



STAFF REPORT

VACATION APPLICATION: MILK CREEK ESTATES PUD

Prepared February 21, 2012 for the March 15, 2012
Board of County Commissioners Public Hearing

OWNER: Jack Hoopes LLC

APPLICANT: Jack Hoopes

REQUESTS:

Jack Hoopes is applying to vacate the entitlements for the Milk Creek Estates PUD recorded in 2009. The development agreement states that the improvements shall be completed within two years of the recording date (August 3, 2009). To date, improvements have not been started, putting the developer in breach of contract. Because of this lack of performance, the County contacted the applicant and they have applied for a vacation of the subdivision entitlements.

CODES:

Teton County Subdivision Ordinance Section 9-7-1 Vacations of Plats, Easements, Rights-of-Way; Lot Consolidations and Amendments to Recorded Subdivision Documents. 9-7-1-(B-2-c) Substantial Changes/Vacations – Decrease Scale, Impact. Which, “*substantially decrease the direct or indirect impacts on the immediate neighborhood, general vicinity of the subdivision or overall community.*”

LEGAL DESCRIPTION:

A part of the south ½ of Section 6
Township 6 North, Range 44 East

LOCATION: South of Highway 33, west of Tetonia, near River Rim Ranch.

PROPERTY SIZE: 69.55 acres, 4 lots

ZONING: Underlying zoning is A-20.

OVERLAYS: Big Game Migration Corridors and Seasonal Range

PLANNING STAFF RECOMMENDATION:

Staff recommends that the Board of County Commissioners approve the Milk Creek Estates PUD vacation application based on the fact that the developer is in breach of contract and the idea that the elimination of 4 lots is a public benefit.

VICINITY MAP

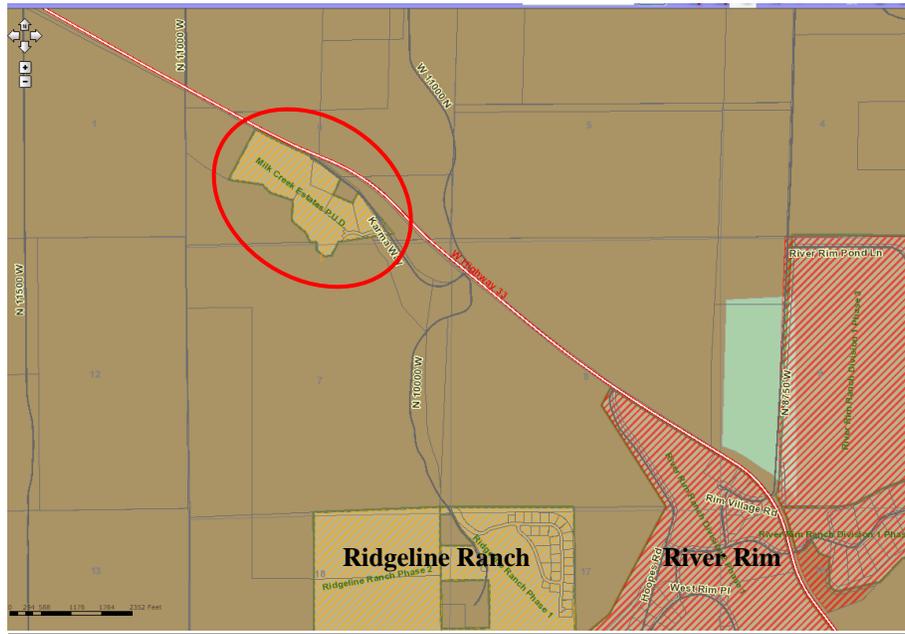


Figure 1: Milk Creek Estates PUD Vicinity Map

BACKGROUND INFORMATION

Milk Creek Estates is a paper plat, with no infrastructure improvements started, no lots sold, and the developer is in breach of contract. The developer has applied to vacate the entitlements to the PUD and return the land to its previous condition.

STAFF ANALYSIS

It is the planning staff’s opinion that vacating the current PUD entitlements is in the public’s best interest because it reduces the number of lots available in Teton County that are decreasing market values County-wide. The owner is free to come back to the County at any time to re-apply for subdivision entitlements under the then-current ordinance. There was a fire protection agreement between the Hoopes and River Rim that would have provided a fire water stub-in, but this agreement has been worked out between the two parties.

COMPLIANCE WITH 2004 – 2010 TETON COUNTY COMPREHENSIVE PLAN

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 glut of platted, vacant subdivision lots in Teton County is a detriment to property values. Reducing the number of lots County-wide will work towards relieving this glut.

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. Even the four lots, valued at \$200,000 each, will cost the County \$651 annually and more or less break even (\$38) in one-time capital improvements, as calculated by the fiscal impact calculator (see attachment).

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.

Chapter 9 Land Use

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

Staff response: Milk Creek Estates is in an agricultural area. Pulling this land from agricultural use would increase sprawl in the County and decrease open space. Returning the development to acreage would put it back into open space until a future development application is received in the planning department.

Chapter 10 Natural Resources:

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

Staff response: Residential lots are very difficult to maintain and keep weed-free, especially in the absence of lot owners. Returning this development to acreage would allow the property to continue in agricultural production which would diminish weed problems on the land.

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 Subdivision Code “encourages” applications that provide a decrease of impacts to the community. This application, by vacating a subdivision, decreases the burden on the County both in terms of services provided and any decrease in lots, especially those lots in the rural areas of the County, helps our community by decreasing sprawl and taking lots off the market.

TECHNICAL COMMENTS

The applicant is current on taxes (see attached email from the assessor’s office).

The County Engineer has no issues with the vacation of this plat (see attached email).

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 landowner, the landowners within 300 feet and to those who own land within subdivisions within 300 feet of the subject property.
3. The site was posted pursuant to State Statute.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

There have been no comments from the public as of the time of the writing of this staff report.

FINDINGS OF FACT:

1. The developer is in breach of the development agreement by not having complied with the conditions of approval of the subdivision.
2. The elimination of these subdivision entitlements would not cause harm to the residents of Teton County.

BOCC ACTION:

- A. APPROVE the vacation as presented.
- B. APPROVE WITH CONDITIONS that 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 Milk Creek Estates PUD 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

Attachments:

Application Materials
Approved Plat
2009 Development Agreement
Fire Protection Agreement
Emails from assessor's office and engineer's office
Fiscal Impact Calculator Results