



ARTICLE 14: ADMINISTRATION

FROM: Kristin Owen, Planning Administrator
RE: Summary of Changes, Compliance with Goals, Related Public Comment
Prepared For: Planning & Zoning Commission Public Hearing of October 5, 2016
Report Date: October 1, 2016

Introduction

The purpose of Article 14 is to identify the approving party for each land use action, to explain the approval process for each land use action, and to clarify the appeals procedure of each action.

Applicable County Code Section(s)

Article 14 covers provisions found in the current Teton County Code.

- Title 8: Zoning Regulations (8-2, 8-6, 8-7, 8-8, 8-9, 8-11)
- Title 9: Subdivision Regulations (9-2, 9-3, 9-7, 9-8, 9-10)

General Changes/Comments

1. The entire process from application to appeal is laid out together versus being spread out in different sections and different documents. This layout is standardized for each application type. This is also included in a table format to make it easier for applicants to understand.
2. Applications are separated by approval type (i.e. Legislative, Subdivision, Quasi-Judicial, and Administrative). This is somewhat confusing because subdivisions are Quasi-Judicial applications, but it was decided that having Subdivisions separate would help make those requirements clearer.
3. The Approval Criteria each decision making entity uses is specifically stated for each application type.
4. Appeal procedures are now included for each type of decision (including reconsideration per Idaho State Code 67-6535)
5. The Temporary Use Permit section was rewritten. There were inconsistencies in the existing section, and the Emergency Management Department had been working on a temporary event permit as well. These two options were merged and adjusted to create the proposed version.

Specific Changes/Comments

1. The approvals were adjusted for Subdivision Reviews.
 - a. As the procedures were reviewed, one issue of public hearing fatigue for the Public, Planning Commission, Board of County Commissioners, and Staff was discussed. Currently, we require 3-4 public hearings for subdivision approval. It was decided to require one public hearing for each step of approval, three public hearings total. This will clarify the process for the public and the applicant, providing a “fair” number of opportunities to comment. It was agreed that our current system dilutes public comment (or causes the public to wait until the last possible moment to comment), but the public does have an expectation to be able to comment. Three public hearing appeared to be the best option.
2. The Development Review Committee and Neighborhood Meeting were added.
 - a. The Development Review Committee is something that we have been doing for applications, but it was not incorporated into the code. The neighborhood meeting is something we do not currently have.
3. Div. 14.4 Legislative Review – Eligible Applicants has changed from the existing code.
 - a. In the proposed code, Legislative Review can be initiated by the Board of County Commissioners, Planning Commission, or Planning Administrator. In the existing code, any member of the public may also initiate this review.

- b. Legislative actions are very important, as they impact the entire community. Changing what is allowed in a certain zone affects all of that zone, not just a single property that may be seeking the change. Legislative actions include not only changing the zoning code, but could include changing the Comprehensive Plan as well. Due to the fact that these types of changes impact multiple land owners and possibly the whole community, it is not appropriate to require one applicant to apply, pay the fees, and argue the case for a change that would benefit the community. *This does not prevent the public from identifying necessary changes or proposing changes; it just means the public won't be the applicant.*
4. Div. 14.5.9 Land Division was added.
 - a. This division option was added in response to the Comprehensive Plan identifying that more land division options were needed. This division would all 4 or fewer lots total. This division does not have public infrastructure, and it will be approved by the Planning Commission at a Public Meeting.
 5. Div.14.5.10 Short Plat was added.
 - a. In the existing code, all subdivisions follow the same process, whether it is a 2 lot subdivision or 100 lots. The Short Plat option was created to accommodate small scale subdivisions, 5 or fewer lots total.
 6. Approval expirations were added for Full Plats in Div.14.5.11
 - a. In the Existing Code, applicants have 3 years from the date of concept approval to get final plat approval. However, there are not specific deadlines for each phase. This was changed in the proposed code to give expirations for each approval. The time limit was also increased to 5.5 years total.
 - i. Concept Plat approval expires after 2 years if Preliminary Plat has not been applied for.
 - ii. Preliminary Plat approval expires after 3 years if Final Plat has not been applied for.
 - iii. Final Plat approval expires after 6 months if the plat has not been recorded.
 - b. **CONSIDERATION:** Consider decreasing the time limit for Concept Plat and/or Preliminary Plat.
 - i. Between Concept and Preliminary, an applicant is required to conduct any required studies/plans. This approval should last for at least 1 year because some studies may need to be conducted seasonally.
 - ii. Between Preliminary and Final, an applicant is required to install all required infrastructure. This should last at least 2 years because construction will mostly occur during summer months.
 7. **STAFF RECOMMENDATION:** Remove Planning Administrator Recommendations in the table in Div. 14.1 and throughout Article 14 for all Quasi-Judicial Applications.
 - a. The Idaho State Code enables the Planning Commission to make recommendations. Legally, the Planning Administrator, or other staff, cannot give recommendations on Quasi-Judicial Applications. This has been in our old ordinances, but we have been told by multiple attorneys it is not legal, which is why staff has not been providing recommendations.
 8. **STAFF RECOMMENDATION:** Clarify the Full Plat section related to Preliminary Plat and Full Plat requirements.
 - a. There are some inconsistencies in this section. The cities' Article 14 includes pre-construction meetings. My guess is that this was deleted as some point in our code, but it should be added. All of our codes are also confusing because a list of items required to receive the Preliminary Plat Approval Letter is called out, but a lot of the items in the list are more informative and occur after the letter would be received. This needs to be broken out into two lists or clarified in a different way. This is something that could be worked on with the Cities to make sure we're using similar language and every step has been included correctly.

9. **CONSIDERATION:** Add a Large Parcel splitting option or rewrite the One Time Only section to fit this description.
 - a. We have received multiple comments related to large parcel splits, i.e. 40+ acres. This is a process that we could add. We have a lot of Agricultural Splits that were done to create large parcels of land that may not have building rights. The One Time Only currently has a density of 1 lot/10 acres, and Agricultural Splits are not eligible for the process. The One Time Only is redundant now that we have the Land Division Option because it is factored into the number of splits allowed for the Land Division. The One Time Only could be changed to accommodate large parcel splits (i.e. a maximum density of 1 lot/40 acres or lower) which may or may not factor into the Land Division. If the One Time Only is not changed to accommodate this, a different process could be included.
10. **CONSIDERATION:** Add a placeholder or language for Condominium/Townhome Plats.
 - a. These building types are not allowed in the Rural Districts, but they could be permitted in the Areas of Impact if the County and Cities agreed to that. If they are permitted, we will need this section. If they are not, the section could be removed. It could also be added at the time the Area of Impact Agreements are approved instead of adding it now.

Goals for Draft Code

1. **The Zoning Code is not always clear in regards to the process or the requirements.**
 - a. This Article clearly identifies the approval process for applications from start to finish, including appeals. This is something that is not clear in the existing code. It also includes a table summarizes the approvals, which is helpful for applicants, public, and staff to quickly understand what the process will be.
2. **The existing Code does not provide usable options for developing or dividing land.**
 - a. This Article establishes the Subdivision Review options. The One Time Only was retained. A new option, the Land Division, was added. The subdivision was split into a Short Plat, for small scale subdivisions, and a Full Plat for larger subdivisions.
3. **The new code needs to do a better job of protecting and promoting the resources Teton County has.**
 - a. This Article does not address this goal. The approval processes in this Article are subject to the other Articles that address this goal, such as Articles 3, 9, and 13.
4. **The new code should allow for flexibility and creativity in the design.**
 - a. This Article outlines the approval process for applications. Other Articles also identify requirements that must be followed, such as Article 3, 9, and 13. The processes outlined allow for productive feedback through the approval process, clear standards, and a review process that requires focus on design to creatively develop new projects.
5. **The new code needs to provide a more useful mechanism for revising existing undeveloped subdivisions.**
 - a. This Article includes Div. 14.10 Modifications to Previous Approvals. In this section, the process to amend previous subdivisions, as well as vacate them, is established.

Public Comments

1. Charles Gaudet: Written comment about housing for farm workers.

This Article defines land division options, which would create additional lots for housing units. Article 10 identifies uses that could also be used for additional housing, such as the Attached Accessory Apartment or a Backyard Cottage. Another option may be the Campground Use, which requires a Conditional Use Permit.

2. Sandra and Roy Walters: Written comment related to not needed “fast track” options for land divisions.

The only land division option that can be approved administratively is the One Time Only, which is the current approval process. The Land Division requires a public meeting. The Short Plat and Full Plat processes require public hearings. The Full Plat process requires 3 public hearings and 1 public meeting. In the existing code, 3 public hearings are required for subdivisions, with concept being approved administratively, unless there is an overlay or 10+ lots, which would trigger a 4th public hearing. The Comp. Plan identifies needed more land division options, which is the reason for the additional options.

3. Marie Tyler: Written comment about not addressing zombie subdivisions.

This Article includes Div. 14.10 Modifications to Previous Approvals. In this section, the process to amend previous subdivisions, as well as vacate them, is established. This is one way to address zombie subdivisions. Article 9 also includes a provision for this through the Transfer of Development Rights Overlay.

4. William Powell: Written comment that the land division options are worse than the existing code and zombie subdivisions are not addressed.

The densities identified in the zoning district sections determine how many lots could be created. Additional land division options were added, which was a goal identified in the Comprehensive Plan. The proposed code clearly identifies the process from start to finish, which is not clear in the existing code. Other Article identify additional requirements that must be met for approval, such as Article 13.

This Article includes Div. 14.10 Modifications to Previous Approvals. In this section, the process to amend previous subdivisions, as well as vacate them, is established. This is one way to address zombie subdivisions. Article 9 also includes a provision for this through the Transfer of Development Rights Overlay.

5. Mark Stewart: Written comment about adding a large lot split.

The One Time Only Land Split is somewhat redundant with the Land Division option. The One Time Only could be changed to accommodate large parcel splits, such as 40+ acres. See comments above in Consideration #9.

6. Alice Stevenson: Written comment recommending that the Land Division be reduced to 3 lots total, instead of 4, remove the One Time Only or adjust for large parcels, strengthen the Administration section so decisions aren’t subjective, and add a section to address zombie subdivisions.

The maximum number of lots that could be created through the Land Division could be changed. The densities in Article 3 would determine how many of those lots a parcel would actually be eligible for.

The One Time Only Land Split is somewhat redundant with the Land Division option. The One Time Only could be changed to accommodate large parcel splits, such as 40+ acres.

This Article includes Div. 14.10 Modifications to Previous Approvals. In this section, the process to amend previous subdivisions, as well as vacate them, is established. This is one way to address zombie subdivisions. Article 9 also includes a provision for this through the Transfer of Development Rights Overlay.