

**DRAFT TETON COUNTY PLANNING AND ZONING COMMISSION**  
**Meeting Minutes from May 17, 2016**  
**Main Courtroom (3<sup>rd</sup> floor), Driggs, ID**

**COMMISSIONERS PRESENT:** Mr. Cleve Booker, Mr. Bruce Arnold, Mr. Chris Larson, Ms. Marlene Robson, Mr. Jack Haddox, Mr. Pete Moyer, Ms. Sarah Johnston, and Mr. David Breckenridge.

**ELECTED OFFICIALS PRESENT:** Ms. Kathy Spitzer.

**COUNTY STAFF PRESENT:** Mr. Jason Boal, Planning Administrator, and Ms. Kristin Rader, Planner.

The meeting was called to order at 5:09 PM.

**Approval of Minutes:**

Ms. Robson asked that “It is important to remember private property rights during the code process.” be added as a comment from the Commission during the Work Session.

Ms. Johnston asked that condition #3 of the Fin and Feather Zoning Map Amendment motion be updated to add “and restricting any subdivision under the R-1 zone.”

Ms. Johnston asked that the discussion of the River Rim Subdivision Amendment be updated so it is clear that the hospitality units are called out as “two key” hospitality units instead of referring to the number of bedrooms.

**MOTION:** Mr. Arnold moved to approve the minutes of May 10, 2016, as amended. Ms. Johnston seconded the motion.

**VOTE:** The motion was unanimously approved.

**Chairman Business:**

Mr. Booker commented that he was filling in for Mr. Hensel while he was out of town.

**Administrative Business:**

Mr. Boal expressed his appreciation with the Commission and thanked them for their work. Mr. Booker commented that the Commission also appreciated Mr. Boal during his time with the County and wished him luck with the City of Victor.

**Approval of Written Decision:**

Ms. Johnston asked that condition #3 of the motion for the Zoning Map Amendment be updated to match the approved meeting minutes.

**MOTION:** Ms. Johnston moved to approve the Written Decision for a Zoning Map Amendment Recommendation of Approval and a Conditional Use Permit Recommendation of Approval for the Fin and Feather Bed & Breakfast, as amended. Mr. Larson seconded the motion.

**VOTE:** The motion was unanimously approved.

**PUBLIC HEARING: Amendment to Title 9, Teton County Subdivision Ordinance** – Proposing amendments to Title 9 to add CHAPTER 11 - BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS. This amendment is intended to establish procedures for placing purchasers of illegally split parcels on notice that such parcel split occurred in violation of the LLUPA (Idaho State Code 67-65) and the requirements of Teton County Code-Title 9, and to provide a means for certifying that the real property does comply with the provisions of LLUPA and Teton County Code-Title 9.

**Staff (Applicant) Presentation:**

Mr. Boal explained the changes. The draft ordinance that was proposed on April 12 was modified to make it more comprehensive, to explain the reasons for the lack of building rights and the inquiry process to verify building right eligibility. Section 9-11-2, Criteria for Determination, was also clarified.

Mr. Larson asked if a “legally created parcel” meant a “buildable parcel”. Mr. Boal explained that the term “legally created parcel” is used in the existing code to define a buildable lot. Ms. Spitzer commented that it may be a good idea to change the term or provide a definition in this section of the ordinance to define “legally created parcel”. Ms. Spitzer wanted to clarify that a lot could be legally created without building rights, and we are only using the term “legally created parcel” because it is used in our existing code to define buildable parcels.

Ms. Spitzer explained that the processes in the code changed several times in the past, and the underlying zone is not a blanket. The Planning Administrator at the time signed off on these and no one contested it. People went through a process and thought it was right, and this ordinance would provide those with building rights. What’s not okay and what this ordinance doesn’t allow, is people splitting their property without going through a process.

Mr. Larson asked about ag splits after a certain date. Mr. Boal confirmed that some ag splits would be considered buildable. Lots created through a process are considered buildable, are lots created outside a process are not. Mr. Breckenridge asked how ag splits are identified. Mr. Boal explained that we rely on a survey or deed being labeled as an ag split. Ag splits that were created before 2003 are considered buildable. The code changed in 2003 to be more specific toward ag splits.

Mr. Boal commented that this ordinance, in his opinion, is the most equitable approach as it is protecting those that have a reasonable expectation that a process was followed and rights were obtained through a process. It also provides an opportunity to obtain building rights when the process wasn’t followed.

Mr. Larson asked for clarification on a sort of hardship case, if someone does not qualify for one of the three criteria provided, are we hoping the new code will provide an option? Mr. Boal explained that section 9-11-8 provides different options to obtain building rights, but the underlying zone must still be met. There is also the option to go through the subdivision process. The new code may also provide new options.

Ms. Robson commented that the proposed ordinance mentioned a violation of LLUPA. She asked for a clarification of LLUPA. Mr. Boal explained that LLUPA provides the opportunity for counties to have zoning and subdivision ordinances, and it talks about the processes that need to be followed, so if something doesn't follow those processes, it would be a violation of LLUPA.

Ms. Spitzer explained that LLUPA mandates that counties go through a subdivision process and zoning process with a public hearing and notice, and that is the only way we are allowed to zone. We need to be careful that we don't subdivision or zone without a public hearing that is noticed, that goes to Planning Commission first, then the Board of County Commissioners afterwards. That is why LLUPA is mentioned because if it is not a process that the county had, we can't retroactively create that process because there wasn't that noticed hearing, Planning Commission, and Board of County Commissioners process at that time. We can allow anything that had a process in our code at the time and if it followed our process, it's okay because it went through that process. If we retroactively created a process that wasn't in our code, it would be a violation of LLUPA.

Mr. Booker asked for clarification of what surveys would be recognized. Mr. Boal explained that if a survey was recorded with a county signature, or an ag split before 2003, it would be considered buildable. If there was a survey without a county signature or only a deed, it would not be considered buildable.

Mr. Booker references the map that was included in the staff report showing lots based on property inquiries. Mr. Boal explained that this is not a parcel specific ordinance. Mr. Booker said he understands that, but it helps him understand what examples there are and how to address them. Mr. Boal explained that this ordinance makes a lot buildable if it went through a process. Mr. Booker asked if there was potential that there are lots that may never obtain building rights. Mr. Boal explained that it could be a possibility if a lot wasn't created through a process and it can't meet the requirements of our ordinances. Ms. Spitzer explained that this ordinance doesn't take away any rights; it grants more rights that people did not have.

Ms. Robson asked about the voidability to void a deed or contract. Mr. Boal explained that state code provides this process. The county doesn't void it because they're not part of the contract. The property owner has that option. Ms. Robson also asked about a section of state code that discusses property rights. Mr. Boal explained that it requires that property rights are addressed in the Comprehensive Plan.

Ms. Johnston asked for the following clarifications:

- Section 9-11-2 – are all of the options listed considered individual options (one or the other), or are they cumulative? Mr. Boal said they are one or the other. The word “or” can be added after each of these.
- On the map provided, and it says one building right was associated with multiple RP numbers, is it correct that this means multiple parcels with one building right shared between them? Mr. Boal explained yes, this means multiple tax parcels sharing one building right. There are a multitude of reasons for having multiple tax parcels, even though a deed shows a piece of land as one parcel, it may cross taxing districts or township lines that would require a different RP number.
- Are there any statistics on the properties included on the map from property inquiries? How many parcels are probably affected by this or in subdivisions? Mr. Boal explained that the statistics of the property inquiries was not something included. The majority of

the parcels on the map are rural parcels. Probably less than 10% have no building rights, which is probably skewed somewhat because some lots were included in subdivisions. Some inquiries were submitted for parcels in subdivisions, but platted lots are not in question.

- Section 9-11-3-B: The “to develop” language seems to restrict all development such as future subdivisions and physical development. Does this only mean physical development? Mr. Boal explained it is only physical development not subdivisions, and this can be clarified.
- Section 9-11-2-C-b: Why are we putting a weight on the applicant having a recorded survey in the past? From a surveying and legal perspective, if you record a deed recorded with a metes and bounds description, it isn’t different from a survey showing it graphically. Mr. Boal explained that the recorded survey has to be a One Time Only survey with a county signature, not just any survey. Ms. Johnston apologized; she was looking in the wrong section. Same question in the parcel rectification criteria section. Mr. Boal explained a survey is required there because it goes back to the expectation of how it was created. If there was a survey recorded when someone purchased it, there is a different expectation of how it was created than if there was just a deed. Ms. Johnston asked for clarification to ensure she was understanding correctly. To be eligible for this parcel rectification, part of the criteria is an existing survey, and the intent is because the expectation may be more likely that they thought they had a building right because of the survey versus just a deed. Mr. Boal explained yes, that is correct. It is not to say that processes are not available for parcels that were created by just being deeded off, but this parcel rectification process is geared toward those property owners that had that different expectation based on the survey recorded.
- Section 9-11-8-B-1: This says the parent parcel would be eligible for the One Time Only under the existing code – does this mean the current code now or the code that existed when the application was done. Mr. Boal explained this is the current code, as it exists now. Ms. Johnston asked that the language be clarified.
- Section 9-11-8-D-1: This section also says “eligible under the existing code”. Does this also refer to the current code? Mr. Boal said yes. Ms. Johnston asked that this language be clarified as well.
- Section 9-11-8-C: Is there an example of a situation when this parcel rectification process would be applied? Mr. Boal gave an example of a 40-acre parcel that had a survey recorded to create 2, 20 acre parcels without going through the process at the time. They would also be eligible for the retroactive One Time Only. Ms. Johnston asked if there was an example where someone would be eligible for the parcel rectification and not the retroactive One Time Only. Mr. Boal gave an example of a parcel that went through a One Time Only in the past and then a record of survey was recorded, so it would not be eligible for the retroactive One Time Only but would be for the parcel rectification.
- How long would this parcel rectification process take, realistically? Mr. Boal explained that once we get a completed application, it’s a matter of getting it on the next agenda, so pretty quick. It is an administrative approval, not a public hearing.
- Section 9-11-8-B: Is the retroactive One Time Only something that gets turned in for the parent parcel or the resulting parcel? Mr. Boal explained that the parent parcel is the one being split, so the application is for the parent parcel, and both parcels would be identified

as buildable. Both property owners are required to participate, and if one does not, there may be the option to go through the parcel rectification process. Ms. Johnston and Mr. Boal continued to discuss different examples for going through the parcel rectification process. Mr. Boal explained that a de-facto subdivision cannot be created through this process. Language can be added to 9-11-8-B-4-iv to clarify that no more than two buildable parcels are being created from the parent parcel.

Mr. Booker asked what the Fire District signature block was referring to under Section 9-11-8-B-C. Mr. Boal explained it was only for access. It is not required for fire protection because only two lots can be created through the process, and three or more lots triggers the need for fire protection.

Public comment was opened at 6:08pm

**Public Comment:**

*In Favor:*

Shawn Hill, representing Valley Advocates for Responsible Development, stated he is in support of the ordinance. I think this is a good attempt to restoring some order to the chaos of the past. There will probably never be a perfect solution to such a vexing problem. I think the planning staff and county prosecutor have done a good job exploring all possible solutions, and I think the best solutions are incorporated into this ordinance. I would prefer to use of the term Lot of Record because it is industry parlance, it's used in Driggs and Victor, and I believe the county draft code has a definition for this as well. I would suggest the criteria of Section 9-11-2 and use that as the definition for Lot of Record in the county's draft code.

*Neutral:*

Joanne Labelle, of Victor, stated she was neutral because she hadn't read enough of the revision, but she appreciated the work that had been put into it since the last meeting. It seems like a lot of the critical issues have been addressed. There will still be some hardship issues that will need to be considered. There will be people that purchased, inherited, or somehow got a parcel they were going to build in that doesn't fit in one of these boxes. We need to look out for those people. The map that shows how many inquiries there are; I just want to add that it looks like there are about 100 that had issues. There will be more than this, certainly. People are calling all the time that are not in subdivisions, and we just don't know. It is all over the place, and it is going to affect a lot of people. I spoke before on going back to we as citizens, we relied on the process and if there was a signature or a survey or plat, we relied on the surveyor to follow the proper procedures. The title companies, mortgage brokers, realtors, and citizens had belief they had building rights. Thanks for all you're doing, but I think we need to make sure that no one gets kicked under the bus because it was 2005 instead of 2003 because it was an ag breakoff.

*Opposition:*

Billie Siddoway, of Victor. I appreciate all of the work that has been done. I oppose the ordinance, some pieces in part and some in whole. I think that section 9-11-2 has the most issues and is not comprehensive enough. I have had the opportunity to talk to a lot of property owners, realtors, developers, and contractors, and we've been able to identify those issued. I'd like to go over those

with you and highlight those that are covered with this ordinance and those that aren't. I think the sentiment of the last meeting I attended was to allow someone that had a lot of record that had been approved, I thought that those would be grandfathered in. I think there's been an effort to do that, but I don't think this is quite comprehensive enough. Two of the general categories that we have examples of are where documents were signed by the county but by the wrong person and I think this could be read either way that a signature by the county is covered. I think this isn't clear where it says an authorized signature, so I think it should just say a county signature. Another example is if a lot of record was approved in Planning Commission minutes saying something was approved and a signature page wasn't provided, that should be approved. It's not clear to me if prior approved rights are covered. I think there are several situations where the county approved a building permit for a property and now they want to come back in and do a remodel. It's unclear if they can come in and get that permit. A related category is where there was a split, where there are two or more resulting rights and one of the property owners received a building right. Now, the other owner is being told that they can't get a building permit. I think these buyers should be treated the same way. Another category are the innocent purchasers. Some may come under the situation that it can be rectified, but we have people that don't have the money or time to pay for a survey. I think that's the kind of hardship that I think we seemed to have some kind of sentiment for correcting before. Those innocent purchases that acquired property of value; I was thinking of people that paid cash money, but you also heard from someone that was working on the farm to earn that piece of land. So recognizing some kind of innocent purchaser exception that may not be the original owner or developer that didn't follow the process, and maybe they have to pay a fee, but I think we should give building rights. Another category is adjudicated parcels. These are parcels made by a decision in a court by a judge that parcels should be split. It's not clear if these are allowed building rights, and I think this deserves recognition as a category. Finally, for a hardship, we already have a process in place to apply for a variance. I think we should have a process where people can plead their case and have consideration given to them through some administrative process. There was some discussion earlier about creating parcels that may not have building rights associated with it. I don't think that's recognized adequately in 9-11-3, which calls this a notice of violation. I think we could improve this by changing the name of it to a notice of no building rights. I think this is a great thing for the county to do. This could be recorded, and it doesn't necessarily mean they violated the law, they just don't have building rights. The Realtor's Association is not thrilled about subsection D. I think it would be appropriate to be struck out, and it puts a burden on the county to make a notice about a sale. There's a process for a purchaser to file a complaint. I think that 9-11-6 makes state code more confusing. It seems to imply that if there's a sale in violation of this title that it somehow becomes a fraudulent transfer. I think this could be deleted because anyone can go to their attorney if they think there was a fraudulent transfer. I also think 9-11-7 should be stricken because you can divide property without building rights. This would make every time we split something off without building rights that we're committing a misdemeanor. I support 9-11-8, but I don't think it is broad enough to include all of those exceptions I think should be in 9-11-2. I think having an expedited process is a good thing, but I don't think it is good enough for those innocent purchaser because of the time and expense involved. I realize that the time for the county can be swift, but there are only a few people here to create surveys, so that is where the time and expense comes in. That's all I have. I appreciate the willingness of the commission to work through this issue. We're working on our own document, but it was not ready for today. We can get it out to you as quickly as we can.

Roger Brink, of Tetonia. I would like to double everything Billie said. Those were my concerns. Conceptually, I would like to add that when this all came to light, it seemed to be unfair to the public. In my view, the County Commissioners and Teton County are in a place to aid the public,

and this whole process seemed quite unfair to me because most everyone bought land here expecting to have building rights felt that those parcels had building rights, legal building rights approved by the county, and no one sold those parcels with the intent of misleading anyone. My objection is conceptually that all of this came to light years after the fact in most cases. In fairness to the public, I think that should be an additional item to be weighed in this decision making process. I think the fees that are outlined, and I commend Jason and Planning & Zoning for taking another look at this and revising the whole thing. It seems they've done a great job trying to rectify most of the issues here. That aside, the fees are still fees, and they are expensive. People can't necessarily afford those fees; some won't want to. People may look into an attorney to look into those issues. It is still an expensive and time consuming process. I appreciate your time and effort you all put into this and your serious consideration.

Harley Wilcox, of Victor. Some simple math, it looks like of the 331 inquiries, there are 33 that have been deemed to be no building rights and need to go through a process. Three of those are not fixable. If you put that to the no inquiry of the 14,325, then that could be 4,727 lots.

It seems to me that this has been from a new interpretation of the rules. The rules have been interpreted over the last 20 years. They were granted building rights through different processes. I'm not talking about the person that created a deed without any process. I'm talking about the ones that went through a process. I was there through some of this and knew some of these guys that did it. Luckily I didn't sell any of these lots to anyone and tell them it was a great building site. When that stuff is pulled back out and shows that realtors and sellers were advertising these as the best building sites with tremendous views, they're going to get sued; the county is going to get sued. I'm tired of county law suits. I keep hearing expecting or what they thought, and I don't necessarily think that's the right choice of words. I think the more clear definition is best practice and directive. People would come to Planning and Zoning and say this is the parcel I have. This is what I want to do. What can I do to get what I want? They were given directive, and they went through a process. This document keeps getting bigger, and I think it needs to get smaller. I think what Billie is working on with other attorneys and other land professionals will shed a lot more light on this. Unfortunately, we weren't able to get it to you prior to this so you could look at it.

I want to remind you that our ag 2.5 and our ag 20 zones are called ag zones. Some of these ag splits were done by staff and by property owners with the understanding that they were creating building sites. Saying if you did an ag split, you don't get a building site is probably not the right way to go. I heard Shawn say this is a good attempt to put some order to the chaos created in the past. Maybe we did make some mistakes in the past. I don't think creating an ordinance to open up the process and look at it, see if we made a mistake, and then revoke approvals is the right way to go. I think that's what this gives someone the right to do.

I visited with the prosecuting attorney, and we were able to look up part of the statute. It calls out in our subdivision ordinance a minimum lot size of 1 acre. The idea of going back to an underlying density of either A-2.5 or A-20 is definitely not something that was explained or given as a directive when some of these came through. I think that needs to not be a part of this final draft. There was a date and time that I think a minimum lot size may have been added to the code, but it was not from the beginning of all of this. I think we all have a good understanding that there have been cases where lots were created, building permits were given, and some buildings were built. Now we're being told those buildings should not have been allowed to be issued and so there for you can't have a garage, shop, or your lot is unbuildable. Does that mean they can't do their

deferred maintenance? I don't know. There will be some cases out of the 14,000 lots we have in the county that there will be more than one home that was built on lots illegally and unfixable. We need some provision so that something that doesn't meet the cookie cutter will be heard by somebody. The reason the 1-acre minimum lot size was in our ordinance for so long is because that's what District 7 allows as a minimum lot size for a well and septic. I realize that staff has done the best they can to come up with something that is a workable solution. I think they're looking at it at a snapshot in time. Today's snapshot. They're saying regardless of what mistakes we made in the past, it doesn't matter because if we did something wrong, so we'll just go back on that. That's not the way we do. If we made an agreement with somebody, we stand by our word. These folks that went through the process and did their due diligence and used best practices as explained to them, we need to make it easy for them to move forward. Don't make them go through that whole thing again and try to prove that they followed the rules at the time. Hopefully you can see through that and make some a suggestion that if any administrative staff or working in P&Z that was directed to sign that plat, that it be honored. Thank you.

### **Applicant Rebuttal:**

Mr. Boal encouraged those that testified to reread the ordinance. Some of the concerns brought up are things that have changed and are addressed. If there is a survey with a county signature on it, we are accepting those as buildable parcels. It seems that was the majority of the objection you just heard, and we are clearly in the ordinance recognizing those as buildable parcels. There were some suggestions as far as removing 9-11-6. We are okay with removing 9-11-6. It is a state code provision, so it is available there. 9-11-7 could be clarified. It is also addressed in chapter 1, section 4. In regards to the 1-acre lot size or the minimum lot size, if it was approved by the county before, this ordinance does recognize those as buildable lots. There's no question of that.

The hardship, the variance that was talked about, I don't know how you can legally hear someone's plea and make a sympathetic granting of building rights. There has to be a process. That's what LLUPA, state code, and our ordinance is. There has to be a process. It goes back to the equity issue. It is fair to those people who went through a process, paid to have the surveys done, who worked with staff and got those approvals. I think this ordinance tries to protect those innocent buyers and provide opportunities to those innocent buyers to obtain those building rights and to follow a process the same as anyone else who has obtained a building right in the county has done.

### **Commission Questions:**

Mr. Arnold: What about 11-3-D? Mr. Boal said we can strike that. Just to clarify, I don't think there's any problem with renaming 9-11-3 to a notice of no building rights.

Ms. Johnston: Can we add an exception to 9-11-7 where someone creating a parcel they are acknowledging doesn't have building rights to follow something similar to 9-11-8-A, recording there are no building rights, that it's allowed. Mr. Boal: okay.

Mr. Breckenridge: Some people built subdivisions in the 1980s, and the minimum lot size could have been half an acre. Mr. Boal explained that if it was in a subdivision or created before 1999, it is considered a buildable parcel, regardless of size. Any parcel that went through a process, including the One Time Only, with a county signature, no matter the size, is considered a buildable parcel with this ordinance.

Ms. Robson: Will this go away with the new code or be incorporated into it? Mr. Boal said it would be incorporated into the new code.

Mr. Moyer: Lots that weren't created the right way and building permits were issued and buildings built. Are we opening the door for that process to continue? We've already allowed property to be built on that wasn't created legally. Is that an issue? Mr. Boal said in looking at the inquiries that have been done and the building permits that were issued, this ordinance is going to fix the majority of those problems. There may be some instances where a building permit was issued. Mr. Moyer asked if in the process of denying someone else, if we gave a building permit to someone else. Ms. Spitzer explained this isn't a problem legally. Doing something that violates the law once doesn't mean you have to keep doing it. It is more of an equitable issue.

Ms. Johnston: Where does this leave people who own a home on an unbuildable lot as far as maintenance, additions, or moving forward? Ms. Spitzer explained that the majority of them should be taken care of because they went through some process that we are going to recognize. If someone was able to build on a parcel that was just deeded off without going through some kind of recognized county process at all, that's where the parcel rectification process would come in. Ms. Johnston asked if they chose not to go through that process, then where would they be left? Mr. Boal said it would come down to what the building code requires building permits for. If they wanted to do something that doesn't require a building permit, then they could do it.

Ms. Robson: If someone who has a house and comes in to get a permit to add a garage, and they're told they can't get a building permit. Is there anything they can do? Mr. Boal explained that this ordinance lays out several processes to make lots legally created lots to obtain building permits. Ms. Robson asked if there would be any cases where they're told no. Mr. Boal explained that there could be, but this ordinance is intended to be fairly comprehensive. The majority of the issues we've seen did go through a process. It is possible, but not very probable. Ms. Robson said she knew of a house that was deeded to a child, and they were told they couldn't get a building permit. Mr. Boal said he doesn't know the specifics of that property, but it sounds like there are options of fixing that. Ms. Robson commented that things like that happen, and it doesn't seem right to me that someone can't remodel their house.

Mr. Moyer: Asked to clarify the difference between the types on the map (multiple RP numbers with one building right, one building right with multiple RP numbers). Mr. Boal and Ms. Rader explained the difference.

Ms. Robson wanted to clarify that the piece she was talking about was able to be rectified, but it was expensive. It just seems wrong that they couldn't get a building permit. Ms. Spitzer asked if it was a house on a large lot that was cut into a smaller piece. She explained that on the large piece, they only had one building right. When they went through the process, that created a new building right for the new lot.

Mr. Haddox: What Ms. Siddoway brought up about a court splitting a property. Would a court order supersede this? Mr. Boal explained that there have been numerous cases like this that we have dealt with. It depends on how they divide it. Sometimes they split up the interest in a deed, sometimes they go through a subdivision, and sometimes someone sells their interest. There are processes that they go through. There are also cases that they only use it for ag.

Mr. Booker closed the public comment at 6:53pm. The commission took a break and returned at 7:04pm.

Mr. Booker explained the public hearing was closed, so he is opening it up for discussion amongst the commission only.

### **Commission Deliberation:**

Mr. Larson: We had a lot of questions and a lot of issues raised. I think this is a good start. We're close to addressing the problem. I too am an engineer and having done this for a long time, I would prefer we handle things legally versus a blanket style. The fees are something the BOCC can do. We have a few different directions. One is to kick it up stairs or do one more crank of the machine. I would like to take another crank, but I know others want to move it through. I'd like to hear from everyone. The only thing I haven't quite resolved are the hardship scenarios. We've talked about different scenarios, and I just don't know quite where they fall in.

Mr. Haddox: I think this is good. Maybe it needs one more iteration, but we need to do something. I feel for the people out there that unknowingly purchased these lots. I think Jason did a good job at addressing a lot of issues. We can't do straight math on this because it won't be proportionate. I'm comfortable.

Mr. Arnold: I agree with Chris. I want to ask a question. Will it be new info if I ask the administrator how time sensitive this is for the public? Is that new info? Mr. Booker said he did not think so. I think it needs to have a crank, whether it's us or the Board of County Commissioners. I would prefer we do it. If that's going to be a burden for the public, I don't have a feel for that. Mr. Boal explained that we do have several property owners that are waiting on building permits and this solution. His thought and preference was to get a fix in place, and if we need to fix it, we can always do that. Without it, it does leave property owners waiting. Mr. Arnold said that's a dilemma in his mind. He wasn't sure if it should be sent to the Board or keep working on it, if that would out a hardship on the public.

Mr. Booker said Mr. Larson had to leave soon, and he would like to throw something out. He's heard from three people saying they'd like another round at this. He would add himself to that list. There were a lot of changes, and he'd like to see those changes made before voting on it. At the same time, he didn't want to hinder anyone. It is important to get it right. Is a general consensus of the commission that they'd like to have another shot at this and continue this one more time?

Mr. Boal explained that the next meeting will be the second Tuesday in June. It can't be noticed for the Board until the Commission makes a recommendation, so it would be mid-July before going to the Board. Mr. Boal explained that he had made a list of changes by section. He offered to go through those changes if it would make them feel better to make sure it adequately addressed the changes discussed. Mr. Booker said he would personally like to see a final product. Ms. Johnston agreed. She felt there were a lot of changes, and she would like to see those revisions before recommending. Mr. Booker explained that there were a lot of changes, and he'd like to see it in a final format. Ms. Johnston said she felt other things may come up in the course of their discussion as well.

Mr. Larson explained that he thought they were doing a better job if they looked at it another time. Time is sensitive. Mr. Arnold commented that it may be more of a benefit to the public for them to continue it.

Mr. Larson left at 7:17pm.

Mr. Johnston commended staff on the background clarification on this and putting together a much more standalone ordinance that defines and clarifies the whole process. One thing that would make her understanding better would be the lot of record definition. We've had different terms floating around for parcels that are and aren't buildable, which adds confusion to this. The first thing that pops up when I google legal lot of record is from Deschutes, Oregon. It says "Not all tax lots are legal "lots of record." Deschutes County will not issue any permits on a lot or parcel until it is determined that it is a legal lot of record. If your parcel is not in an approved subdivision/ partition, has not been issued a building or septic permit, or has never been determined to be a lot of record, you will need to file an application for a lot of record verification." That makes it very clear, and I would like to see us have something very similar if not verbatim. She also commented that if a lot was split, then a septic or building permit was issued, it would become a lot of record. That is something she would advocate for. She also commented that she was not very comfortable with 9-11-8-C. She did not have a clear understanding of the extent of this. How could this be applied and where? She felt the next iteration of this will clarify that. Also, she was not convinced that having a recorded survey being in existence should be a deciding factor for the parcel rectification. When a deed is recorded, the survey is neither here nor there unless it's a map attached to some kind of process like a lot split. She felt the ordinance might be better without this part until she has a better understanding of what that part does.

Mr. Haddox asked Ms. Johnston if she would be okay with just a legal description instead of a legal description and a survey? Ms. Johnston said she felt that the deed, whether or not there was a plat, she does not see the plat as being an important distinction. She would lean toward removing section C completely. She did not feel there was justification to allow this for people with surveys versus without surveys. Mr. Haddox said he would agree with that because historically the federal government has just used deeds. Ms. Johnston said she did not want to open this up to everyone and make it more broad. She would rather see it go away. If it stays, she would like to have justification for why it is there and what it's doing for only surveys. She would also like to see how this applies to the comp plan. We've already said different dates mean building rights, so I'm not seeing a clear argument for why this section is needed.

Mr. Moyer asked how many more parcels are going to fall under this. I'm sure you can't come up with a flat 10%. I'm betting we're still looking at quite a few more lots that we'll have to deal with in the future. He felt the easier we can make the process, the better off we'll be.

Ms. Johnston commented that the map was based on the property inquiry requests, and this ordinance has very different policies. She would anticipate that the number of affected lots would go down significantly. She would be interested in seeing some kind of analysis to see what kind of numbers we're looking at. Again, she commented that she was not convinced that the parcel rectification process was justified or needed, and she would like it better if C was removed.

Mr. Breckenridge said he would leave that up to the administration to see if they like it or why they need it. If they have a good reason for it. His opinion was that this document gives the public everything they want if anything the county said okay on now gets a building right. There were

some examples discussed that couldn't get a building permit, and he said he'd like to know those circumstances as to why they couldn't get one.

Ms. Robson commented that she agreed and would like to continue to give it another try.

Mr. Booker said he agreed with what everyone has said, and he would entertain a motion to continue.

**Motion:** Mr. Arnold moved to continue the meeting for the Amendment to Title 9, Teton County Subdivision Ordinance to add Chapter 11 – Building Permit Eligibility of Previously Created Parcels to the next available meeting time, June 14th. Ms. Johnston seconded the motion

**Vote:** After a roll call vote, the motion was unanimously approved.

**WORK SESSION: Draft Code.** Discussion of the Draft Land Use Development Code.

Mr. Boal explained the Board will provide comments on the code to discuss on the 14<sup>th</sup>. Mr. Breckenridge said he would rather schedule the public hearing first, with the Board discussion after, so it didn't get ended early. Mr. Boal asked how long the Commission would like to take for the continuation of this public hearing. Different meeting dates and times were discussed. It was decided to start the meeting on June 14 earlier, with the work session from 4pm-6pm, the continued public hearing on the ordinance amendment from 6pm-7pm, and the continued public hearing for River Rim at 7pm. If the Board can't meet at 4pm, then start the ordinance public hearing at 4pm, the work session at 5pm, with River Rim still at 7pm.

**Motion:** Ms. Robson moved to adjourn the meeting. Mr. Breckenridge seconded the motion.

**Vote:** The motion was unanimously approved.

The meeting was adjourned at 7:40 pm.

Respectfully submitted,  
Kristin Rader, Scribe

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Cleve Booker, Vice-Chairman

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Kristin Rader, Scribe

Attachments:

1. May 17, 2016 Public Comment
2. PZC May 17, 2016 Meeting Packet