



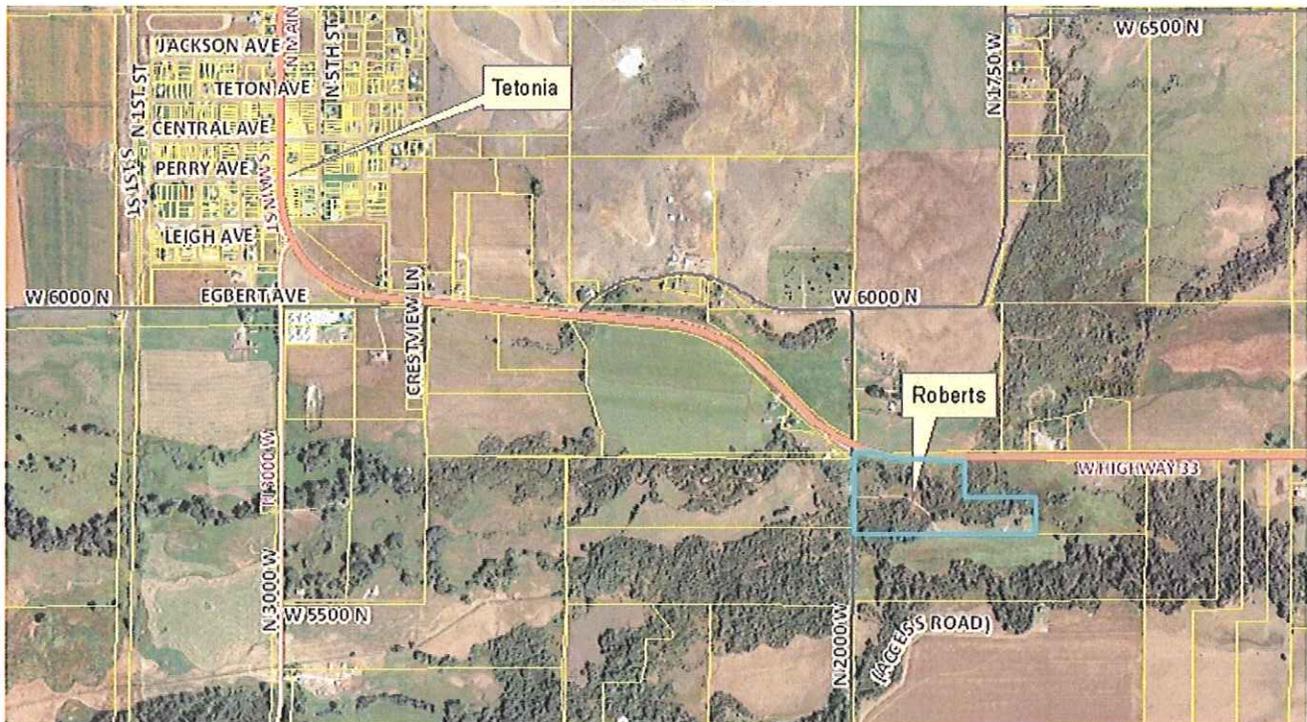
STAFF REPORT

PRELIMINARY PLAT HERITAGE PEAKS SUBDIVISION

Prepared February 28 for the March 9th, 2011
Planning & Zoning Commission Public Hearing

OWNER: D & R Roberts Ltd. **AGENT:** A-W Engineering
REQUEST: Subdivide a twenty acre parcel into two residential lots that also contains a non-taxed open space tract that is governed by an open space management plan
CODES: Title 9 and Title 8 as amended 09/16/10; Idaho Code Title 67 Chapter 65
LEGAL DESCRIPTION S ½ NW ¼ Section 34, Twp 6N, Range 45E, B.M
LOCATION: Approximately at State Highway 33 and County Road 2000 West; about 1 mile east of Teton

VICINITY MAP



PROPERTY SIZE: 20 acres

ZONING: A/RR-2.5

LOTS PROPOSED: 2 residential lots and an HOA open space area

OVERLAYS: 1) Wildlife Habitat Overlay, 2) Wetlands & Waterways, 3) Scenic Corridor

PLANNING STAFF RECOMMENDATIONS:

Staff recommends **APPROVAL with Conditions** of the Heritage Peaks Preliminary Plat having determined that it can meet the applicable standards and criteria in Title 9 of the Teton County Subdivision Ordinance. The recommended Conditions of Approval that are enumerated at the end of this report provide guidance for the preparation of a Final Plat application.

BACKGROUND INFORMATION

This property has been the subject of previous applications and configurations that have depicted many more lots, including a PUD proposal with nine (9) residential lots. The applicant submitted a document “Heritage Peaks Subdivision Time Frame of Events” that recoups the history of the application and the delays and obstacles that have arisen. Due to the hydrologic constraints, the applicant was required to prepare a Nutrient Pathogen evaluation. After the initial N-P report, DEQ requested more information and Harmony Design provided a Level 1 N-P Study Addendum to address the fate transport of pathogens and phosphorous, among other things. The subdivision application was downsized to two lots following the results of the N-P Study Addendum, which considered the setback limitations for the water features and the drain fields. A Flood Plain report was identified later in the process; it is a National Flood Insurance Program requirement because the property is larger than 5 acres and has lots in the FEMA flood plain.

KEY ISSUES:

- **Wetland-Waterways Limitations:** Although this property is zoned ARR 2.5, and the 20 acre property was theoretically large enough for more lots, the majority of the parcel is highly constrained by jurisdictional wetlands, as well as the floodplain of Spring Creek (a permanent watercourse), an intermittent watercourse (2 to 6 months flow), a temporary surface water feature (2 months or less flow), and an old irrigation ditch.



Close up of 20 –acre parcel

The prevalence of these hydrologic features throughout the parent lot has dictated that several studies be made, including: 1) that a wetland delineation be performed by Lone Goose Environmental, 2) a Nutrient-Pathogen Evaluation be submitted to DEQ by Rocky Mountain Environmental, 3) that first N-P report had to be further amended by Harmony Design & Engineering, 4) that precise locations be pre-determined for the drain fields so that Eastern Idaho Public Health District setback standards could be met, 5) that the 100-year base flood elevations (BFE) be determined by AW Engineering, and 6) that building envelopes be refined in order to avoid all the water related constraints listed above.

- **Engineered drain fields required:** Eastern Idaho Public Health District considered the wetlands and relatively shallow depth-to-groundwater levels onsite and determined that it would necessitate having specially engineered septic systems. Given the use of these engineered designs, the proposed drain field locations (depicted in the Nutrient-Pathogen Study) were determined to be capable of meeting the specifications in the EIPHD's Technical Guidance Manual. Nevertheless, when future homebuilders apply for an individual wastewater system permit, they will still have to provide the drain field's engineering specifications and must limit the systems location to those areas designated by the N-P study. A recommended Condition of Approval in this report would provide an up-front disclosure about these somewhat specialized septic requirements.



Spring Creek at low winter flow on the subject property

- **Floodplain mapping refinement needed:** The floodplain that was depicted around Spring Creek on the FEMA Flood Insurance Rate Map is "Zone A". These Zone A areas have no precise base flood elevations determined. In other words, the 100-year floodplain mapping is coarse here and the level to which the waters would flood is not well-estimated. Title 12 of the Teton County Code, as well as the Code of Federal Regulations, and the National Flood Insurance Program all stipulate that base flood elevations be established on new subdivisions when 5 acres or 50+ lots are involved in a proposed subdivision. AW Engineering submitted a floodplain study for review to the County's contract Floodplain Administrator, Williams Engineering, Inc. As of this writing, the Floodplain Administrator asked for additional data in accordance with the FEMA rules. A final determination as to which areas are in and which areas are out of the 100-year flood will then be known. Because building is allowed in the floodplain, there will still be two building sites on the 20 acres. However, one of the lots may be subject to having to obtain flood insurance if the building envelope is in the floodplain rather than above it.

SPECIAL STUDIES, REPORTS & SUBDIVISION DOCUMENTS

Wetland Delineation Report for Roberts Property- Lone Goose Environmental

This 2004 study mapped the jurisdictional wetlands and acknowledges the access road was built across short crossings of wetlands with US Army Corps of Engineers authorization.

Nutrient-Pathogen Evaluation for Heritage Peaks PUD- Rocky Mountain Environmental sent this study to Idaho DEQ and they required much more information about the “fate-transport” modeling of pathogens on this wet property.

Level 1 Nutrient –Pathogen Evaluation Addendum for Heritage Peaks Subdivision- Harmony Design & Engineering submitted their N-P study addendum to DEQ and they stated: “*DEQ feels all previous comments have been addressed and the Water Quality Impact Analysis is acceptable*”. They went on to state that “*that there will be no significant impacts to ground water if the recommendations are followed*”. They called for a reduction in lots to two and stipulated the use of advanced wastewater treatment units to limit the effluent quality and concentration.

Natural Resources Analysis- Heritage Peaks LL Property- Biota Research & Consulting submitted a report and Table 6 on page 14 summarizes some of the expected impacts to various indigenous species.

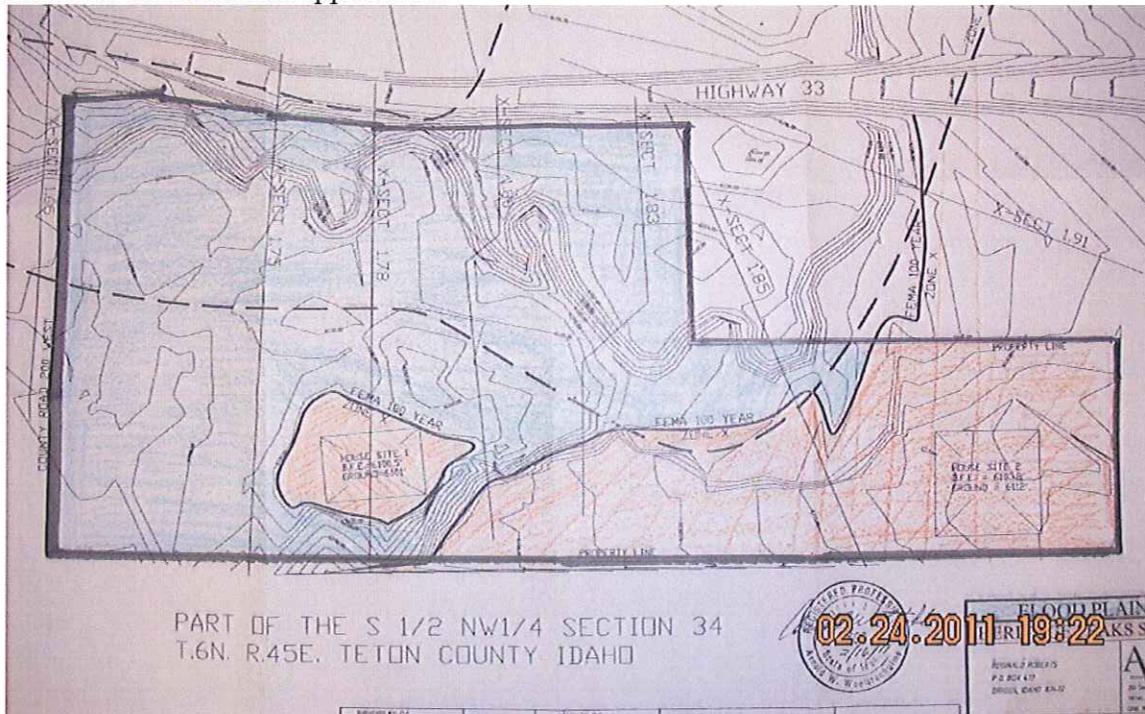
Species	Impact Threshold		
	Adverse	Beneficial	Duration
Gray Wolves	None	None	None
Canada Lynx	None	None	None
Grizzly Bear	None	None	None
Yellow Billed Cuckoo	None	None	None
Bald Eagle	None	None	None
Great Gray Owl	None	None	None
Harlequin Ducks	None	None	None
Yellowstone Cutthroat Trout	None	None	None
Neotropical Migratory birds	Negligible	None	Long
Upland Game Birds	None	None	None
Waterfowl/Waterbirds	None	None	None
Raptors	Negligible	None	Long
Small Mammals	Negligible	None	Short
Elk	Negligible	None	Short
Deer	Negligible	None	Short
Moose	Negligible	None	Short
Amphibian and Reptiles	Negligible	None	Short

The Biota report made several recommendations to minimize impacts to the potentially affected species. These recommendations, along with Idaho Department of Fish & Games’ comments have been incorporated into conditions of approval found at the end of this report.

- **Flood Plain Report-Heritage Peaks Subdivision-** AW Engineering submitted a floodplain study for review to the County’s contract Floodplain Administrator, Williams Engineering, Inc. As of this writing, the Floodplain Administrator asked for additional data in accordance with the FEMA rules. A final determination as to which areas are in, and which areas are out of the 100-year flood will be

known at the end of this process. Because building is allowed in the floodplain, there will still be two building sites on the 20 acres. However, one of the lots may be subject to having to obtain flood insurance if the building envelope is in the floodplain rather than elevated above it.

- The conclusions and findings within the Heritage Peaks Floodplain report and comment letters from the Floodplain Administrator are attached to this report. The roughly mapped FEMA floodplain was actually enlarged as a result of more precise watershed calculations. The floodplain report has not yet received final acceptance by the County, so Staff suggests a recommended Condition of Approval that the base flood elevations be accepted by the County Floodplain Administrator prior to the Board's consideration of the Final Plat application.



The areas colored blue would be inundated by 100-year flood events

- The building envelope for Lot 1 lays a mere half-foot above the estimated 100-year flood elevation and it is surrounded by areas of 100-year flooding. Given this, the building code requires a vertical separation distance of at least one-foot between the base flood elevation and the habitable floor, and also dictates certain construction designs and eliminates the slab-on-natural grade design option. In other words, a residence constructed on building envelope #1 will need to conform to the National Flood Insurance Program standards. This may mean mounding up the Lot 1 envelope or using an elevated foundation. Staff is recommending a condition of approval for this project that the architectural-construction methods required in a floodplain area be disclosed in a document that a prospective buyer will likely encounter such as the CC & R and the recorded Master Plan.
- **Heritage Peaks Subdivision Development Agreement:** The Development Agreement used the County's template. County Engineer Simonet suggested some relatively minor modifications; see page 3 of his October 29, 2010 memo. These suggested changes should be incorporated into the Final Development Agreement that will be recorded at the Final Plat stage.
- **Heritage Peaks Open Space Plan:** The plan proposes 7.72 acres within the 20 acres as open space. Weed control is an important element of the management of this area and all areas on the 20 acres.

Mr. Roberts will treat the weeds until lots are sold and then it will become the responsibility of the HOA.

- **Heritage Peaks Subdivision CC& R:** These rules have various clauses related to County ordinances. One clause is for “night sky” and limits outdoor lighting to the Teton County ordinance 9-4-12. Another clause references underground utility lines, which are also required. Guest houses are also allowed but restricted in size. House pets are to be restrained or leashed within the subdivision and this reinforces the Biota and IDFG recommendations.

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 the Planning Staff’s and applicant’s responses about how the Heritage Peaks Preliminary Plat relates to them.

The applicant supplied the document “*Evaluation Criteria Narrative for Heritage Peaks PUD*”. The applicant’s responses to the Comp-Plan policies are found in that document and the Planning Staff’s comments are found below each applicable goal or policy.

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.

- ✓ Complies/ NA: The constitutional right to develop in accordance with the County’s specific zoning and subdivision regulations is not in question here.

Chapter 6 Population:

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

- ✓ Complies: The net increase in the number of new household properties resulting from the Heritage Peaks subdivision would be one additional lot beyond the existing lot. The new subdivision would be included in the County’s GIS and database in accord with Population Policy #1. A new address will be assigned at the Final Plat stage.

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.

- ✓ Complies: The density from the original proposal of 6 or more lots has been reduced down to two lots on 20 acres and this is more in keeping with the balance of growth and the protection of clean water and the rural lifestyle that is mentioned in this economic policy goal.

Chapter 9 Land Use

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

- ✓ Complies. This subdivision proposes open space tracts that contain the most environmentally sensitive habitat areas on the property. Approximately 7.72 acres of open space are dedicated on this 20 acre property. With the N-P Study and floodplain report, the project is now proposing a

more limited amount of development that is tied to the soil and hydrologic constraints of the property even though the zoning district is A2.5.

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.

✓ Complies: The Scenic Corridor would not be impacted from the two units of development because there is adequate natural screening on the property.

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)

✓ Complies: The proposed amount of density on this lot will help preserve the pristine qualities of Spring Creek as opposed to a higher amount of density with more suburban type runoff characteristics. The proposed density is more congruent to the Comp Plan goals than the zoning designation, which theoretically allowed 7 or 8 units.

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.

✓ Complies: This development in the unincorporated county is based on a density that is tied to wastewater treatment constraints more than a density-based zoning concept; the result is fewer units in a sensitive area.

Chapter 10 Natural Resources:

Policy 2: Protect the County's surface and ground waters, wetlands and riparian areas through responsible development and incentives to help landowners conserve important water resources. This policy will apply to all surface waterways, underground waters, and areas shown as wetlands within the National Wetlands Inventory as prepared by the U.S. Fish and Wildlife Service in June 1993, and any updates of the National Wetlands Inventory that might be provided. The National Wetlands Inventory Map shall be used to update Map No.5 Critical Overlay Areas for waterway and wetland resources and shall be modified periodically to help reflect the current understanding of water resources as necessary.

✓ Complies: The disturbance areas are not in wetlands and there is a buffer between Spring Creek and disturbance areas. The N-P Study, Natural Resources Analysis, and Flood Plain report have identified the environmental constraints and the proposal avoids those areas to a reasonable degree.

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

✓ Complies: The density is two units for 20 acres, which is consistent with maintaining rural aesthetic values in this quiet neighborhood.

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

✓ Complies: This plan provides for a vegetation buffer between the building envelopes and Spring Creek.

Policy 6: Ensure that noxious weeds are consistently and effectively controlled in compliance with state regulations and guidelines.

✓ Complies: A weed treatment plan is required in the Development Agreement.

Implementation 5: *Ensure that development respects the integrity of the streams, stream channels and riparian areas.*

- ✓ Complies: This plan provides for a vegetation buffer between the building envelopes and Spring Creek and most of the riparian vegetation is located in the open space lot.

Chapter 11 Hazardous Areas

Policy 2: *Encourage incentives that work to reduce the threat of personal injury, loss of life, and or damage to private property from flooding.*

- ✓ Complies: The Floodplain report more precisely delineates the projected 100-year flood event and the proposed building envelopes are projected to be outside these areas. The Building Code requires the lowest habitable floor to be vertically separated from the high water and this can be accomplished using approved building techniques.

Chapter 12 Public Services & Utilities:

Policy 6: *Investigate methods for disposing of solid waste including recycling, transfer, expanded landfill, and alternative uses.*

- ✓ Complies: The subdivision is required to dispose of solid waste in an approved manner. This area may lie within the bear-conflict zone and it is recommended that approved ways of handling trash be used.

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."

- ✓ Complies: No offsite road or traffic measures are required by the County Engineer. The impact fees will accommodate for the pro-rata share of public road wear and tear resulting from a new subdivision lot; that is approximately 7 to 10 average daily trips per day on County Road 200West.

Chapter 14 Recreation

Policy 4: *Encourage the preservation of the serene environment of the Teton River and other streams and access to them.*

- ✓ Complies: The proposed designation of open space area limits future development on the lot, such as building a guest house along the banks of Spring Creek.

Chapter 16 Housing

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

- ✓ Complies: This is a low density development and its location is acceptable in relation to the areas of city impact.

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.*

- ✓ Complies: The proposed density, open space and limits on lighting should ensure compliance with these policies.

REVIEW OF THE APPLICABLE TETON COUNTY ORDINANCES

A review of the applicable Subdivision and Zoning ordinances was conducted by the Planning Staff and by the County Engineer. Louis Simonet's letter of October 29, 2010 provides comments on the engineering-related sections found in subsections A to J in Section 9-4-1 Design Standards and Section 9-4-2 Improvement Standards. His comments and request for additions or corrections have been incorporated into this report's Condition of Approval # 4 Engineering Considerations.

Planning Staff evaluated the subsections on CC& R's and Outdoor Lighting and related Conditions of Approval # 1, 2, and 5 have been recommended in this report. Other conditions relate to the Wildlife Overlay mitigation measures suggested in the Biota report and the Idaho Department of Fish & Game comment letter.



Low flows on Spring Creek during winter

AGENCY & DEPARTMENTAL TECHNICAL COMMENTS

Idaho DEQ: Two DEQ comment letters have been sent regarding the Heritage Peaks project. The letter of March 25, 2009 enumerated the short-comings of the initial NP Evaluation and this letter then triggered an NP Evaluation Addendum that was produced by Harmony Design & Engineering. DEQ responded to the Addendum report in a letter of July 16, 2010. It stated: "*DEQ feels that all our previous comments have been addressed and that the Water Quality Impact Analysis is acceptable.*" The DEQ letter did qualify that the reduction in lots to two AND the "*installation of advanced treatment units for septic systems*" was necessary in order to come to their conclusion.

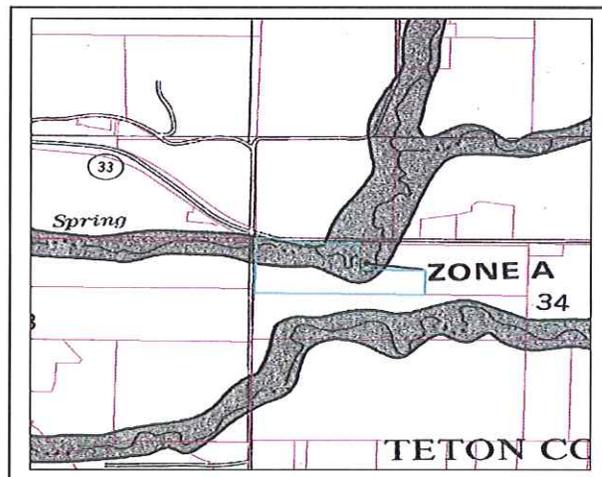
Eastern Idaho Public Health: District: A letter of October 28, 2010 from Michael Dronen "*approves the subdivision application and preliminary plat*". The letter went on to state the general conditions necessary to obtain an individual on-site sewage disposal permit. In follow-up discussions, it was learned that there are particular constraints as to where a system must be located, the type of engineered systems that can be used, and a maximum cap on the amount of gallons per day of effluent that is acceptable to treat- given the restricted areas available to place a drain field. In discussions with the Environmental Health Specialist, it was agreed that it would be desirable to disclose these septic constraints to future owners. One way in which these septic limitations have previously been disclosed is through plat notes on the Master Plan sheet or through a separate document that is filed along with

the plat's recordation. The basic language for this septic system disclosure is found in the recommended conditions of approval in this report.

Teton County Engineer: A comment letter dated October 29th 2010 is attached to this report. County Engineer Simonet provided 7 items of comment and these items have been made conditions of approval. The Floodplain report addressed many of Mr. Simonet's concerns listed in his comment #2. A revised Final Plat should incorporate all recommendations within item # 3.

Floodplain Administrator: Gerald Williams P.E., the County's contract Floodplain Administrator, was asked six specific questions and was sent the Preliminary Plat materials for review; his comment letter of November 11 is attached. In a general correspondence sent earlier to Planning Staff, Mr. Williams wrote:

"Communities are encouraged to address the flood hazards at the earliest stages of subdivision planning rather than at the actual placement of individual structures. If a community can work with the developer and others when land is being subdivided, many long-term floodplain management benefits can be achieved, particularly if the floodplain is avoided altogether."



Floodplain as coarsely mapped on the property site plan and the FEMA map.

Regarding the Heritage Peaks Subdivision, Mr. Williams clarified the following:

- 1) The National Flood Insurance Program requires that base flood elevations (BFE) be determined when a proposed subdivision has Zone A mapped on it. Proposed subdivisions (within communities participating in the National Flood Insurance Program) that have more than five (5) acres or 50+ lots must establish BFE at the subdivision stage rather than putting off these determinations to individual lots owners after platting. The type of engineering methods available for estimating the location of the 100-year floodplain (1% annual probability flood event) are specified by FEMA, but there is some discretion allowed for the floodplain administrator.
- 2) AW Engineering submitted a BFE determination/ floodplain report and the building envelopes are shown outside the floodplain. However, there are vertical separations required between the high water and habitable floors and this is an issue at the building permit stage. Staff recommends disclosing these requirements in the subdivision documents that a prospective buyer would easily find.

Idaho Department of Fish & Game: Steve Schmidt's letter dated October 28, 2010 provided nine recommendations. These recommendations have been incorporated into various subdivision

documents such as the Covenants, Conditions and Restrictions, or will be made Master Plan Notes on the Final Plat recordation. Some of the recommendations have been recommended as conditions of project approval.

U.S. Fish & Wildlife Service: A letter received September 23, 2010 provided a list of endangered or threatened species and designated habitat that might occur in the Heritage Peaks area. The listed species was Grizzly bear and a candidate species was Yellow-billed cuckoo. The Biota Research & Consulting's Natural Resources Analysis stated that the Yellow-billed cuckoo "*is not expected to occur within the project area, except as an extremely rare migrant, and was dismissed from further consideration.*"

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

Legal ads were made to the Teton Valley News in accordance with code requirements. 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. A development notice was posted onsite in accordance with all code requirements. Letters or communications were received by neighbors and are attached to this report:

Adjacent landowner Doneta Anderson submitted a letter and digital slide show that shows pictures taken from an automatic camera. Deer, moose and a mountain lion are shown using the Robert's property at night in the winter. It appears they are feeding on hay, which is a practice discouraged by IDFG.

RECOMMENDED CONDITIONS OF APPROVAL

1. **Waste water system limitations:** In accordance with provisions in Section 9-3-2 (C-3) N-P Evaluation, and with the Harmony Design & Engineering N-P recommendations, and with the Idaho DEQ letter recommendations dated July 16, 2010, and the County Engineer's letter of October 29, 2010:

The applicant shall amend the Master Plan and CC&R to provide a disclosure that advanced wastewater treatment units are required and must be professionally engineered, installed, and properly maintained. Said system shall be designed by an Idaho licensed Professional Engineer with consideration to the HD&E's N-P Study Addendum recommendations beginning on page 18.

2. **Wildlife mitigation:** In order to comply with the Design Review Criteria in Section 9-3-2 (C-2-c-WH-vi), the Biota NRA report's recommendations, and the IDFG letter of October 28, 2011, the applicant shall amend the Master Plan and CC&R to include the following wildlife impact mitigation measures:

- a) The land owners shall not file a claim against the Idaho Department of Fish & Game for wildlife damage to the property. (IDFG)
- b) The feeding or harassment of wildlife is prohibited. Song birds feeders are acceptable except between March and November because bear are active and attracted to them. (IDFG & Biota)
- c) Pets, including dogs and cats, should be restrained or directly attended at all times (IDFG and Biota)
- d) All fences shall be constructed to allow wildlife passage. The Biota fencing standards on page 16 should be used. Buck and rail fences are prohibited and barbed wire fences shall not be taller than 42 inches, have a smooth wire on top, and constructed to let down in winter. (IDFG & Biota)
- e) Domestic livestock feed shall be stored tightly to exclude deer and elk. (IDFG & Biota)

- f) Utility lines shall be constructed underground. (Teton County, IDFG)
 - g) The Roberts Family (and eventually the HOA) shall annually inspect and treat noxious weeds to reduce and eventually eliminate them from the property. (Teton County, IDFG, Biota)
 - h) Garbage should be kept in an approved bear-proof container and removed at least once per week. (Teton County, IDFG, Biota)
3. Floodplain building permit restrictions: The Final Plat application shall not be scheduled for a Board of County Commission Public Hearing until the BFE is accepted by the Floodplain Administrator. Following the establishment of the BFE, any building permit applications shall demonstrate that all foundation requirements and lowest finished floor elevations comply with the International Residential Code and the National Flood Insurance Program standards. An Elevation Certificate will be needed for Lot 1. All building plans are subject to review by the Floodplain Administrator to determine compliance with the NFIP standards.
4. Engineering Considerations: The Final Plat application shall not be scheduled for a Board of County Commission Public Hearing until the remaining Preliminary Plat engineering items are clearly resolved. County Engineer Louis Simonet's letter of October 29, 2010 identified a list of items and the following items are not addressed in the N-P Study or Flood Plain Study:
- a) The Final Plat shall address all items enumerated in comments a-f under comment # 3-Preliminary Plat.
 - b) The Final plat shall be amended to address all items enumerated in comments a-h under comment # 4-Improvement Plans.
 - c) Each comment (a-f under # 5) about changes to the Development Agreement shall be added or individually addressed with the Planning Staff.
 - d) A note shall be added to the Master Plan saying, "Any construction involving identified wetlands (including transfer lines crossing wetlands) will require prior approval from the US Army Corps of Engineers".
5. Lighting: In order to comply with the Purpose statement in Section 8-4-6 Outdoor Lighting, and to reduce undesirable visual impacts in this rural part of the County, no exterior lighting shall be used that does not conform to County standards.

TITLE 9-3-2(C-8) COMMISSION'S CRITERIA FOR RECOMEDATIONS OF A PRELIMINARY PLAT

- A. *The application is consistent with the Comprehensive Plan.*
✓ This staff report discussed the Comprehensive Plan policies and found that, in general, the two-lot subdivision is consistent with the applicable goals enumerated in the plan.
- B. *The application complies with all applicable County regulations.*
✓ As conditioned, the application can meet all standards in the County Ordinances.
- C. *If the application is for a PUD, it complies with any regulations applicable to PUDs under Chapter 5 of Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters. If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by Section 9-3-2(C).*
✓ NA.

D. *The application includes trails and pathways as required by Section 9-4-2(B-4) to the maximum extent feasible.*

✓ NA. No future trails are planned or forecasted to be in this area.

E. *The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study.*

✓ The Harmony Design N-P Study made recommendations and this application has been conditioned to abide by those recommendations found in the Harmony report.

F. *The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report.*

✓ The Harmony report made recommendations regarding sewage treatment and special conditions of approval were formulated to incorporate the suggested engineering considerations.

G. *The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study.*

✓ There is a net increase in only one unit of development traffic generation. The County Engineer provided input on the project and no special traffic mitigation measures were required.

H. *If the application is for land that is not adjacent to a State Highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one State Highway or a maintained county road, and adequate for anticipated traffic and will be constructed to County Road Standards.*

✓ NA

I. *If a Natural Resources Analysis is required the proposed development will avoid all mapped Overlay Areas (except the AV Airport Vicinity Overlay Area), or will minimize any unavoidable impacts to the mapped Overlay Areas to the maximum extent feasible and mitigate any unavoidable impacts. In the case of land located in the WH Overlay Area, the duty to avoid or mitigate impacts on habitat areas shall only apply if the wildlife habitat assessment reveals evidence of an indicator species or the presence of indicator habitat, and shall only apply to portions of the parcel where the evidence or habitat is found.*

✓ Conditions of approval, based on professional biologist's written recommendations, stipulate various mitigation measures to reduce impacts on wildlife.

J. *The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County.*

✓ There is adequate capacity to serve the two lots with all public utilities and to provide public services such as fire suppression and EMS service. Public roads access the subdivision.

K. *The application is consistent with any capital improvements plan adopted by the County.*
NA.

L. *An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners association) rather than taxes, the county shall be granted the institutional power to enforce payments of those dues in the event the organization fails to do so.*

✓ A HOA will be established to maintain the road and plow portions of the shared roadway.

M. *If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C- 3), the application shall meet as many of the criteria as possible.*

✓ The recommended conditions of approval will bring the application into compliance with all applicable regulations and standards.

PLANNING AND ZONING COMMISSION ACTION:

A. Recommend APPROVAL WITH CONDITIONS, which are enumerated in this staff report, having determined that all the criteria in Section 9-3-2 (C-8) have been met.

B. Recommend APPROVAL of the Preliminary Plat application but with modifications, deletions or additions to the recommended conditions, having determined that all the criteria in Section 9-3-2 (C-8) have been met.

C. Recommend DENIAL of the Preliminary Plat application and provide the reasons and justifications for the denial.

D. CONTINUE consideration of the application to a future Planning 7 Zoning Commission Public Hearing with reasons given as to the continuation or need for additional information.

PLANNING STAFF RECOMMENDATIONS:

Action A: with a motion that incorporates the Staff's recommended conditions of approval listed in this staff report. Here is a suggested motion that could be used to approve the Preliminary Plat

I recommend APPROVAL of the Heritage Peaks Preliminary Plat application, as described and depicted in the application materials included in the Planning Commission's review packet. The Planning & Zoning Commission has determined that all the criteria for approval of a Preliminary Plat listed in Title 9-3-2 (C-8) can be satisfied with the inclusion of the recommended conditions of approval listed in the Planning Staff's report.

Attachments:

- Preliminary Plat Application
- Applicants' Preliminary Plat narrative including special reports:
 - Level 1 Nutrient Pathogen Evaluation Addendum for Heritage Peaks Subdivision July 5, 2010- Harmony Design & Engineering
 - Wetlands Delineation Report for Roberts Property May 12, 2004 Lone Goose Env.
 - Natural Resources Analysis –Heritage Peaks LLC Property. September 1, 2010 Biota Research & Consulting, Inc.
 - Evaluation Criteria Narrative for Heritage Peaks PUD. AW Engineering

- Declarations of Covenants, Conditions, & Restrictions for Heritage Peaks Subdivision.
- Facilities Plan
- Fiscal Impact Study
- Water rights process initiated with IDWR.
- U.S. Fish & Wildlife Service letter of September 21, 2010
- Idaho DEQ letters of March 25 & July 16, 2010
- IDFG letter of October 28, 2010
- Memo from TC Engineer Louis Simonet October 29, 2010
- WEI letter of November 11, 2010
- WEI Floodplain Comments of February 3, 2011