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October 5, 2016

Teton County Planning and Zoning
Commission
150 Courthouse Drive, Room 107
Driggs, ID 83422

Re: Comments on Teton County Proposed Land Development Code

Dear Planning and Zoning Commission:

I am writing on behalf of Brigham Young University – Idaho (“BYU-Idaho”) to provide its comments regarding the draft Land Development Code currently being considered by the Teton County Planning and Zoning Commission.

Teton County has completed its Comprehensive Plan, as required by Idaho Code § 67-6509 and § 67-6510. Now, Teton County is in the process of adopting a new development code which should “be in accordance with the policies set forth in the adopted comprehensive plan.” Idaho Code § 67-6511(1). This letter is provided to give comment on the proposed Land Development Code for Teton County, Idaho (PZC Public Review Draft – August 2016) (“Development Code”).

Beginning in 1979, BYU-Idaho has conducted outdoor learning experiences on property it owns that is located on Badger Creek in Teton County, Idaho. This facility is known as the BYU-Idaho Outdoor Learning Center. The Outdoor Learning Center has provided many students and others the ability to learn in a natural outdoor environment, and to obtain access to public lands located in Teton County and surrounding areas. BYU-Idaho has invested significant resources in the Outdoor Learning Center in order to achieve its educational objectives.

BYU-Idaho now asks that the Planning Commission include provisions in the Development Code to ensure that this important facility and others like it can provide outdoor, experience-based education to students and others, as contemplated by the Teton County Comprehensive Plan.

The Objectives of the BYU-Idaho Outdoor Learning Center

BYU-Idaho seeks to use the unique location of the Outdoor Learning Center near federal and state public recreation areas to introduce students and others to the learning opportunities available outdoors. BYU-Idaho tries to utilize the outdoor resources for its teaching mission in a variety of ways, including through the Outdoor Learning Center, its Recreation Management degree, its Outdoor Resource Center, and through other programs.

The Outdoor Learning Center is an outdoor, hands-on learning center designed to create deeply significant leadership, learning and recreational experiences for many young people and others, including those students whose area of focus is recreation management and therapy. The Outdoor Learning Center partners with campus organizations and academic departments to provide these experiences.

One significant part of the Outdoor Learning Center is its partnership with the Recreation Management academic area within the BYU-Idaho Department of Health, Recreation and Human Performance. That academic area awards Bachelor of Science degrees and minor degrees in Recreation Management and Therapeutic Recreation. The Outdoor Learning Center helps this academic area provide opportunities for leadership training through adventure education. This academic area combines the unique natural resources of our region with the experiential teaching philosophy of BYU-Idaho in order to prepare students for future careers and experience in outdoor recreation. This provides students with opportunities for personal growth, and develops strong resource protection and service ethics. Students in these programs go on to become leaders in their careers, which frequently involve making the outdoors accessible to youth and adults.

The Outdoor Learning Center includes a dedicated ranch, ropes courses, principle-based learning activities, and cabins to create learning experiences. The Outdoor Learning Center partners with academic departments and other campus organizations in their educational goals. That means that the staff and student leaders at the Outdoor Learning Center coordinate learning experiences focused on the principles chosen by the group utilizing the Outdoor Learning Center facilities.

The Outdoor Learning Center also hosts summer experiences for high school age students from across the country. This program, which is currently called “Adventures for Youth” or AFY, provides these students a week-long experience in the outdoors, combined with adventures on public lands.

Another way that BYU-Idaho encourages outdoor education and access to the public lands is through the Outdoor Resource Center located on the BYU-Idaho campus in Rexburg. The Outdoor Resource Center in Rexburg provides all of the types of equipment needed for people to get outdoors and enjoy the area’s natural resources, in exchange for low rental price. This

includes rafts, tents, kayaks, skis, boats, snowshoes, canoes, climbing gear, hiking gear, clothing, boots, cooking gear, safety equipment, and nearly any other piece of equipment needed to access the outdoors. This Outdoor Resource Center is available to the public, as well as to BYU-Idaho students and faculty. The Outdoor Learning Center often utilizes the equipment at the Outdoor Resource Center for its programs.

BYU-Idaho also allows public groups, including Teton School District 401, to utilize the Outdoor Learning Center for their educational and non-profit purposes.

The Pressing Need for Educational Experiences in the Outdoor World

While the Outdoor Learning Center has been introducing youth to the outdoors since 1979, there has recently been national attention on the need for nature experiences of this type. In 2005, Richard Louv published his book “Last Child in the Woods: Saving Our Children from Nature-Deficit Disorder,” which explored the question of how lives could be improved if our days and nights were as immersed in nature as they are in technology. Louv, Richard, *Last Child in the Woods: Saving Our Children from Nature-Deficit Disorder* (2005). Richard Louv was awarded the prestigious Audubon Medal for raising this issue of the costs of children’s isolation from the natural world, and for leading a movement to remedy the problem. Louv wrote:

Every child needs nature. Not just the ones with parents who appreciate nature. Not only those of a certain economic class or culture or set of abilities. *Every* child.

<http://richardlouv.com/blog/> (February 28, 2012).

The October 2016 issue of *National Geographic* also raised this same issue, in the article “Can the Selfie Generation Unplug and Get Into Parks,” by New York Times writer Timothy Egan. *National Geographic*, October 2016. In that article, Egan explains that younger generations are not visiting national parks in the same proportion as prior generations. Many national conservation leaders are concerned that the next generation may not have the same level of commitment to stewardship and preservation of natural places that prior generations have had. In the article, the Director of the National Park Service states that “[y]oung people are more separated from the natural world than perhaps any generation before them” and “[t]he national parks risk obsolescence in the eyes of an increasingly diverse and distracted demographic.”

The same concerns have also been expressed and addressed in our local area. Recently, a meeting on how to address “nature deficit disorder” in eastern Idaho was held jointly with the State of Idaho Department of Fish and Game, the U.S. Forest Service, Idaho Falls Department of Parks and Recreation, the Theodore Roosevelt Conservation Partnership, and Tight Line Media. See Trevellyan, K., “Unstructured Play,” *Post Register* at A1 (September 28, 2016) (“Local officials are concerned children aren’t spending time outdoors”). That article stated

that at this meeting, “Many were concerned that if children don’t engage in outdoor activities – hiking, camping, angling – it will create a lapse in interest for future generations, and an indifference toward nature at large.”

One of the criticisms posited by this movement is that local land use planning has not adequately incorporated locations for youth and the public to enjoy natural spaces. Teton County should reflect this important need in its land use planning, and in its new development code. The Outdoor Learning Center operated by BYU-Idaho meets this important need to bring youth into the outdoors, and similar uses should be encouraged in Teton County.

The Comprehensive Plan Encourages Preservation of Natural Resources for All Users

The Vision stated in the Comprehensive Plan provides that Teton County will strive to “[p]reserve natural resources and a healthy environment, which are essential for creating viable economic and recreational opportunities for all users.” Comprehensive Plan – A Vision and Framework 2012-2030 (“Comp. Plan”) 1-8. The Vision is also that Teton County will “[c]ontribute to our strong sense of community by providing quality facilities, services, and activities to benefit the community.” Comp. Plan 1-8. The Outdoor Learning Center promotes the accomplishment of these purposes.

The Teton County Comprehensive Plan focuses on education and recreational opportunities, utilizing and promoting Teton County’s unique access to public lands.

Our future vision is for a Valley with a vibrant economy and high quality of life. This requires **educational opportunities**, **recreational opportunities**, cultural amenities, **public land access**, and **protection of natural resources** and scenic vistas. Therefore, the Framework Map also depicts a recreational trail and pathway system that rivals the best in the nation, scenic vista protection along the primary transportation routes, a valley-wide recreation program and centers and support for multimodal transit. Providing a variety of **high quality educational opportunities**, diverse cultural amenities, well maintained transportation routes and **public access to the surrounding forests** and the Teton River are key aspects of the Framework’s goals and policies.

Comp. Plan 1-9 (emphasis added).

The principles contained within the “Natural Resources and Recreation” portion of Teton County’s Vision statement are consistent with the purposes of the BYU-Idaho Outdoor Learning Center. These include:

- Enhance and preserve our access to public lands and recognize the need to accommodate different user groups in a way that minimizes user conflict and area damage.
- Recognize that tourism is a fundamental component of our economy and is dependent on healthy natural resources.
- Preserve and improve recreational opportunities as well as natural resources
- Create and sustain economic development through promotion of recreational opportunities and natural resources

Comp. Plan 4-9. The Comprehensive Plan also lists other guiding principles relevant to the Outdoor Learning Center:

- Encourage diverse and affordable activities for all ages
- Encourage the development of quality education facilities - primary, secondary and post-secondary
- Explore new funding options (e.g. Recreation District, grants, private donations) to develop and support affordable activities for all ages (e.g. Recreation Center, 4-H, etc.)

Comp. Plan 4-11. The Comprehensive Plan also encourages Teton County to work with non-profit groups, such as BYU-Idaho, "to expand services and facilities."

- Encourage partnerships and working relationships with non-profit groups in order to expand services and facilities

As part of the Comprehensive Plan process, Teton County also solicited the opinions of youth in the area. The principles provided by the youth group as part of the Comprehensive Plan are particularly relevant to the Outdoor Learning Center. These principles incorporated by the youth group include:

- Encourage the development of art, culture, and recreational facilities
- Encourage challenging, relevant, hands-on, diverse classes and experience
- Facilitate a more vibrant economy and encourage local business
- Encourage the preservation of, and access to, natural resources
- Provide more educational resources

- Provide productive, engaging, affordable, and positive entertainment
- Provide opportunities for youth involvement and leadership in the community

Comp. Plan 4-15. These principles are the same as the values and direction of the Outdoor Learning Center. The Outdoor Learning Center provides an experience-based education, access to natural resources, productive and affordable entertainment, and opportunities for youth involvement and leadership.

The Comprehensive Plan states that it is important to accommodate different user groups, while enhancing access to public lands. Goal 2 of the Natural Resources and Outdoor Recreation group was to “Enhance and preserve our access to public lands and recognize the need to accommodate different user groups in a way that minimizes user conflict and damage to natural resources.” Comp. Plan 5-20. The Outdoor Learning Center seeks to do this by providing a staging facility for youth to take important excursions into public lands.

The Comprehensive Plan also states that it is important that the interests of all user groups is also emphasized. Goal 3 of the Natural Resources and Outdoor Recreation group was to “Provide and promote exceptional recreational opportunities for all types of users (including but not limited to biking, skiing, fishing, off-highway vehicle use, target practice, hunting, trail users, equestrians, boating and non-motorized flight) as a means for economic development and enhanced quality of life.” Comp. Plan 5-21.

A key part of the Comprehensive Plan is that Teton County should promote and market uses that “package” the natural environment for outsiders and tourists:

Recreational tourism is a niche segment of the outdoor recreation product that Teton County is offering tourists. It is essentially comprised of **packaging special itineraries, activities and experiences that focus on the natural environment of the region.** The region is very well suited to pursue this segment, as the destination features outdoor recreation, world class scenery and high quality experiences in nature. Therefore, **these types of recreational tourism experiences should be promoted and marketed.**

Comp. Plan, 6-5 (emphasis added). To be consistent with the Comprehensive Plan, the proposed Development Code needs to include provisions that would encourage land uses that feature “outdoor recreation” and “high quality experiences in nature” such as that offered by the Outdoor Learning Center.

The Need for Protection for Outdoor Camps and Educational Facilities

The idea that Teton County should promote uses that encourage the enjoyment of the area’s outdoors and public lands by youth and students is not a new idea. Rather, Teton County and

its surrounding valley has long been a center for outdoor learning and outdoor recreational experiences for youth.

For example, the National Outdoor Leadership School (NOLS) has chosen a location near Driggs for one of its outdoor leadership training locations. NOLS is a leader in wilderness education and teaches students of all ages outdoor skills, leadership, and environmental ethics through wilderness expeditions. NOLS has also used the Outdoor Learning Center facilities for some of its activities.

Another example is the Treasure Mountain Camp operated by the Grand Teton Council of the Boy Scouts of America has been providing education and access to outdoor experiences to thousands of young men since 1936. Treasure Mountain is used by the Boy Scouts of America as one of its premier locations for the BSA National Youth Leadership Training (NYLT) program.

The Darby Girls Camp located in Darby Creek Canyon has been in operation since at least 1951 providing outdoor experiences for thousands of youth. West Piney Lodge in the Pine Creek Canyon has also been providing educational outdoor experiences for thousands of youth since 1953.

These uses bring large numbers of people to Teton County each year. However, all of these uses are located just outside of Teton County. Treasure Mountain and Darby are located on national forest land within Teton County, Wyoming. West Piney Lodge is located on national forest land in Bonneville County, Idaho.

The draft Development Code is not consistent with the Comprehensive Plan, which provides that these types of outdoor recreational experiences should be “promoted and marketed.” The draft Development Code also does not seem consistent with Teton County’s rich history of hosting this type of outdoor recreational experience in the past.

While the proposed Land Use Development is an impressive body of work, it is difficult to understand how the Land Development Code applies to these important uses. The draft Land Development Code would conflict with the Comprehensive Plan if it fails to promote land uses that focus on outdoor recreational experiences and education for youth and the public. The current process presents an opportunity to amend the draft Development Code to better promote these outdoor values.

The Draft Land Use Development Code Should Be Clarified to Protect Outdoor Camps and Educational Facilities

The proposed Development Code does not include provisions that are tailored to this important purpose of getting youth into the outdoors for education in the natural environment. Instead, this type of use is covered only as part of other uses.

It appears that outdoor camps and recreational facilities for education and training of youth would fit into three potential uses listed in the draft Land Development Code.

First, this type of camp may be considered a “Guest / Dude Ranch” use which is a use that is allowed in the Foothills zoning district, subject to the limits of 10.7.2, which are:

A ranch that provides multi-night accommodations for guests, provides a recreational/agricultural activity or immediate access to recreational/agricultural activities, has dining facilities on-site, barns, associated buildings, corrals, pastures, and livestock related to a working ranch, working farm and/or the recreational activity available to guests. The guest/dude ranch does not include a commercial restaurant, café, or bar that caters to the general public, nor does it actively solicit nightly accommodations. A guest/dude ranch may have limited availability for special activities such as a wedding or social gathering.

Development Code § 10.7.2. While this definition of a “Guest / Dude Ranch” use would allow the Outdoor Learning Center, it should be expanded to clarify that a “Guest / Dude Ranch” may also provide outdoor educational experiences, as well as recreational activities. The proposed Land Development Code should be revised to the following:

A ranch that provides multi-night accommodations for guests, provides a recreational/agricultural/educational activity or immediate access to recreational/agricultural/educational activities, has dining facilities on-site, barns, associated buildings, corrals, pastures, and livestock related to a working ranch, working farm and/or the recreational or educational activity available to guests. The guest/dude ranch does not include a commercial restaurant, café, or bar that caters to the general public, nor does it actively solicit nightly accommodations. A guest/dude ranch may have limited availability for special activities such as a wedding or social gathering.

This change is consistent with the Comprehensive Plan, by including outdoor education experiences, as well as outdoor recreational and outdoor agricultural experiences in the “Guest/Dude Ranch” category.

Second, this type of camp may be considered an “Outdoor Recreation” use, which is

A commercial facility, varying in size, providing daily or regularly scheduled recreation-oriented activities. Activities take place predominately outdoors or within outdoor structures. Outdoor recreation includes the following.

1. Drive-in theater.
2. Campground, travel trailer park, RV park.
3. Extreme sports facility such as BMX, skateboarding, or roller blading.
4. Horse stable, riding academy, equestrian center.
5. Outdoor amusements such as batting cage, golf driving range, amusement park, miniature golf facility, or water park.
6. Outdoor theater.
7. Shooting range.
8. Racetrack.

Development Code § 10.7.3. These enumerated items are only examples of “Outdoor Recreation” uses, and the draft Code does not limit “Outdoor Recreation” to these enumerated uses. However, the Use Table provided in Section 10 of the draft Code does not make it clear whether non-enumerated uses would be allowed as conditional uses, limited uses, or allowed uses. That should be clarified in the draft Code, so that an outdoor camp for recreation experiences for youth, utilizing the natural resources of the area, could be classified as an allowed use under the draft Code.

Third, this type of camp may be considered a “Retreat Center” use, which is a use that is allowed in the Foothills zoning district, subject to the limits of section 10.7.4, which are:

A facility used by small groups of people to congregate temporarily for such purposes as education, meditation, spiritual renewal, meetings, conferences, social gatherings, seminars, or weddings and which may provide meals, services, and recreation for participants during the period of the retreat or program only. Such centers may not be utilized by the general public for meal or overnight accommodations

Draft Code § 10.7.4. This definition of “Retreat Center” in the proposed Development Code was revised from the definition of “Retreat Center” found in the current Zoning Regulations. The current version of this definition in the proposed Development Code has the following additions and deletions:

A facility used by small groups of people to congregate temporarily for such purposes as education, meditation, spiritual renewal, meetings, conferences, ~~or social gatherings, seminars, or~~

~~weddings and which may provide meals, housingservices, and recreation for participants during the period of the retreat or program only. Such centers may not be utilized by the general public for meal or overnight accommodations. Housing for particiapants may be in lodges, dormitories, sleeping cabins (with or without baths), or in such other temporary quarters as may be approved, but kitchen and dining facilities shall be located in a single centrally located building or buildings.~~

The definition of “Retreat Center” in the draft Code eliminated the last sentence, which makes it clear that housing in sleeping cabins is allowed, with dining facilities at a centrally located building. The definition should not be changed from the current Zoning Regulations in this way. Instead, the definition of “Retreat Center” in the proposed Development Code should be revised to the following:

A facility used by small groups of people to congregate temporarily for such purposes as education, meditation, spiritual renewal, meetings, conferences, social gatherings, seminars, or weddings and which may provide meals, services, and recreation for participants during the period of the retreat or program only. Such centers may not be utilized by the general public for meal or overnight accommodations. Housing for participants may be in lodges, dormitories, sleeping cabins (with or without baths), or in such other temporary quarters as may be approved, but kitchen and dining facilities shall be located in a single centrally located building or buildings.

With this change, the “Retreat Center” use could be used by the Outdoor Learning Center to encourage its valuable educational purposes.

To be most consistent with the Comprehensive Plan, the proposed Development Code should include a specific provision allowing uses that encourage educational experiences for youth in the outdoor environment conducted by non-profit organizations. For that reason, the Development Code should include a category of “Outdoor Education Center” as an allowed Recreational Use in the Land Use Table found in Section 10.2. This use should be defined in Section 10.7 as follows:

Outdoor Education Center.

A facility used by a non-profit association or education enterprise to provide educational or recreational opportunities in a natural outdoor environment. Housing for participants may be in lodges, dormitories, sleeping cabins (with or without baths), or in such other temporary quarters. The Outdoor Education Center does

not include a commercial restaurant, café, or bar that caters to the general public. An Outdoor Education Center may have limited availability for special activities such as a wedding or family or social gathering.

There may be other ways that the proposed Development Code could be improved to encourage and promote the types of outdoor recreational uses that the Comprehensive Plan seeks to encourage. BYU-Idaho encourages Teton County to consider further changes to the Development Code that would encourage the types of uses covered in the Comprehensive Plan.

Attempts by BYU-Idaho to Resolve Impacts Expressed by Neighbors

Of course, the significant need for outdoor public locations for education does not mean that neighboring residential uses should be adversely impacted. Some of the neighbors of the Outdoor Learning Center have expressed their concerns that the exuberance of those using the Outdoor Learning Center can be distracting. While BYU-Idaho tries to introduce students and others to the beauty and learning available in the natural world, it does not want to cause any harm to other neighboring landowners.

In the past, BYU-Idaho has tried to be responsive to those concerns, and has taken a number of operational steps to mitigate any impacts of its property use on neighbors. BYU-Idaho is also currently taking additional steps to address these concerns, and will continue to address these issues if they arise in the future. These steps are explained further in a letter of today's date submitted to the Teton County Planning Administrator in response to her letter dated September 7. BYU-Idaho refers to that letter for details regarding its responses to the neighbors' concerns.

Conclusion

It is important that uses like the Outdoor Learning Center be permitted within Teton County. The Outdoor Learning Center introduces youth to the outdoors, and provides them experiences that are not available in a classroom setting. The Teton County Comprehensive Plan seeks to promote and market this type of facility that offers these types of experiences. The draft Land Development Code should be consistent with the Comprehensive Plan, by making it more clear that this type of outdoor facility and use should be both allowed and promoted.

Sincerely,



Lee Radford

KLR/car

October 5, 2016

TO: Teton County Planning & Zoning Commission pz@co.teton.id.us
Teton County Board of County Commissioners commissioners@co.teton.id.us
Teton County Planning Administrator kowen@co.teton.id.us

RE: **Draft Land Use Code**

I oppose adoption of the current Draft Land Use Code. While there are some positive aspects to the Draft Code as it now stands, there are critical issues that need to be addressed and/or revised.

The following portions of the Draft Land Use Code require revision; these arguments are the basis for my strong objection to adopting the Draft Code as it now stands:

1. Section 3.6.1 – The Draft Code provides *new and more lax land split and fast track land division options*. Teton County currently has 7,000 vacant lots and many illegitimately created lots from fast track land divisions.
2. Housing Density – In the current Draft Code, housing densities are *doubled from 20 acres to 10 acres* in most of the rural areas of the County [see the interactive Draft Zoning Map]. On lands between the three cities, subdivision up to 4 lots would be allowed without a public hearing.
3. Section 13.3.7 and 13.3.8 – The Draft Code *substantially decreases wildlife protections*, as a result of a decrease in the area covered by the revised wildlife overlay, the new housing density exemptions, and waivable study requirements.
4. The Draft Code does not address the critical need to *provide a useful/functional mechanism for revising existing undeveloped subdivisions*. The *Build-out Scenarios* presented to the Planning & Zoning Commission on February 9, 2016, document 7,000 vacant lots already platted. Teton County planning staff estimates that the new Land Use Code can entitle over *18,000 more lots outside of the cities*, in addition to those 7,000.

Teton County is a unique, truly remarkable region, nestled within one of the world's most intact ecosystems. I believe that each of us has a profound responsibility to protect its integrity. Let's not allow irresponsible development to destroy this treasured landscape.

Thank you, in advance, for your consideration of and attention to these objections.

Sincerely,


Kathleen May

Victor, Idaho



Valley Advocates for Responsible Development

October 5, 2016

Teton County Planning & Zoning Commission
150 Courthouse Drive
Driggs, ID 83422

Re: Draft Land Use Code

Dear Members of the Commission:

First, a hearty thanks for your years of hard work on the draft Land Use Code. Your dedication is greatly appreciated, and we thank you for your years of service on this and other important planning & zoning matters.

You will find that the comments offered here are conceptual in nature. Our observation of the draft Land Use Code is that it is the product of over 2 years of internal Planning & Zoning Commission (PZC) deliberation, a process that has offered few opportunities for public input on the myriad policy decisions contained within. Though the Comprehensive Plan puts forth a grand policy vision, it often lacks specificity. The lack of specificity is intentional so that the community can achieve consensus on broad policy before undertaking specific implementation efforts prior to code drafting. Pre-coding implementation efforts include a series of rigorous, issue-specific studies and analyses (many of which are specifically identified in Chapter 6 and mentioned later in this letter) so that the code writing process is iterative and methodical. The Comprehensive Plan's lofty goals and policies are a collection of great ideas that require a great deal of formulation before they are manifest in code. This requires the public engagement in a manner that is topical, accessible, and within Comp Plan parameters. We believe that a good planning effort - particularly code drafting - requires the engagement of experts, stakeholders, and the general public early and often.

The issues discussed in this letter may be familiar to you. In October 2015, Valley Advocates issued a six-part informational series called *Decoding the Code*, where we attempted to distill the weighty policy issues that, from our perspective, form



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the seminal elements of the Land Use Code. This letter reiterates much of the discussion in the *Decoding the Code* series, which we intended to help facilitate the necessary public discourse for weighty topics like density, natural resource protection, scenic resource protection, development design, infrastructure, and other fundamental issues.

Though we recognize the Planning & Zoning Commission (PZC) prefers comments aimed toward certain specific code provisions, the comments offered here are directed toward the major policy positions embedded within this voluminous document. In order to frame our forthcoming comment, we believe that it is necessary to unpack some of the most critical policy issues in the course of registering our comment to the public record. With that in mind, our comments are as follows:

1. **Land Divisions are over-prescribed.** The Comprehensive Plan lists several Key Actions in the Agricultural & Rural Heritage section of Chapter 6, which are as follows:

- Create/amend ordinances and programs to promote Large Lot Subdivisions;
- Consider amending the Subdivision Ordinance to allow Family Lot Splits and/or a Short Plat process;

These key actions flow from Chapter 5 Policies and Chapter 6 purpose statements (under the headers of “Where Are We Now?,” “Where Do We Want to Go?” and “Tools”). It is clear that these Key Actions are intended to preserve “agricultural and rural lands and a distinct rural character” and promote “continued multi-generational agricultural heritage.” However, as drafted in the draft Land Use Code, Land Division options allow for an expedited process for lots that are only slightly larger than what is required under the current underlying zoning in most of the county. These options appear to be available to all non-agricultural uses, and the minimum lot size required (e.g. 20 acres in rural zones, 3.75 acres in the Agriculture Rural Neighborhood) is far less than what is required for most bona fide agricultural operations. We also note that Land



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Division and Short Plat options are exempt from several key public noticing requirements currently required of all subdivisions. Oftentimes, public noticing is the only means by which property owners are alerted to potential development adjacent to or near their properties. Current noticing requirements are minimal as is; we've observed that even the most vigilant of valley citizens have difficulty staying abreast of proposed development near their homes. At a minimum, we recommend that existing noticing requirements are carried forth in the new code.

2. **Subdivision regulations are subjective.** Predictability is a virtue in any land use code, and the Comprehensive Plan certainly embraces predictability when it comes to the preservation of natural resources, protection of agricultural heritage, management of public facilities and services, and the promotion of steady economic growth. However, the draft Land Use Code defers many key decisions regarding open space design, habitat preservation, scenic lands, protection of important agricultural lands, fiscal impacts, and market sustainability to subdivision approval. Many of these decisions are to be based on the studies required in Article 13 - if they are required at all. In the event that these studies are required, it is unclear if a proposed subdivision will garner approval or denial based on the findings of a given study. For example, some subdivisions require a Public Service/Fiscal Impact Analysis, but it is unclear what the approval outcome for development will be if a development is shown to have a negative fiscal impact. Will the county tolerate any impact? None? What happens when developer-commissioned studies put forth dubious findings? Questions such as these abound and, if experience is any indicator, will subject the citizens of Teton County to more protracted, tedious, and opaque development decisions - and could possibly usher in a new era of all-night hearings.

3. **Density should reflect the intent of the Comprehensive Plan.** On the eve of the PZC's Comp Plan recommendation in 2012, the commission held a lengthy debate on the specific language in Policy ED 4, which states as follows:



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“Accommodate additional population by supporting development that is economically responsible to the County and the community.”

The crux of the issue was a recommendation put forth by the Comprehensive Plan Economic Development Committee, which stated that potential lot supply in Teton County should be eliminated by 75% in order to stabilize the local real estate market. The PZC rephrased the recommended 75% figure to “accommodate population growth” knowing full well that this term could effectively mean a 100% elimination in a county with 9000 vacant lots given the county’s typically nominal population growth. Either way, it was recognized that Teton County would likely require significantly reduced density in order to meet the goals and policies put forth in the Comprehensive Plan’s Economic Development, Agriculture & Rural Heritage, and Natural Resource & Recreation sections.

In the Rural Agriculture, Foothill, and Wetland Agriculture areas, the Comprehensive Plan recommends “low” densities throughout. In the Mixed Ag/Rural Neighborhood, the plan recommends “low” to “medium.” Though the plan stops short of quantifying densities in these zones, we believe it is safe to say that “low density” is equal to or less than the density currently prescribed for most of those areas - 20 acres. The draft Land Use Code, however, *doubles* density to 10 acres in most areas. Though we appreciate that this density is achievable only by providing 75% open space, we believe it is inconsistent with the clear policy intent of the Comprehensive Plan. The issue here is lot supply, not open space. We also appreciate that the P&Z seeks to avoid disagreement from landowners who perceive a decrease in value from reduced zoning. However, we maintain that recommended densities in the Comprehensive Plan should be followed not only to maintain consistency with the plan, but to also stabilize real estate markets over the long term. This, we believe, is necessary to ensure economic and environmental sustainability for Teton Valley.



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Finally, we recognize that the draft code significantly reduces potential density from what is possible under the existing code. The planning staff's analysis shows that the existing code allows over 33,000 lots, while the proposed code reduces this figure to just over 17,000. In both cases, this is in addition to the existing 7,000 vacant lots in Teton County, and in both cases, this far exceeds the population growth threshold set forth in the Comprehensive Plan. However, in our opinion, we wish to pose a more fundamental question: what is the desired character of Teton Valley? Under the draft code scenario, it appears the effective population of the county would exceed 50,000, which is roughly the population of Idaho Falls. Maintaining a small-town character, perhaps more than anything, will impact the Comprehensive Plan's economic development, natural resource protection, agricultural heritage, transportation, and community facilities goals. We believe that any discussion about density should be informed by a robust community discussion about the carrying capacity of Teton Valley, and how increased lot supply will impact the cherished character of our valley and the quality of life we enjoy.

4. Wildlife Protections should not be weakened. The current Natural Resources Overlay (referred to as the Wildlife Habitat Overlay in Title 9) was developed with the input of the Idaho Department of Fish & Game (IDFG) and many local wildlife/natural resource experts. This is especially true with the current Natural Resources Overlay map, which has been carefully prepared to protect indicator species and species of special concern in Teton County. Our comments with regard to wildlife protections are twofold:

- A. We believe the current Natural Resources Map should **not** be replaced with the proposed Wildlife Habitat Protection Map. The Wildlife Habitat Protection Map is the vegetative cover map sourced from IDFG's 2012 *A Summary of Key Fish & Wildlife in Teton County, Idaho*, and though vegetative cover is important for wildlife habitat, it is only one of many characteristics that comprise wildlife habitat. Moreover, we understand that IDFG's map was not intended to be a zoning tool, but merely a high-level indicator of



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certain types of vegetation cover. The existing Natural Resources Map was created through a collaboration of regional and local experts, and we recommend that the county continue to use it with updates from the most recent data available.

- B. We recommend against the density exemption for the wildlife habitat assessment. After consultation with many local and regional wildlife experts, we've learned that blanket exemptions may be damaging to wildlife habitat. Currently, Title 9 offers no exemption for decreased densities, and we recommend the continuation of this practice.

5. Scenic Resources should be protected comprehensively. Though we appreciate that the Scenic Corridor will largely remain intact, the Comprehensive Plan puts forth several Key Actions with respect to the protection of scenic resources:

- Inventory and assess scenic values and views, priority areas, and beautification areas.
- Identify viewshed corridors and develop techniques to protect them.

Again, we note that the “scenic corridor” carries forth from the old code to the new, but we believe the Comprehensive Plan, through several goals, policies, and the aforementioned key actions, recommends an inventory of all scenic vistas in the valley and techniques to protect them. Like many Rocky Mountain basins, our valley is broad with a flat, sparsely-forested valley floor. Viewsheds extend for miles and techniques oriented toward landscape-level scenic overlays could be used in Teton Valley as in many other peer communities. We recommend that a scenic resource inventory be completed per the Key Actions put forth in the Comprehensive Plan, thereby paving the way for effective, predictable, and consistently applied scenic resource protections.



6. The draft code contains no new tools to address zombie

subdivisions. The overabundance of subdivision lots is a central issue in the Comprehensive Plan, and in an effort to achieve the plan's economic development, natural resource, agricultural heritage, and community service/facility goals, the vacation and replatting of subdivisions is discussed at length. In 2011, Valley Advocates assisted Teton County with a streamlined process to encourage the vacation/replatting of vacant subdivisions, which has been successful in eliminating many "paper" plats - subdivisions where no infrastructure has been installed or is held by a single owner. The Comprehensive Plan seeks to build on this progress with the introduction of new tools through the specific Key Actions:

- Mitigate the economic impact of non-viable subdivisions.
- Incentivize vacation of non-viable subdivisions in or near migration corridors or sensitive habitats.
- Vacate non-viable subdivisions; amend County Code to strengthen penalties for weed violations.

The Comprehensive Plan also goes on to state the following:

"Subdivision impact fees and the provision and timing of infrastructure should be reexamined with these subdivision vacation and replat regulations in mind. New provisions should be added to the [Land Use] Code. Other Code criteria may center on whether the County can economically provide services to subdivisions that have not begun development. Subdivisions that meet certain criteria could be replatted to meet the goals Chapter 6. Implementation of this Comprehensive Plan, including reduced lot sizes and open space conservation, according to a replat Code provision."

Though we appreciate that the existing language regarding replatting/vacation procedures has been carried forth in the draft Land Use Code, there appear to be no new tools that would further incentivize the elimination or reshaping of existing subdivisions.



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Current tools have eliminated nearly 10% of the existing vacant lot supply, and the current inventory of these lots now stands at just over 7,000. Clearly, more work ought to be done on this front, and we believe that further study should be done on this issue.

Again, we commend you for your work on this project, which is oftentimes thankless. In making your recommendation to the Board of County Commissioners, we would encourage you to identify the topics within the Land Use Code that, in your view, require special attention. Your work has been an important step in the Land Use Code overhaul, and we thank you for positioning this all-important issue for a robust community discussion.

Respectfully,

Shawn W. Hill
Executive Director

October 5, 2016

Teton County Planning and Zoning Commission
150 Courthouse Drive
Driggs, ID 83422

Comments re The Land Development Code PZC Public Review Draft

Mr. Chairman and Members of the Commission:

Thank you for your time and efforts over the past few years in reviewing the Land Development Code template prepared by Code Studio (<http://code-studio.com/about-us/>) of Austin, TX.

After weeks of review and consideration, these are just a few of the technical suggestions and questions that I have:

1. The proposed code includes division 1.3.5 Official Zoning Map. The Light Industrial Zone includes two developments. The first is Driggs Centre, which is currently distressed. In Driggs Centre building permits will not be issued because the developer did not complete the development and receive a completion certificate. The second is Rocky Road. Rocky Road does not currently have any lots available for purchase and 13 of the 19 lots are being utilized. The Light Industrial Zone has high demand and short supply. Before adopting the proposed zoning map, the County should expand light industrial opportunities to allow for future growth. This Zone would be an appropriate place for a contractor shop/office and would allow people in the construction industry to advance out of home based businesses and move into a commercial-industrial setting.
2. Article 3 of the proposed code deals with Rural Districts. In Rural Agriculture (RA), Lowlands Agriculture (LA) and Agricultural Rural Neighborhoods (ARN) Zones, the maximum lot coverage is 10,000 square feet. The lot coverage includes homes, barns, outbuildings and impervious surfaces (such as roads, sidewalks, driveways, parking lots and hardscapes). This maximum is not practical in in Rural Zones. For example, a landowner with a 4,000 square foot house and a 6,000 square foot barn would already be at the maximum. The Commission should revisit the need for maximum lot coverage, survey the number and size of structures required to operate businesses allowed in the rural zones, and consider whether any maximum coverage should be proportionate to the size of the lot and its use.

3. Regarding the Rural Cluster discussed in Division 3.5: It is my understanding that this Division has not been identified on the zoning map. If it is not a part of the current zoning map, then it should be omitted from this version of the code. If it is not eliminated, then additional information should be included to indicate why it has not been used and its intended use and location.
4. Division 3.6.1. covers density and open space. This part is extremely important part of the proposed code and will be a surprise to many landowners. The County needs to provide more public education and get the public to understand and buy-in to this concept if it going to be successful. If this division is not communicated to and accepted by the public, then the Code in its entirety may be held suspect.
5. The next provision that concerns me is 3.7.2.B. Conveyance. This division, which requires a landowner to deed his open space to the County or place it in a conservation easement, reduces flexibility for the future. This provision would not allow for future re-plat, for example. In the past, the County has allowed platting that would allow for growth and amendment. We cannot be certain that this version of the code will be the last version adopted in this County, and we should leave options available to our children and future generations who live in this great place. It would be good to have community involvement in this discussion.
6. Division 3.7.7 regards prohibited uses of open space. Would there be applications when a development wants to promote our Western Heritage when agricultural buildings may be desired in open space?
7. Div. 8.2. covers a detached house. The requirement for a ground floor elevation at 2' min and the requirement for an entrance facing primary street requirements should be deleted from the RA,LA,FH,ARN and RC.
8. Sections 8.18.2, 8.18.7. and 8.18.6 deal with porches and stoops. These sections should be deleted from the RA,LA,FH,ARN and RC Zones.
9. 8.19.1 Residential Garage Parking. This should be deleted in its entirety from the RA,LA,FH and ARN zones. This is more for dense areas where neighborhoods are trying to get a conforming look.
10. 10.1.2 is the Allowed Use Table. It appears that a place of worship is not allowed in any of the RA, LA, FH, Residential Districts, Mixed Use Districts, IL or IH. Is this a typo?
11. Agricultural Uses indicate Livestock Keeping Use Not Permitted in RA(Rural Ag), LA(Lowland Ag), FH (Foothills)and ARN (Agricultural Rural Neighborhood). Is this a typo?

12. Commercial uses appear to be restricted in most of the County RA, LA, FH and ARN Zones. Is it the intent of the PZC to make these Zones this restrictive or was this Use Table not properly prepared?
13. Compare Horse Stable, Riding Academy, Equestrian Center at 10.7.3. E" to Animal Care (Outdoor) at 10.5.6 C.2.C. It does not appear clear to me if the Animal Care 10.5.6 C.2.C includes the boarding of horses? The restriction that "no animal may be kept outdoors between 11PM and 6AM" when considering pasture boarding of horses does not seem appropriate.
14. All Personal Service, except as listed below appears Use Not Permitted in RA,LA,FH&ARN. These Zones are most of Teton Valley. In division 10.5.6, personal services are defined to include:
 1. Animal care.
 2. Beauty, hair or nail salon.
 3. Catering establishment.
 4. Cleaning establishment, dry-cleaning or laundry drop-off facility, laundromat, washeteria.
 5. Copy center, printing, binding, photocopying, blueprinting, mailing service.
 6. Funeral home, funeral parlor, mortuary, undertaking establishment, crematorium.
 7. Locksmith.
 8. Optometrist.
 9. Palmist, psychic, medium, fortune telling.
 10. Repair of appliances, bicycles, canvas product, clocks, computers, jewelry, musical instruments, office equipment, radios, shoes, televisions, watch, or similar items.
 11. Tailor, milliner, or upholsterer.
 12. Tattoo parlor or body piercing.
 13. Taxidermist.
 14. Tutoring.
 15. Wedding chapel.
15. Home Business, Home Industry and Home Occupation as defined has restrictions that does not consider seasonal business such as a Taxidermy and business like fiddle lessons that may teach 1 day a week. A closer look at these with outreach to existing Home Businesses for practical application could be considered. Example: 10.9.6. Home Business B.8 "Not more than 6 clients a day are permitted to visit the home business. What if a music teacher for example teaches one day a week?

16. 10.8.6 Commercial Feed Lot is defined as: “Feedlots, animal husbandry, and all of the uses normally associated with the raising, feeding, and selling of livestock, dairies, continuous confined animal management operations, or other types of similar facilities with more than 250 animal units.” This 250 animal units as defined seems to include cattle on pastures or in winter feeding. I think this section should be looked at with more care and the County should develop a definition limited to animals in continuous confinement. Otherwise, many of the operating ranches would be converted to a conditional use.
17. Division 10.8.8. covers Livestock Keeping. The Allowed use table indicates that livestock keeping would only be allowed as a limited use in the RC Zone – which does not exist on the map. In contrast, Commercial Agriculture is allowed in all rural areas. We need to change the use table to allow livestock keeping as a permitted use in all rural areas.
18. Division 13.2.2. is a chart indicating what is required for Site Disturbance: Driveway, Grading, etc. This requirement for plans to grade land or build a driveway may be something that should be looked to measure if it is practical with the resources of both the private and public sector. The Building Permit "Development" includes plans that are more extensive. Did the PZC take the time to look at this from a practical economical perspective?
19. Does the "Required Conformance" contradict the "Nonconforming Use provision"?

C. Required Conformance

All buildings, structures, or land, in whole or in part, must be used or occupied in conformance with this Land Use Development Code. All buildings or structures, in whole or in part, must be erected, constructed, moved, enlarged, or structurally altered in conformance with this Land Use Development Code. No building or structure shall be built, altered, or used unless it is located on an “eligible parcel” as defined in this Code (Article 15) and is in conformance with the underlying zoning district in which it is located.

14.9.2. Nonconforming Use

A. Defined

Any use of land, building, or structure that does not conform to the use regulations of this Code, but which was lawfully existing (conforming) on or before the effective date of this Code or its amendment.

B. Continuance

A nonconforming use may be continued, subject to the

requirements of this Division. The right to continue a nonconforming use is tied to the land and not with the owner.

C. Proof of Lawful Establishment

It is the responsibility of the owner of a nonconforming use to prove to the Administrator that the use was lawfully established and existed on the effective date of adoption or amendment of this Code.

D. Change in Use

A nonconforming use may not be changed to another nonconforming use. A change in tenancy or ownership is not considered a change to another nonconforming use, provided that the use itself remains unchanged.

E. Discontinuance

A nonconforming use may not be re-established after discontinuance for 180 days. Vacancy of the building, regardless of the intent of the owner or tenant, constitutes discontinuance under this provision.

F. Expansion

A nonconforming use may not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use allowed within the applicable zoning district.

G. Repair

A nonconforming use may not be rebuilt, altered or repaired after damage exceeding 50% of its replacement cost at the time of damage, as determined by the

A nonconforming use may not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use allowed within the applicable zoning district.

building inspector, except for a use that conforms with the applicable zoning district, and provided any rebuilding, alteration or repair is completed within one year of such damage.

20. It is important to understand the definition of Development in this Code includes building driveway, getting a building permit or even grading your lot for landscaping.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining,

dredging, filling, grading, paving, excavation or drilling operations; the deposition or extraction of materials, specifically including the construction of dikes, berms and levees; or the removal of vegetation . The term “development” does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works; or agricultural grading/planting/harvesting activities that are performed or authorized by the owner thereof pursuant to lawful rights and obligations. Per Idaho Code §46-1021

21. The Comprehensive Plan says that a "Form-Base Code" has "not typically been utilized in a rural setting." "Form-based codes typically result in greater control over the visual quality of building architecture and public areas along streets and community gather places." Why was a Form-Base Code used as a template for so much of the proposed code for our rural county?
22. The Comprehensive Plan indicates Key Actions as: "[c]reate an overlay that delineates appropriate area(s) for high-intensity use in the County"; "[i]dentify appropriate commercial uses for the County (i.e. low intensity, low volume with need for large amount of land)"; and "[d]efine appropriate uses in Zones so there is decreased reliance on the Conditional Use Permitting process and more predictability in land use decisions." Has the county done an adequate job of codifying these and the other Key Actions identified in the Comprehensive Plan?

I have had the opportunity to review some of the Code to more detail than other parts. The most important thing I have taken away from my review and interviews with some of the PZC, P&Z Staff and previous P&Z Staff is that we need to take time and input from the public and get the community involved as we did with the Comprehensive Plan to insure we have a Code that will be accepted by the Public.

Again, I appreciate all that serve. I realize that you work hard to provide our community with tools to improve our economy and our way of life.

Sincerely,

Harley Wilcox
Victor, Idaho

Kristin Rader

From: Teton Valley Code [REDACTED]
Sent: Wednesday, October 05, 2016 3:52 PM
To: Kristin Owen
Subject: Teton Valley Code Comment Form Submission

Message from Teton Valley Code Comment Form

Name: Barbara and David Agnew

Email: [REDACTED]

Phone: [REDACTED]

Which Jurisdiction?: kowen@co.teton.id.us

Type of Comment?: Code

Chapter: None

Comments:

Subject: Draft Land Use Code

Oct. 5, 2016

Dear Planning and Zoning Commissioners,

We are not in favor of any changes to the current A-20 zoning. The proposed changes would at least double the density of the now available A-20 lots. The proposed changes would not protect the property values or views that so many people have bought land and built homes upon, which they did based upon current A-20 zoning. For example, if an A-20 lot in front of a person's home was split into two lots, a new home could be built directly in front of their home, blocking their view and destroying the scenic value they have invested in. As we see it, this proposal is a "giveaway" to large landowners and developers.

We do not understand how Planning and Zoning could take three years to develop this proposal, and then expect to read and analyze all public comments and input fairly in a few weeks. We think your results will be shortsighted and will not reflect public concerns such as ours.

Thank you. Barbara and David Agnew

[REDACTED]
Tetonia, ID 83452

Kristin Rader

From: Richard Berg [REDACTED]
Sent: Thursday, October 06, 2016 1:01 PM
To: Kristin Owen
Subject: Re: Teton Valley Code Comment Form Submission

Kristin, I found the comment I wrote (it was the very first comment that I posted) which did not show up ... please read as the draft code violates Idaho state law ...

The definitions and limitations set forth in 10.6.12.B regarding Amateur Radio Facilities violates Idaho state law. See the Emergency Communication Preservation Act at 55-2901 through 55-2904 which states "Any rule or ordinance of a local unit of government involving the placement, screening or height of antennas and towers based on health, safety or aesthetic considerations must be crafted to represent the minimum practical regulation to accomplish a legitimate purpose of the local unit of government."

The code with its definitions goes way overboard with its restrictions. Suggested changes: (i) bring the codes definitions into alignment with the definitions in the state statute. (ii) the code does not express what the purpose is of the stated restrictions nor does it represent "the minimum practical regulation" to whatever that pursue might be, so state the purpose is (is it aesthetics or something else like safety?).

Having a larger lot or having a lot with many trees would address an aesthetics issue. The current rules, which apply regardless of lot size, location and configuration, and regardless of the size or how well built the Amateur radio facility is (if the issue is safety), does not represent "the minimum practical regulation" as required by state law and does not "reasonably accommodate amateur radio communications" as required by state law.

Maybe you should talk about this stuff with someone who has a better understanding of the issues and the technologies involved here? I have the highest class of amateur radio license, a degree in electrical engineering and a law degree and moreover I would be happy to help.

=====

Thanks, but I posted THREE comments ...

If you only got TWO comments, then this system is broken.

Richard Berg

On Oct 5, 2016, at 9:46 AM, Kristin Owen <kowen@co.teton.id.us> wrote:

Thanks, Richard. I will pass both of your comments on to the Planning Commission.

Kristin Rader

From: Felix E Zajac <[REDACTED]>
Sent: Wednesday, October 05, 2016 4:34 PM
To: PZ
Cc: Kristin Owen
Subject: Comments on Teton County Draft Code

October 5, 2016

Dear Planning and Zoning Commission:

I wish to thank you for the enormous time and effort to produce this draft code. I am sure reaching a consensus with a committee of nine, representing many County constituents of conflicting opinions/interests, must have been challenging, to say the least.

This morning I read all the comments previously submitted. My additional comments are:

1. Short Plat and Full Plat Density and Open Space:

I like the draft.

2. Land Division:

In general, I would prefer making it less advantageous for landowners to use this option.

a) RA, LA, and FH districts: As proposed, a landowner with ≤ 160 ac parcel will find that the Land Division process will provide him/her with more available lots than the Plat process. **I suggest that the density be no more than 1 lot per 40 ac**, which would be consistent with the Short and Full Plat densities with any of the two open space options, and would be consistent with the purpose of the Land Division (i.e.,for a division of **large**, rural, unplatted land in the County into four (4) or fewer lots through a simplified process, meeting specific criteria, in exchange for **decreased density** and minimized impacts to the County.”

b) ARN district: **Do not allow Land Division because large parcels are non-existent**. Or at least make the density consistent with the Short and Full Plat densities (i.e., 6.67ac per lot); otherwise a landowner with ≤ 26.68 ac parcel will find it more advantageous to use the Land Division option.

3. One-Time Land Split:

Perhaps this option, coupled with my suggestions for Land Division, will still give flexibility many landowners desire.

Again, thank you.

Sincerely,

Felix Zajac



Victor, ID 83455