



STAFF REPORT

CONCEPT REVIEW OF A PROPOSED PLAT AMENDMENT: A REPLAT OF LESS DENSITY FOR CANYON CREEK RANCH PLANNED UNIT DEVELOPMENT

Prepared for the December 15th, 2011
Board of County Commissioners Public Hearing

OWNER: Idaho Ranch Subdivision, LLC **APPLICANT:** Herb Heimerl

REQUESTS: A Concept Review and Planning Administrator Recommendation Pursuant to Section 9-7-1 (B-4-c) Substantial Changes-Decrease Scale, Impact

PROJECT DESCRIPTION: Portions of Canyon Creek Ranch PUD would be replatted and the number of lots would be reduced from the approved density of 350 lots down to 272 lots; the elimination of seventy-eight lots is a 23.3% reduction in the approved units.

The lot reductions listed above consists of:

Replat Area A- Blocks 1, 2, 3 & 4. A reduction from 58 lots to zero lots (-58 lots)

Replat Area B- Block 18, a reduction from 25 lots to 15 lots (-10 lots)

Replat Area C- Block 21, eliminate 10 lots (-10 lots) and goes from 20 to 10 lots

In consideration for reducing the density 23%, the applicant requests that the terms of their Development Agreement be modified to allow five additional years before construction must be completed for the first scheduled phase, which has been platted and recorded. The first phase is comprised of six (6) lots and the existing agreement states that the first phase is to be completed by July, 2013. There are 26 total phases. This application requests that the completion date of Phase 1 be extended to July, 2018.

APPLICABLE CODES: Teton County Subdivision Ordinance Section 9-7-1 (B-4-c) Substantial Changes-Decrease Scale, Impact, August, 2011.

Canyon Creek Ranch PUD was approved under September, 2007 Teton County Subdivision Ordinance

LEGAL DESCRIPTION: Portions of Sections 21, 28, 29, 32, 33, 34, Township 5E, Range 43N

LOCATION: On the border of Madison County, south of Highway 33 on approximately 4 square miles on the north end of the Big Hole Mountains. West access is from Pony Creek Road.

PROPERTY SIZE: 2,609 acres; approximately 1800 acres in Teton County, the remainder of the PUD is in Madison County, but their county approval has expired.

ZONING: Underlying zoning is A-20, but Canyon Creek Ranch was approved as a Planned Unit Development which allows departures from minimum lot size and applies site-specific zoning and development standards.

OVERLAYS: Wildlife Habitat Overlay

PLANNING STAFF RECOMMENDATION:

Approve the proposed Canyon Creek Ranch PUD replat request to reduce the number of units from 350 to 272 and to distribute the development in the manner depicted in the December 7, 2011 replat site plan. After a revised Master Plan and revised Development Agreement is received by the Planning Department, a final public hearing for approval of these documents will be scheduled.

VICINITY MAP

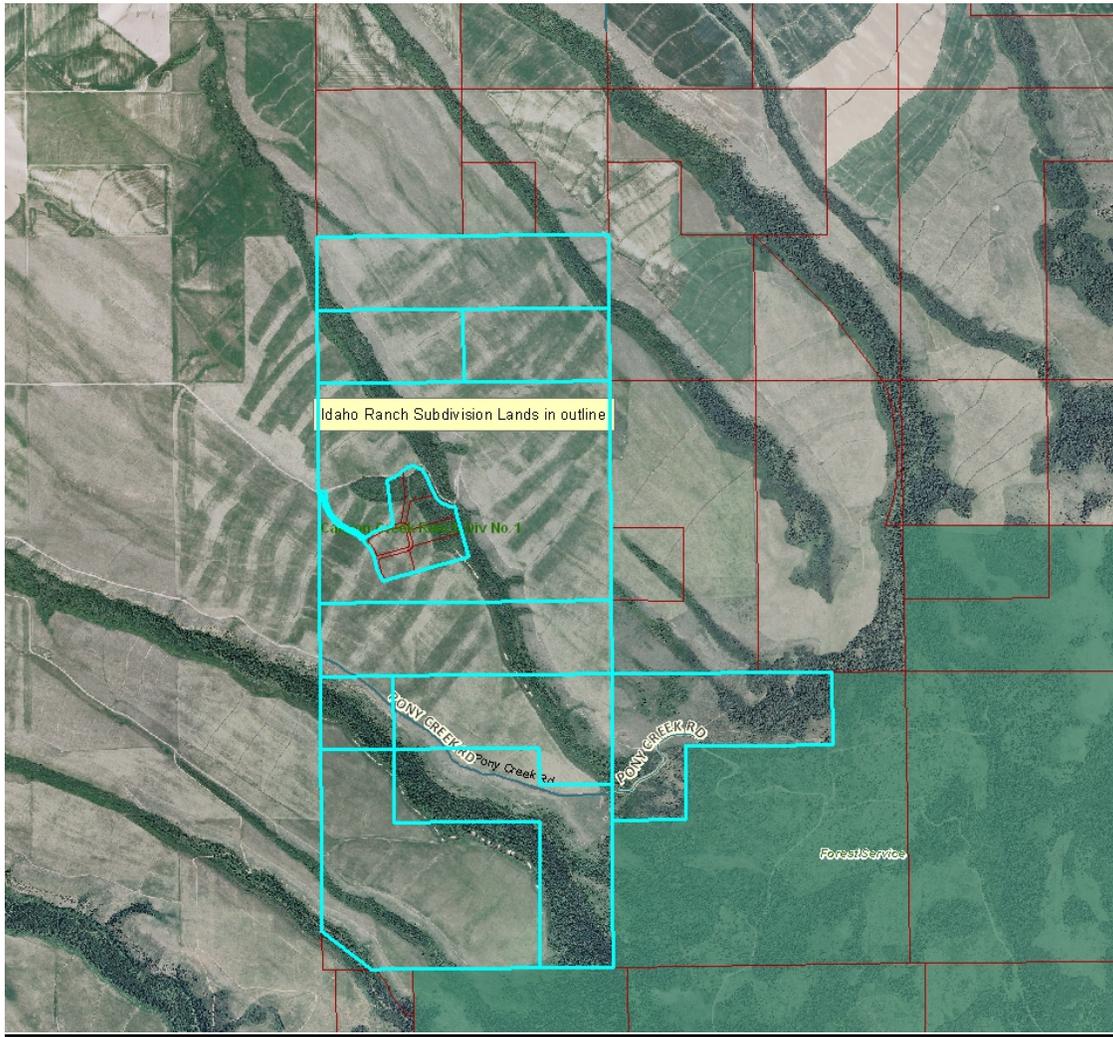


Figure 1: Area encompassed by Canyon Creek Ranch PUD

OVERVIEW

Canyon Creek Ranch is a large development in a remote area of Teton County (on the Teton County-Madison County border). A master plan was approved in 2009 for 350 lots. At the time of approval, the developer had a Natural Resource Analysis completed on the property. In the original application, the developers indicated their intent to keep development out of the Pony Creek draw and limit development to the two other draws on the property. The property where development was originally slated to be has sharp-tail grouse leks and also abuts Forest Service land.

The proposed plat amendment would reduce the number of lots and only one of the three canyons on the property would be impacted directly.

BACKGROUND INFORMATION

In July 2011, the Planning & Zoning Commission deliberated over this application, see the attached meeting minutes. At that hearing, the proposed density reduction was for 70 lots, not the 78 lots that are now proposed to be eliminated. In exchanged for cutting this density of approved units, the Planning & Zoning Commission was being asked to extend the timeframe for commencement of construction for the first phase and all subsequent phases. The proposed new timeframe would extend the beginning of work by five years.

The 350 units had already obtained master plan approval and the first platted phase (six lots) had already been recorded. The P&Z Commission did not vote on the replat request and much of their discussion revolved around the theme that this project was located in a highly sensitive environment. With the benefit of a housing bust and in retrospect, the Commission expressed that this much density was no longer considered appropriate here. While a reduction in density was considered to be positive, the Commissioners sought an even larger reduction in acreage impacts to the amount of sensitive environment that had been originally platted. Their general advice seemed to point the applicant to make further reductions in consideration for the five year extension.

In August 2011, Title 9 of the Teton County Ordinance was amended to better facilitate plat amendments and changes to Development Agreements. The process was streamlined for plats that were seeking to reduce density and impacts. A project that proposes a decrease in density now goes to the Board directly and bypasses the Planning & Zoning Commission.

On August 24th, the applicant submitted a new application that sought a simple one-year extension of the start date for the Phase 1 construction and completion. That request was denied by the Board on September 12, 2011.

On November 14th, the applicant resubmitted the Canyon Creek Ranch PUD replat. After further discussions with the Planning Staff, the applicant agreed to remove eight more lots from the canyon rim that is especially environmentally sensitive. It is the area along one of the three “stringers”. This area is a deep, wooded canyon that provides hiding cover for a variety of species. The removal of the eight lots is also good because it is in an area where a grouse lek is situated and this should reduce impacts to the sharp-tailed grouse at that lek location. Many other species utilize the wooded canyon and the removal of homes and potentially dogs from this area would be beneficial for the continued use of the corridor by wildlife.

CONSISTENCY WITH THE APPLICABLE POLICIES OF 2004-2010 TC COMPREHENSIVE PLAN

The 2004 Comprehensive Plan enumerated a vision and set of policies for the Valley that are listed below. The Commission should examine these statements and consider how the Canyon Creek Ranch Replat Concept Review relates to them.

Chapter 5 Property Rights:

Policy 3: The land use ordinances and actions of Teton County, including the policies, restrictions, conditions and fees, shall not violate private property rights, shall minimize adverse impact on property values and minimize technical limitation on the use of property consistent with state and federal constitution and statutory law. Implementation is implicit in and mandated by state and federal law.

Staff response: The constitutional right to develop in accordance with the County’s specific zoning and subdivision regulations is not in question here. The right to apply for an extension of timelines is in no way affected by this policy. The development entitlements to Canyon Creek Ranch would only be in jeopardy of being lost if the timelines and conditions of approval in the Development Agreement contract were breached. If no construction was completed by July 2013, and no replat or time extension granted, then terms of the Development Agreement would not be met.

Chapter 6 Population:

Policy 1: Demographic information is important and needs to be gathered by the county government and continually updated.

Staff response: The net increase in the number of new households at this location is potentially very significant, at least theoretically, for the built-out Canyon Creek Ranch project. With build-out of 350 dwelling units, potentially 750 or more people could reside at this location. Presently, the area is

considered remote from schools, shopping and governmental services as the project straddles the Teton-Madison County line. The Rexburg shopping and governmental centers are closer to this project, but the area is still distant from those urban services in Madison County. Reduction of lots could decrease these impacts to both Madison and Teton Counties.

Chapter 8 Economic Development

Policy 3: One of the county's prime economic values is the attraction of a rural, small town lifestyle, magnificent views, clean air and water, and abundances of outdoor recreational opportunities. Development and land use proposals that support and balance these values with desirable growth should be encouraged.

Staff response: A fiscal Impact calculation model was not available during the review of this project. Given that the calculator uses county miles from services as the primary variable, it is quite likely that the costs to provide fire, utility, emergency and school transportation services to the built-out Canyon Creek Ranch project would significantly exceed the tax revenues. A reduction of 70 lots would theoretically lessen the cost to provide County services and would reduce miles of vehicle travel on the state highway and county roads.

Chapter 9 Land Use

Policy 1: Protect open space throughout the County. Enhance the mechanisms available to incorporate the same in developments.

Staff response: In retrospect it is highly debatable whether the approval of Canyon Creek Ranch in 2009 is consistent with this policy. The question related to the present replat application is whether a reduction of 70 units at the proposed plat locations can at least be in greater consistency with this policy.

Policy 2: The scenic corridor is valued and view corridors should be maintained and protected. Guide development along the county's highways so that a sense of open space is protected. It is recognized that views across the valley from the main transportation routes are integral to the rural experience and a sense of open space in Teton Valley. It is desirable to maintain view corridors.

Staff response: This project is not highly visible from Highway 33.

Policy 3: Accommodate new residential growth in the county using methods that preserve Teton Valley's pristine qualities and foster efficient provision of services. Concentrate higher-density development in the cities or in their areas of impact. (See Implementation 10)

Staff response: This 2004 Comp plan policy would appear to be contrary to the approval of such a high number of dwelling units in this location. If the project were being considered this year and not approved in 2009, this Planning Staff would be obligated to point out that this Comp-Plan policy would not support approval of this density at this location and in this environmental setting. The question related to the present replat application is whether a reduction of 70 units at the proposed plat locations can at least be in greater consistency with this policy.

Policy 4: Higher density developments should be located within or near the cities or within or near their areas of impact. Developments in the unincorporated county may be based on the density based zoning concept which will provide significant open space.

Staff response: This project does plan to keep much of the 2,609 acres free of development and calls it open space. However, the percentage of open space at a remote location such as this may not be comparable to open space in a more densely populated area where there is a deficiency in open space and much of the land is a built-environment in need of natural surroundings to compliment the man-made environment. It is more plausible to regard any development at this location as a contributor to habitat fragmentation more than providing meaningful open space to the residents of the county. Forest Service lands nearby provide recreational and ecological open space to an extent, but the

wooded canyons that bisect Canyon Creek Ranch are particularly valuable habitats and migration corridors. A meaningful replat of this project could protect more habitat area from fragmentation and would cluster and concentrate development onto a smaller acreage “footprint.”

Chapter 10 Natural Resources:

Policy 4: *Conserve and protect esthetic values including scenic open spaces, quiet neighborhoods, dark night skies, clean air, safe communities, and accessible public lands.*

Staff response: This 2004 Comp plan policy would appear to be contrary to the approval of such a high number of dwelling units in this location. The roads and 350 houses would be expected to contribute to less starry night skies, less open space for animals using adjacent National Forest, and less clean air, especially in the absence of CC&Rs or other restrictions on fireplace emissions. Additionally, the Forest Service has asked for specific access points and building envelope buffers to be called out on the Master Plan for the protection of access to the forests and fire protection.

Policy 5: *Encourage the conservation and protection of important plant, fish and wildlife habitats.*

Staff response: This 2004 Comp plan policy would appear to be contrary to the approval of such a high number of dwelling units in this location. The question related to the present replat application is whether a reduction of 70 units at the proposed plat locations can at least be in greater consistency with this policy.

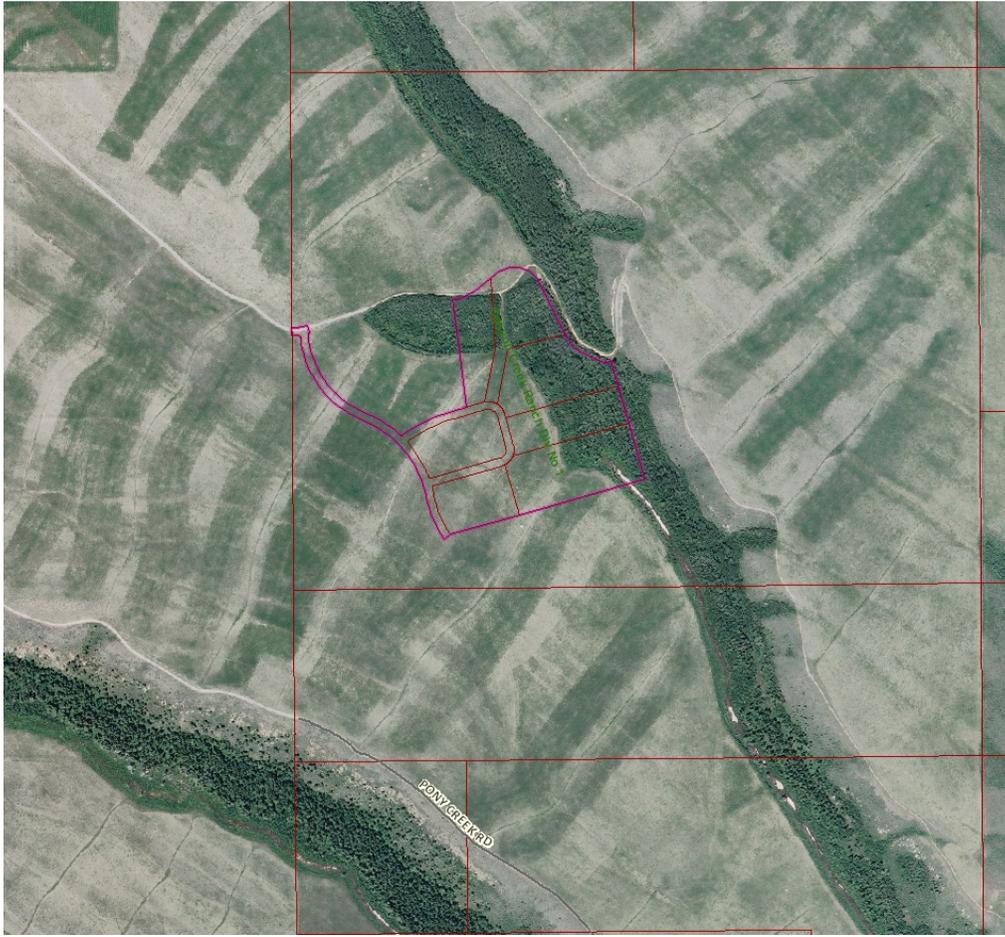


Figure 2: Phase 1 of Canyon Creek Ranch PUD (the only platted phase)

Chapter 11 Hazardous Areas

Staff response: Replat is not expected to involve hazardous areas.

Chapter 12 Public Services & Utilities:

Staff response: A full analysis of the magnitude of reduction to public services has not been completed at the time of this report's writing.

Chapter 13 Transportation

Many of the county roads are not appropriately engineered for significant increases in private or commercial traffic. Allowing only lower-density developments in the unincorporated county will help minimize the strain on the county's road and bridge budget as the county grows. Directing denser growth near the existing cities will help maximize efficient provision of road maintenance and water and sewer services.

Staff response: Approval of Canyon Creek Ranch in 2009 is not consistent with this policy. The project will also put more traffic onto Madison County roads. The replat and reduction of vehicle trips from over 2600 trips per day (at build-out of 350 units) and a reduction of 70 dwellings would lower the average daily trips by over 500 trips per day.

Chapter 14 Recreation

Staff response: The replat is not expected to affect the recreation component to the development.

Chapter 16 Housing

Policy 3: *High-density developments should be within the cities and city impact areas whenever possible.*

Staff response: Approval of Canyon Creek Ranch in 2009 is not consistent with this policy. The replat and reduction of 70 units does not make this project significantly more consistent with this Comp- Plan policy.

Chapter 17 Community Design

Policy 1: *Encourage the preservation of the scenic vistas, open space, mountains, forests, night skies and wetlands.*

Policy 2: *Encourage the preservation of the county's rural character.*

Staff response: Approval of Canyon Creek Ranch in 2009 is not consistent with these two policies; The question related to the present replat application is whether a reduction of 70 units at the proposed plat locations can at least be in greater consistency with these policies.

CONSISTENCY WITH THE APPLICABLE TETON COUNTY SUBDIVISION CODE

Teton County Title 9, the Subdivision Ordinance, outlines criteria for approval for a plat amendment, significant change- decrease scale, impact.

Subsection 9-3-2 (D-3-a)

The purpose and intent also is to reduce the intrusion of development into sensitive natural areas of the county and reduce governmental costs associated with scattered development by expediting changes to recorded plats that reduce the number of vacant platted lots in the county.

Staff response: The proposed plat amendment does reduce the intrusion of development into sensitive areas, particularly those of biological concern. The question arises; however, does it make a *significant* reduction in the area of impact and to the environment? With the most recent proposal to eliminate development along the top of the wooded draw, the Planning Staff concluded that the decrease in impacts and density was sufficient for granting a five-year extension.

Subsection 9-3-2 (D-3-b-iii)

Decrease Scale, Impact are changes that substantially decrease the scale or scope of the platted subdivision, and substantially decrease the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision or overall community.

Staff response: Canyon Creek Ranch PUD is located in an area that is not ideal for development in general. While there is no immediate residential neighborhood to impact, the build-out of this development will substantially affect the surrounding area. Affects include: access to Forest Service Lands, increased traffic on surrounding roads, increased light pollution at night, increased impacts to wildlife in the form of habitat reduction and fragmentation, and potential service costs to the County, among others. Does the reduction of 78 lots of this subdivision constitute a substantial decrease in impacts to the County? Certainly, some reduction is better than no reduction, but the question related to this present application is whether a reduction of 78 lots at the proposed locations constitutes a public benefit. The reduction in “footprint” of the development acreage now makes the Staff believe that this project should be approved for a time extension. There was mention that this land is being marketed for conservation easement buyers or large parcel owners who may not wish to actually develop the property like the master plan allows.

AGENCY & DEPARTMENTAL TECHNICAL COMMENTS

Idaho Department of Fish & Game: A letter dated August 25th noted that there is considerable value to the habitat on the Canyon Creek ranch property. The Department did not have the opportunity to comment on the December 7th revision that removed development from the top of the wooded draw and grouse lek area. However, given that this project has received entitlements and could develop this area, the reduction in density and the elimination of impacts to an especially critical area would no doubt be viewed positively by IDF&G.

No other comments were solicited at the time of this replat applications’ submittal.

PUBLIC NOTICE:

1. Legal ads were made to the Teton Valley News in accordance with local and state requirements.
2. A development notification was mailed to landowners within 300 feet and to those who own land within subdivisions within 300 feet of the subject property.
3. A development notice was posted onsite in accordance with all code requirements.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

A letter and fax from the Nelson family was received and is attached to this report.

Report prepared by Planner Curt Moore

Attachments:

Application Materials
Revised replat map dated December 6, 2011
Nelson Family letter