



## **STAFF REPORT**

### **VACATION APPLICATION: MOUNTAIN LEGENDS RANCH SUBDIVISION** Prepared August 22, 2012 for the September 13, 2012 Board of County Commissioners Public Hearing

**OWNER:** Harry A. Statter

**APPLICANT:** Teton County, ID

#### **REQUESTS:**

Teton County, ID is applying to vacate the entitlements for the Mountain Legends Ranch Planned Unit Development approved 12/13/2007. The development agreement states that the improvements shall be completed by 04/04/2011. The developer was granted a one-year extension and thus, improvements should have been finished by 04/04/2012. To date, improvements have not been started, putting the developer in breach of contract. Because of this lack of performance, the County is applying to vacate the entitlements to this subdivision. As part of an amendment to the development agreement that was recorded on 12/04/2011 as instrument number 220051, the developer agreed not to contest a vacation of Mountain Legends Ranch PUD if the developer fails to perform any of the terms of the agreement. The developer has failed to perform under the agreement and thus the County is able to vacate the entitlements to the property. There are a total of 123 lots which includes 99 residential lots depicted on the final plat.

#### **CODES:**

Teton County Subdivision Ordinance Section 9-3-2 (D-2-n-i) Revocation by Board of County Commissioners. *The Board of County Commissioners may revoke a subdivision or Planned Unit Development upon failure to comply with the conditions of approval of a final plat or subdivision extension, upon the violation of any of the provisions of this Title, or for misrepresentations or material omissions made to the Planning Commission or to the Board of County Commissioners. (amd. 9-17-09)*

Teton County Subdivision Ordinance Section 9-7-1 Application Procedure and 9-7-2 Vacation of Plats Procedure.

#### **LEGAL DESCRIPTION:**

SE ¼ of section 7 and N ½ of section 8, Township 5N, Range 46E, B.M.

**LOCATION:** West of Stateline between 3000 N and 4000 N

**PROPERTY SIZE:** Approximately 197 acres

**ZONING:** Underlying zoning is A-2.5.

**OVERLAYS:** None

#### **PLANNING STAFF RECOMMENDATION:**

Given the information at the writing of this report, staff recommends that the Board of County Commissioners vacate the subdivision entitlements of the Mountain Legends Ranch PUD based on the fact that the developer is in breach of contract, there is an explicit statement that the developer has signed giving the County the authority to vacate and the idea that the elimination of 99 residential lots is a public benefit.



### **Chapter 7 School Facilities and Transportation:**

*Policy 1: Planning decisions and efforts must emphasize providing infrastructure and services to the growing population and provide means for growth to pay its way. Growth trends over the past decade and growth projections for the coming decade indicate that providing infrastructure and services will be a bigger challenge than attracting new residents and business.*

Staff response: The scattered growth pattern in Teton County will become increasingly more difficult and expensive to provide services as build-out occurs. Using the fiscal impacts calculator adopted by the county, it is predicted that the ninety-nine lots, if valued at \$375,235 each, may cost the County \$33,000 annually and \$267,000 in one-time capital improvement costs. Valued at \$200,000 each, the calculator predicts a \$57,000 and \$291,000 shortfall in annual maintenance costs and one-time capital improvement costs, respectively.

### **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: As more lots become developed in the rural areas of the County, the small-town feel of the area becomes more compromised. Eliminating these lots protects the rural character of the valley.

### **Chapter 9 Land Use**

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

Staff response: Mountain Legends Ranch is a PUD. The dedicated open space is scattered throughout the project and does not contribute to the rural character of the county. Returning the development to acreage would keep it in open space until a future development application is received in the planning department.

*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 consists of 99 lots on Stateline Road. This density is not consistent with the unincorporated county densities.

### **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: Returning this subdivision to acreage will preserve open space and contribute to the rural character of the County.

### **CONSISTENCY WITH THE APPLICABLE TETON COUNTY SUBDIVISION CODE**

Teton County Title 9, the Subdivision Ordinance, does not outline criteria for approval for a plat vacation. It does, however, state that “the Board of County Commissioners may revoke a subdivision or Planned Unit Development upon failure to comply with the conditions of approval...” This provision has been in the Teton County Subdivision Code since 1994. Clearly, the developer has failed to comply with the conditions of the approval, as outlined in the development agreement that was recorded on May 19, 2005.

### **TECHNICAL COMMENTS**

Taxes are paid in full (see attached email from the treasurer's office).

**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 the property owner, the landowners within 300 feet and to those who own land within subdivisions within 300 feet of the subject property, including those in Wyoming.
3. The site was posted in accordance with state statute.

**COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC**

None at the time of the writing of the staff report.

**FINDINGS OF FACT:**

1. The Teton County Title 9 Subdivision Ordinance allows for the “revocation” of entitlements upon failure to comply with the conditions of approval of a subdivision.
2. The developer is in breach of the development agreement by not having complied with the conditions of approval of the subdivision.
3. The developer has been given ample notice and provided due process of the proceedings.
4. The elimination of these subdivision entitlements would not cause harm to the residents of Teton County.

**BOARD OF COUNTY COMMISSIONERS ACTION:**

- A. APPROVE the vacation as presented.
- B. APPROVE WITH CONDITIONS the Board might add.
- C. DENY the vacation application and provide the reasons and justifications for the denial.
- D. CONTINUE consideration of the application to a future public hearing with reasons given as to the continuation or need for additional information.

**RECOMMENDATION:**

**Action A:** A motion that references the required findings in the code that this vacation application is appropriate. Here is a suggested motion that could be used to approve the vacation.

*I move to APPROVE the Mountain Legends Ranch vacation application as described and depicted in the application materials contained in the review packet. We have determined that the procedural requirements for the vacation have been satisfactorily met and that the findings of fact support this vacation application.*

Report prepared by Planner Angie Rutherford

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**Attachments:**

Application Materials: application, plat, development agreements, approval minutes  
April 9, 2012 letter to developer  
Email from Maureen Green, Treasurer’s Office  
Fiscal Impact Calculator Output