

OCT 17 2016

Sharon Fox

From: Harry Statter <[REDACTED]>
Sent: Monday, October 17, 2016 1:15 PM
To: barnold [REDACTED]; skiteton [REDACTED]; booker [REDACTED];
dhensel [REDACTED]; alherfbreck [REDACTED]; haddoxj [REDACTED];
lars [REDACTED]; marlene [REDACTED]; moyer [REDACTED]; Sarah
Johnston; Kristin Owen
Subject: Important Comment to Draft Land Use Development Code and Comprehensive Plan
Framework Map

RECEIVED

Dear Teton County Planning and Zoning Commission:

The purpose of this letter is to make comment to one specific and very alarming conflict between the approved Teton County, Idaho Comprehensive Plan Framework Map and the DRAFT Zoning Map dated December 2015 / DRAFT Land Use Development Code dated April 16, 2016.

When reviewing The Comprehensive Plan Framework Map that is made a part of the Comprehensive Plan, there is a significant difference between the approved Framework Map and the DRAFT Zoning Map. The most stark contrast is located north and east of Driggs.

The area north of Driggs, extending to Hatches Corner and then east to the border with Wyoming, is clearly defined in the Comprehensive Plan as being Rural Neighborhood. In contrast, the DRAFT zoning map redefines the majority of this area as Rural Agriculture. This is completely different, and a massive deviation from the approved Comprehensive Plan. When integrated with the draft version of the land use development code, the consequences of deviating from the Comprehensive Plan Framework Map are significant.

In lieu of restating section 5 of the Comprehensive Plan, I would urge you to review this section and the Framework Map that is made a part of this

section. <http://tetonidaho.maps.arcgis.com/apps/webappviewer/index.html?id=f63712aa433c4d4f8ed4fb08a4b31840>

As you are all aware, the approved Comprehensive Plan represented a highly collaborative process, which included focused outreach and collaboration amongst a broad spectrum of Teton County. In contrast, the DRAFT zoning map and land development code has NOT gone through a collaborative process; there has been the smallest quantity of public involvement in the form of one public hearing, which many were unable to attend.

We are currently at a stage where the draft zoning map and development code has in large part been drafted at the planning office level by a previous planning administrator, and with periodic review from the planning commission. After so much time spent working on the Draft Land Use Code, there has been a single public hearing where the public's input has been welcomed.

I cannot see any legitimate rationale (land characteristic, demographic, or otherwise) that would cause the previous planning administrator to draft a zoning map that deviates so widely from what the Comprehensive Plan has so clearly delineated. To zone a large area of Teton County completely differently than what has been approved in the Comprehensive Plan would undermine the entire process behind adopting a new zoning map and adopting a new land use development code. The Comprehensive Plan is a guide for Teton County, and it needs to be followed. There is no rationale to re-categorize the zoning of many square miles of land from what is clearly identified in the Comprehensive Plan Framework Map.

I urge you to please review the draft zoning map side by side to the Comprehensive Plan Framework Map. My hope is that prior to moving forward with the draft zoning map and the draft code to the public, the draft zoning map is revised to reflect the Framework Map in the Comprehensive Plan.

Thank you for the consideration,

Harry A. Statter

Sharon Fox

From: Teton Valley Code <info@tetonvalleycode.org>
Sent: Wednesday, October 19, 2016 8:41 AM
To: Kristin Owen
Subject: Teton Valley Code Comment Form Submission

TETON COUNTY
PLANNING & ZONING

OCT 19 2016

RECEIVED

Message from Teton Valley Code Comment Form

Name: Chris Burnside

Email: [REDACTED]

Phone:

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

Type of Comment?: Code

Chapter: Chapter 14

Comments:

On 10-9 you have under livestock keeping – under all but RC and there is an L. All of those slots should have P instead of a dash.

Sharon Fox

TETON COUNTY
PLANNING & ZONING

From: barbara aronowitz [REDACTED]
Sent: Wednesday, October 26, 2016 12:25 PM
To: PZ; Commissioners; Kristin Owen
Subject: Draft Code

OCT 26 2016

RECEIVED

Dear Planning and Zoning Commission, Board of County Commissioners, and Teton County Planning Administrator:

As a Teton Valley resident, we are very concerned about the future of this valley. The community's Comprehensive Plan calls for reducing housing densities, but the draft code significantly increases density. This increase would adversely affect the appearance and distinct identity of the valley. Such an increase also decreases wildlife and habitat protections. The draft code will also increase fast-track land divisions which would be yet another detrimental measure. We have a unique community and we should do everything we can to keep its natural character.

The draft, with its many allowances, would potentially lead to a valley of more than 50,000 people with the resulting congestion, overcrowding and pollution common to even the best cities in our country.

The Teton Creek Corridor is an example of positive development.

Sincerely,

Barbara & Gerald Aronowitz

* Received from
Ida Hansen

I am concerned that a number of the provisions in the proposed development code will amount to a regulatory taking of private property. I understand that a “regulatory taking” is a regulatory or administrative action resulting in deprivation of private property that is the subject of such action, whether such deprivation is total or partial, permanent or temporary, in violation of the state or federal constitution. Idaho Code 67-8002.

There are several provisions in Article 3 of the proposed code that could amount to a taking:

- Paragraphs 3.7.2, 3.7.3.C, 3.7.5, 3.7.5 C, 3.7.6 A,D, E, and F amount to a regulatory taking of my land. They will adversely impact property values or create unnecessary technical limitations on the use of property.
- Paragraph 3.7.4. says that required open space must adjoin any neighboring areas of dedicated open space or other protected natural areas. This takes buildable land and makes it open space in violation of Chapter 80 Title 67 of the Idaho Code.
- Paragraph 3.7.5. gives the Planning and Zoning Commission authority to make the final determination as to which land must be protected as required open space . Idaho Code 67-6508 was amended to ensure that planning and zoning land use policies do not violate private property rights. The Planning and Zoning Commission should not be able to dictate which parts of our property can be used. Unless there is a legitimate health or safety concern, that is something the property owner should decide.
- I do not agree that we should give the Planning Administrator or the Planning and Zoning Commission so much power. The commissioners change every two years. The State of Idaho has hired qualified, educated people in their particular fields to make decisions about water safety and wildlife management. We need to let those state experts do their job. We don't need local planners or commissioners trying to override or supplant the authority of State and Federal Agencies.
- Paragraph 3.7.6. limits the allowed uses of open space. The proposed code says that open space may be used for agricultural purposes, including grazing. But the same code defines feedlots to include animal husbandry practices involving 250 animal units or more. Although confinement may be one of the characteristics of a feedlot, under the proposed code it is not a requirement. When you look at these two provisions together, it won't be possible for a livestock owner to bring his herd of 250 or more animals to open space to feed them through the winter. Under this proposed code, feedlots are conditional uses that require a lot of red tape to get approval. The code doesn't recognize that concentrated feeding of animals is what every livestock owner does in order to maintain his herd through the winter. The zoning code is making it impossible for the average livestock owner to continue to do business. If he can't feed his cows without a conditional use permit, what is the cattleman to do with his herd during the winter?
- It is unclear who determines the location and use of pedestrian or multipurpose trails in open space areas. If there is a trail through open space on my land, am I going to be required to allow the public to walk through my grain field?

TETON COUNTY
PLANNING & ZONING

OCT 27 2018

RECEIVED

It is my position that all of the provisions that amount to a regulatory taking of land, including the open space requirement, should be removed from the Teton County Development Code. If a landowner chooses to place his land in State or Federal protection or a conservation easement, he should be allowed to do so. However, his land should not be unlawfully taken by Teton County Planning and Zoning.

The consequences of an unlawful land taking are serious, and include: (1) The County will have to pay for the land; (2) Banks will not loan money on land that has little or no value (creating a hardship for farmers and ranchers who need that collateral for their farm loans); (3) The County has already been faced with lawsuits over its zoning decisions, and it should not expect the tax payers to keep funding this litigation.

The Idaho Attorney General created a Regulatory Takings Checklist that the Planning and Zoning Commissioners are supposed to evaluate when recommending a change to the development code. That checklist says:

1. Does the Regulation or Action Result in Either a Permanent or Temporary Physical Occupation of Private Property?
2. Does the Regulation or Action Require a Property Owner to Either Dedicate a Portion of Property or to Grant an Easement?
3. Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?
4. Does the Regulation Have a Significant Impact on the Landowner's Economic Interest?
5. Does the Regulation Deny a Fundamental Attribute of Ownership?
6. (a) Does the Regulation Serve the Same Purpose That Would Be Served by Directly Prohibiting the Use or Action?
(b) Does the Condition Imposed Substantially Advance That Purpose?

The Attorney General's office includes a reminder: Although a question may be answered affirmatively, it does not mean that there has been a "taking." Rather, it means there could be a constitutional issue and that proposed action should be carefully reviewed with legal counsel. This checklist should be included with a requested analysis pursuant to Idaho Code § 67-8003(2).

Anyone looking at the proposed Teton County Development Code can see that several of the questions on the taking checklist should be answered "yes". That means that we need to have a careful legal review, and we should eliminate all of the provisions that are going to amount to a taking or get the county into more lawsuits.

In summation It is my position that all of the provisions that amount to a regulatory taking of land, including the open space requirement, should be removed from the Teton County Development Code.

Kristin Rader

From: Teton Valley Code <info@tetonvalleycode.org>
Sent: Tuesday, November 1, 2016 9:19 AM
To: Kristin Owen
Subject: Teton Valley Code Comment Form Submission

TETON COUNTY
PLANNING & ZONING
NOV 01 2016
RECEIVED

Message from Teton Valley Code Comment Form

Name: kristine eggebrotten

Email: [REDACTED]

Phone: [REDACTED]

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

Type of Comment?: Code

Chapter: Chapter 3

Comments:

It is my position that all of the provisions that amount to a regulatory taking of land, including the open space requirement, should be removed from the Teton County Development Code. If a landowner chooses to place his land in State or Federal protection or a conservation easement, he should be allowed to do so. However, his land should not be unlawfully taken by Teton County Planning and Zoning.

The consequences of an unlawful land taking are serious, and include: (1) The County will have to pay for the land; (2) Banks will not loan money on land that has little or no value (creating a hardship for farmers and ranchers who need that collateral for their farm loans); (3) The County has already been faced with lawsuits over its zoning decisions, and it should not expect the tax payers to keep funding this litigation.

The Idaho Attorney General created a Regulatory Takings Checklist that the Planning and Zoning Commissioners are supposed to evaluate when recommending a change to the development code. That checklist says:

1. Does the Regulation or Action Result in Either a Permanent or Temporary Physical Occupation of Private Property?
2. Does the Regulation or Action Require a Property Owner to Either Dedicate a Portion of Property or to Grant an Easement?
3. Does the Regulation Deprive the Owner of All Economically Viable Uses of the Property?
4. Does the Regulation Have a Significant Impact on the Landowner's Economic Interest?
5. Does the Regulation Deny a Fundamental Attribute of Ownership?
6. (a) Does the Regulation Serve the Same Purpose That Would Be Served by Directly Prohibiting the Use or Action?
(b) Does the Condition Imposed Substantially Advance That Purpose?

This code is not in the best interest of Teton County or its residents and would impose hardships and restrictions that would change the fabric of our agricultural community.