



Land Use and Building Department

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Planning and Zoning Commission PUBLIC HEARING STAFF REPORT

Hearing Date: June 18, 2026

Date Report Compiled: June 11, 2026

Agenda Item: Appeal of Administrative Action Denying Administrative Process of 3-Lot Land Division for an approximately 12.24-acre parcel at 1751 N Big Foot Bar Road, Grand View.

Applicant/Appellant: Daniel T. Whitted

Case Number: ADD-2026-27

County Review Team: James Roddin, Director
Daniel Pauly AICP, Contract Planner

Zoning Designation: Agriculture (AG)

Parcel Number: RP04S03E322505

Property Size: Approximately 12.24 acres

EXECUTIVE SUMMARY:

Mr. Daniel T. Whitted (the "Applicant" and/or the "Appellant") appeals Director James Roddin's (the "Director") April 17, 2026, determination (the "Decision") denying the use of an administrative process to divide a 12.24-acre parcel into three parcels of approximately four acres each (the "Appeal") (see Exhibit 8).

After sending an email to the Board of County Commissioners and corresponding with the Land Use and Building Department ("Department") (Exhibits 1 and 2), Mr. Whitted applied for a Zoning Permit (ZP-2026-213) on March 6, 2026 (the "Zoning Permit Application") (Exhibit 3). In the Zoning Permit Application Mr. Whitted stated that the purpose of the application was "To split 12.23 acres into 4, 4, and 4.23 parcels so that each brother can establish homes" without going through a subdivision process. He further stated, "Doing a subdivision would create a hardship."

On March 12, 2026, the Department issued Zoning Permit Notes ("Zoning Permit") to Mr. Whitted, recommending a subdivision process. The Zoning Permit recommended a subdivision, as the proposed request does not meet the criteria for a one-time division under Zoning and Development Ordinance ("Ordinance") Sections 10-3-

2(A)(1–2) and Table 7-2-6. The Zoning Permit also cites Section 10-1-2(B), which states that “it is unlawful to subdivide property until all requirements of this Ordinance have been satisfied.” . On April 17, 2026 the Director issued the Decision (Exhibit 8) denying the request to process dividing the existing parcel into three parcels through administrative review rather than the subdivision process. In the Decision, the Director affirms the request is not eligible for a one-time division under the Ordinance for the following reasons, supported by clear and objective language in the Ordinance:

- The parcel was established March 1, 2015, later than the January 20, 1994 lot of record date for a one-time division established in the Ordinance (see Ordinance Section 10-3-2(A)(1);
- The result of the land division would be three parcels, rather than the two allowed through a one-time division (see Ordinance Section 10-3-2(A)(2); and
- At approximately 12.24 acres, the parcel is less than the minimum 40 acres to be eligible for a one-time division (see Ordinance Table 7-2-6);

The same day, the Appellant filed the Appeal requesting review of the Director's Decision by the Planning and Zoning Commission. On June 5, 2026 The Board of County Commissioners waived the fee for the Appeal. Today's hearing was thus scheduled.

Today's Public Hearing was noticed in Mountain Home Newspaper (Exhibit 10a) on June 3, 2026. Affected agencies were notified on June 3, 2026 (Exhibit 10b) and neighboring properties within a 300-foot radius were notified on June 11, 2026 (Exhibit 10c) and the Site was posted on June 11, 2026. At today's Public Hearing, the Commission will review the Appeal of ADD-2026-27.

EXHIBITS OF RECORD

The documents and exhibits referenced in the Application record are numbered sequentially. This Staff Report references the following portions of the Application's record, which are included as Exhibits. The electronic record maintained by the Department is the authoritative source of these Exhibits and shall take precedence if any inconsistencies exist in other paper or otherwise kept or maintained versions of the Exhibits.

1. February 23, 2026 Applicant's Email to County Commissioners
2. March 4, 2026 Written Department Response to Applicant's Phone Inquiry
3. Zoning Permit Application March 6, 2026
4. Site Plan
5. Record of Survey and Proposed Parcel Legal Descriptions
6. Parcel Inquiry Results
7. Department Zoning Permit Notes March 12, 2026
8. ADD-2026-27 Director's Decision April 17, 2026
9. Appeal of ADD-2026-27 April 17, 2026
10. Public Hearing Notifications
 - a. Newspaper and Site Post
 - b. Agencies
 - c. Neighborhood
11. Public Comments

- a. TBD
12. Agency Comments
- a. TBD

APPLICABLE ZONING ORDINANCE SECTION FOR CONSIDERATION OF APPEAL:

As stated in the Decision, the Appeal must be based on Title 7, Chapter 3, Section 7 of the Elmore County Zoning and Development Ordinance.

Findings for Appeal of Director's Decision to Planning and Zoning Commission Pursuant to Section 7-3-7

Establishing Standing and Procedures Pursuant to Section 7-3-7 (A):

- 1. Any aggrieved person having an interest in real property which may be adversely affected by a decision of the Director made in interpreting or enforcing this Ordinance, may appeal such a decision to the Commission by filing a written notice of appeal. A written notice shall be made by submitting the appropriate fee and application to the Director within fourteen (14) days of the date of such decision.**

Response:

The Appellant, Daniel T. Whitted, is the original Applicant and holds an interest in the real property affected by the Decision. The Appellant submitted a written appeal (Exhibit 9) on the same day the Decision was issued, within the fourteen-day period allowed under the Ordinance. Accordingly, the Appellant has timely filed the appeal in compliance with the procedural requirements for consideration by the Commission.

Bases of Appeal Pursuant to 7-3-7 (A) (1-5)

- 2. 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.**

Response:

In the Appeal (Exhibit 9), the Appellant states that the basis for the appeal is the hardship the subdivision process would impose on the family. In an email to the County Commission (Exhibit 1), the Appellant provides additional detail regarding cost concerns, including potential engineering design expenses and public improvement requirements. In Exhibit 1, the Appellant states that the Ordinance's subdivision requirements would "result in substantial financial costs, engineering expenses, potential road upgrade obligations, and development standards that far exceed what is needed for this low density homesteading use," and that "applying subdivision-level infrastructure standards create[s] a significant hardship that is disproportionate to the impact of our proposal." The following analysis evaluates these statements and other information provided by the Appellant in Exhibits 1 and 8 against the permissible bases for appeal:

Violation of Constitutional Provisions:

The Appeal does not assert any constitutional violations.

In excess of the Statutory authority of the agency:

Idaho's Local Land Use Planning Act (ILLUPA) expressly grants Elmore County authority over land divisions. Idaho Code section 67-6513 provides, in relevant part, that "[e]ach governing board shall provide, by ordinance ... for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code."

Idaho Code section 50-1301(18) further authorizes counties to define "subdivision," making Elmore County's definition in Ordinance section 7-1-1 controlling in this case. The Ordinance defines a subdivision as:

A tract of land divided into three (3) or more lots, parcels, or sites for the purpose of sale or building development, whether immediate or future; and the recorded plat thereof.

The Ordinance then identifies seven exceptions, including lot line adjustments, settlement of estates, legal condemnation, street widening or right-of-way acquisition, property line straightening, and a one-time division for certain lots of record.

The County acted within its statutory authority and limitations in requiring compliance with the subdivision process for the subject land division, as stated in the Decision.

Unlawful Procedure:

The Appellant does not raise any procedural concerns, either directly or indirectly, beyond general concerns about the potential costs associated with the Ordinance-prescribed subdivision process. However, these concerns relate to the anticipated expense of the process, not to any violation of constitutional, statutory, or Ordinance-mandated procedures. The Director followed all required procedures for the Decision.

Not supported by substantial evidence on the record as a whole:

The Appellant does not allege that the Director lacked sufficient evidence or information to support the Decision. The Director considered evidence including the subject parcel's location, size, and configuration; the number, size, and configuration of the proposed parcels, including metes and bounds descriptions; the date of the parcel's creation; the Applicant's stated intent to create three buildable parcels; the zoning designation; and the applicable County Ordinance.

Arbitrary, capricious, or an abuse of discretion:

The Decision rests on clear and objective criteria set forth in the Ordinance, which limits administrative discretion. These criteria include the definition of "Subdivision" in Section 7-1-1 and Section 10-1-2, which establishes the applicability of subdivision requirements, as well as other Ordinance provisions cited in the Decision. The record

does not support any reasonable alternative application of these standards, nor does it show that the Decision was arbitrary, capricious, or an abuse of discretion.

STAFF RECOMMENDATION:

The Appellant does not assert or demonstrate that any of the bases for appeal in Section 7-3-7 apply. Based on the record and the foregoing analysis Staff recommends the Commission **deny** the appeal and affirm the Director's Decision for ADD-2026-27. The Decision denies the use of an administrative process for the proposed land division and directs the Applicant to complete the subdivision process prescribed by the Ordinance Section 10-1-3 to create three parcels from the existing approximately 12.24-acre parcel in the AG zone.

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