD 2025-02, the following facts concerning services and infrastructure, are not in dispute, and are adopted as findings of fact in the Commission's Findings of Fact, Conclusions of Law, and Order (FCO):

1. Access Street and Designation: Access to the site is via E. Little Basin Road and E. Wootan Lane.
2. Fire Protection: The property is within the King Hill Rural Fire District
3. Sewage Disposal: N/A
4. Water Service: N/A
5. Irrigation District: King Hill Irrigation District
6. Drainage District: N/A

9) The Commission finds the following are among the relevant and applicable statutes, ordinances, and land use regulations for consideration of the Appeal:

- A. Elmore County Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- B. Zoning Ordinance §10-4-5 adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- C. The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.
- D. Other applicable local, state, and federal laws and regulations.

10) The Commission finds the following regarding the Comprehensive Plan:

- A. That the Comprehensive Plan Future Land Use Map classifies the site and surrounding area as Agriculture.
- B. The Appeal is in conformance with the Private Property Rights section of the Comprehensive Plan.

11)) The Commission finds the following regarding the Zoning Ordinance.

- A. The Elmore County Zoning and Development Ordinance is the document governing the Site.
- B. Zoning Ordinance § 7-3-7 allows for appeals to the Commission on decisions of the Director.
- C. Appeals shall be based on one of the following:
 1. The decision was in violation of constitutional or statutory provisions; or
 2. In excess of the statutory authority of the agency; or
 3. Made upon unlawful procedure; or
 4. Not supported by substantial evidence on the record as a whole; or
 5. Arbitrary, capricious, or an abuse of discretion.

After conducting a duly noticed public hearing, and accepting new materials and

testimony, the Commission finds that the appeal failed to prove any one for the aforementioned criterion.

Upon review and discussion of the appeal, the Planning Commission upheld the Administrative Decision to deny the One Time Division of Property application. After careful consideration, the Commission voted to deny the appeal and uphold the denial of the One Time Division of Property, recognizing that the subject property had been altered after the prescribed date in finding #3 of §10-3-4 of the Ordinance. The Commission determined that upholding the denial was in accordance with the One Time Division of Property ordinance.

CONCLUSIONS OF LAW

Based on the aforementioned findings of fact, the Commission concludes that OTD 2025-02 has complied with the following legislative documents governing the proposal:

- A. Elmore County Zoning Ordinance, adopted as Ordinance 2018-03 on May 18, 2018, and all amendments thereof; and
- B. The Local Land Use Planning Act, Idaho Code § 67-6501; 67-516 et seq.
- C. Other applicable local, state, and federal laws and regulations.

ORDER –

Based on evidence presented at the July 17, 2025 Public Hearing, the Commission approves with a 4-1 vote that the Administrative Decision be upheld, and that the One Time Division be denied for OTD 2025-02.

Dated this 25 day of September , 2025

COMMISSION VOTE:

CHAIRPERSON PATTI OSBORN	VOTED	Aye
VICE CHAIRMAN JEFF BLANKSMA	VOTED	Absent
SUSAN FISH	VOTED	Nay
ED OPPEDYK	VOTED	Aye
K.C. DEURIG	VOTED	Aye
MITCH SMITH	VOTED	Aye

Patti Osborn, Chairperson

ATTEST:

James Roddin, Interim Director

NOTICE PURSUANT TO IDAHO CODE § 67-6519(5)(c)

The Applicant shall have the right to request a regulatory taking analysis pursuant to Idaho Code

§ 67-8003. An applicant denied an application or aggrieved by a final decision concerning matters identified in Idaho Code § 67-6521(1)(a) may, within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by Title 67, Chapter 52, Idaho Code.

NOTICE PURSUANT ZONING ORDINANCE SECTION 7-3-10 E-F

A decision made by the Elmore County Planning and Zoning Commission may be appealed to the Board of Elmore County Commissioners provided the appeal application is complete and appeal fee is submitted to the Land Use and Building Department within fourteen (14) calendar days of Commission action. Questions concerning appeals or deadlines should be asked of the Elmore County Land Use and Building Department.