



A REQUEST FOR PRELIMINARY PLAT APPROVAL

By: Valoie Nelson

FOR: Nelson Subdivision

WHERE: 680 E 5500 S and 5482 S 750 E (Victor)

Planning & Zoning Commission

PREPARED FOR: Public Hearing of November 8, 2016

APPLICANT/LANDOWNER: Valoie Nelson

REQUEST: Valoie Nelson is proposing a 2-lot subdivision on her property (8.49 acres) located north of Victor at 680 E 5500 S.

APPLICABLE COUNTY CODE: Teton County Zoning Regulations (Title 8); Teton County Subdivision Regulations (Title 9); Teton County Comprehensive Plan (A Vision & Framework 2012-2030); Idaho Statutes Title 67-65, Title 50

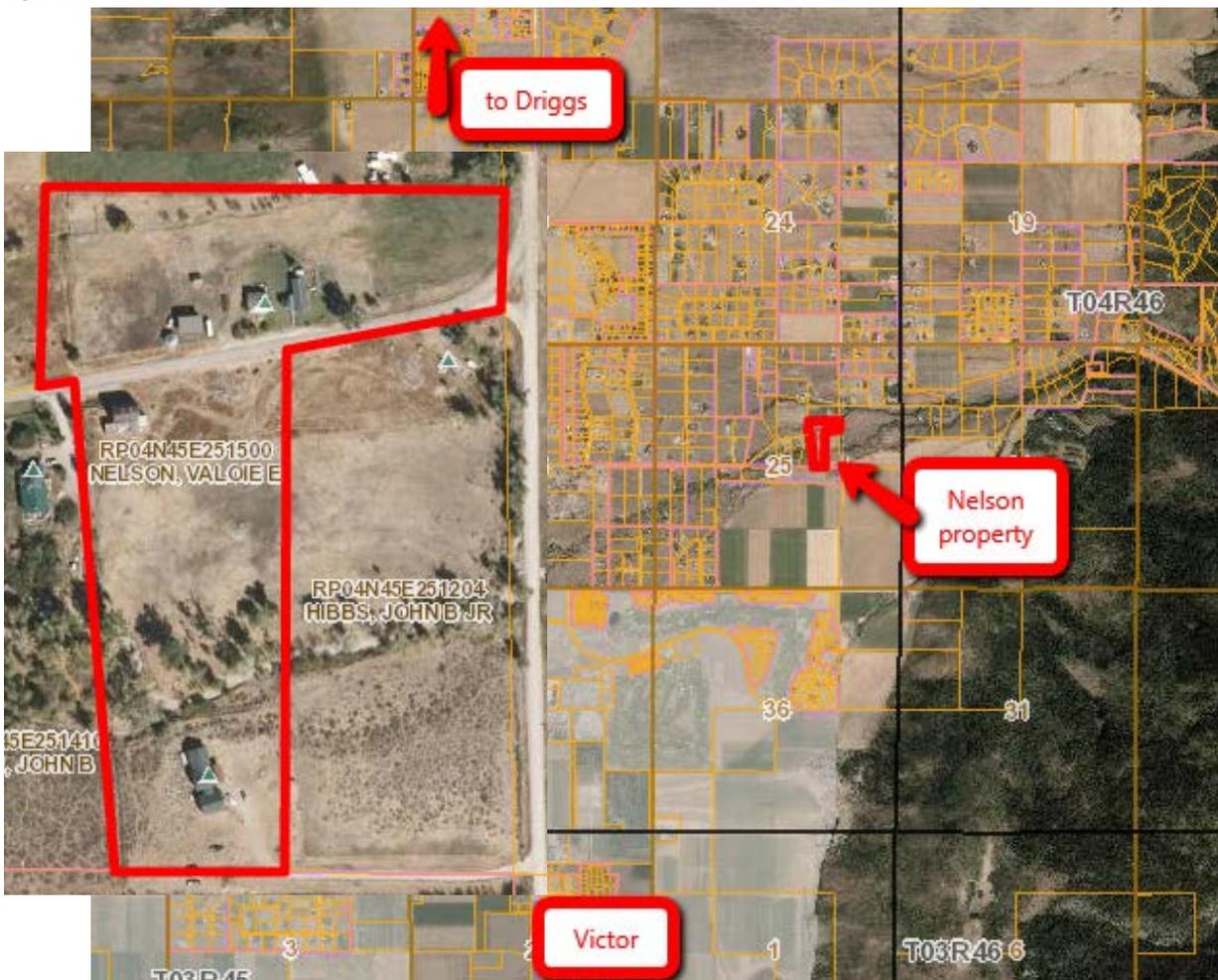
LEGAL DESCRIPTION: RP04N45E251500, E2SW4NE4 LESS #3584, #3614 SEC 25 T4N R45E

LOCATION: 680 E 5500 S and 5482 S 750 E (Victor)

ZONING DISTRICT: A-2.5

PROPERTY SIZE: 8.49 acres

VICINITY MAP:



PROJECT DESCRIPTION

Valoie Nelson is proposing a 2-lot subdivision on her property (8.49 acres) located north of Victor at 680 E 5500 S. There are two existing homes on the property, each accessing off a County road. Ms. Nelson is proposing to split her parcel into 2 lots, so her son can own the parcel his home is located on, and she can own the parcel that her home is on. This property is not eligible for the One Time Only Land Split because it does not have at least 20 acres.

A Preliminary Plat application was submitted on October 4, 2016. The Concept Review was approved on August 31, 2008 by the Planning Administrator. County Road 5500 crosses through the middle of the parcel. No new infrastructure is being proposed. No new structures are being proposed.

INTER-AGENCY AND DEVELOPMENT REVIEW COMMITTEE COMMENTS

On October 11, 2016, we had a DRC meeting with Pierson Land Works (Patrick Gilroy), Teton County Public Works Director (Darryl Johnson), Eastern Idaho Public Health (Mike Dronen), and Teton County Planning Administrator (Kristin Owen). From this meeting, the following items were identified.

- Access: Lot 2 will continue to use the existing access easement along the southern property line.
- Floodplain: Fox Creek is not currently mapped as floodplain.
- Build-out/Septic: Both lots would be allowed an accessory dwelling based on the current zoning, with a size restriction. However, Mike Dronen commented that Lot 2 is already built out in terms of the septic. Lot 1 could potentially add a second dwelling and septic if they were spaced appropriately.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE

Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512, and Title 9, Section 3-2-C of the Teton County Zoning Ordinance. The public hearing for the Planning & Zoning Commission was duly noticed in the Teton Valley News. A notification was sent via mail to surrounding property owners within a 300-foot buffer area, as well as all property owners in subdivisions that intersect with the 300-foot buffer. A notice was also posted on the property providing information about the public hearing.

COMMENTS FROM PUBLIC AT LARGE

One comment letter was received (see Attachment #11).

OVERVIEW OF PRELIMINARY PLAT APPROVAL

9-3-2-C-1: This two-step Preliminary Plat review process is the phase of the process where the fact-finding details and specifics required by ordinance, and law, are determined. All of the issues surrounding necessary infrastructure will be resolved or have a clearly identified solution to the satisfaction of the County prior to scheduling of the third and final phase of the process. When this phase is finished the necessary information, studies, plats etc. shall be completed to meet the requirements of this phase of development and the requirements of the Final Plat phase. The public hearing for the Final Plat phase of development shall not be scheduled until all documentation is deemed complete by the Planning Administrator.

9-3-2-C-7. Preliminary Plat Hearing(s): The purpose of the hearing, or series of hearings, is to continue discussing the proposed subdivision plan, the development agreement, and the Preliminary Plat for conformity with the Comprehensive Plan, the development's relationship to surrounding development, any site conditions that may require special consideration or treatment, and to discuss and review the requirements of Title 9, Title 8, and Title 6, Chapter 6 of the Teton County, Idaho Development Code. The first hearing of the Preliminary Plat application is also to hear specific comments that may have been

submitted by review agencies, which may include local, state, and federal organizations. The Commission or Board may require specific action from the applicant pertaining to the comments received. At the Preliminary Plat hearings, the Commission or the Board may request review by any qualified professional person, and may conduct, or cause to be conducted, investigations, examinations, tests, and site evaluations as it deems necessary to verify the information contained in the application or shown on the plat. The developer grants the Commission or its agent permission to enter upon the land in question for these purposes by virtue of the subdivision/PUD application

CONSIDERATION OF APPROVAL

The Commission shall only recommend approval if it finds that all of the following criteria (9-3-2(C-8)) have been met (or if it finds that some of the criteria have not been met, may recommend approval with conditions that would ensure that the proposed development meets the criteria):

a. The application is consistent with the Comprehensive Plan.

This application is generally consistent with the Teton County Comprehensive Plan. The goals and policies that are applicable to this application include:

Goal ED 2, Policy 2.5	Goal NROR 1, Policy 1.5	Goal CEF 4 Policy 4.5
Goal ED 3, Policy 3.2	Goal NROR 1, Policy 1.6	Goal ARH 2
Goal ED 4	Goal NROR 4	

b. The application complies with all applicable County regulations.

This application complies with applicable County regulations, with the exception of completing the required studies, further explained below.

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).

This application is not for a PUD.

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

Teton County has yet to adopt a trail/pathway plan. This property is not near existing trails, and the application is not proposing any.

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.

A Nutrient Pathogen Evaluation has not been conducted at this time. It was originally thought that the property was not located in any overlay areas. However, the property would be considered to be in the Wetlands and Waterways Overlay due to its definition, which includes Fox Creek. Because of this, a Nutrient Pathogen Evaluation will be required before Preliminary

Plat may be approved by the Board of County Commissioners. A Nutrient Pathogen Waiver could be requested, and if approved, the Evaluation would not be required.

- 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.**

This application is on a property with two, existing homes, each with an existing septic system. No new systems are being proposed.

- 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.**

A Traffic Impact Study is not required for this application.

- 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.**

This proposal is adjacent to a county road. No new infrastructure is being proposed.

- 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.**

A Natural Resource Analysis will be required because this property is located in the Wetlands and Waterways Overlay (Fox Creek). This does not include the wildlife habitat study because the property is not in any wildlife habitat overlays. No new infrastructure is being proposed with this development.

- 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.**

A Public Service/Fiscal Analysis is not required for this application.

- k. **The application is consistent with any capital improvements plan adopted by the County.**

This proposal includes two, existing homes, each with existing accesses from county roads. No new structures or infrastructure is being proposed. If any new residences are built, any adopted impact fees would be required at that time.

- 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.**

There are no institutional structures (water, sewer, stormwater, etc.) being proposed within the development. The existing homes use existing septic systems and wells. Each would be the property owner's responsibility. Both lots access from County Roads. No new infrastructure is being proposed that would require being maintained. Each property would pay property taxes, which would contribute to the maintenance of the County Roads.

- 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.**

This is not applicable.

- n. **In addition to the above, for a Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school aged children anticipated by the development, and includes any recommended mitigation measures identified in that study. If the applicant is obligated to pay an impact fee for schools, then mitigation measures identified in the report will not be required.**

This application is not for a PUD.

POSSIBLE CONDITIONS OF APPROVAL

1. Conduct a Nutrient Pathogen Evaluation, or get a waiver approved by the Board of County Commissioners.
2. Conduct a Natural Resources Analysis.
3. Begin working with Eastern Idaho Public Health for approval.

PLANNING & ZONING COMMISSION ACTION

- A. Recommend approval of the preliminary plat application, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Recommend approval of the preliminary plat application, with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. Recommend denial of the preliminary plat application and provide the reasons and justifications for the denial.
- D. Continue to a future PZC Public Hearing with reasons given as to the continuation or need for additional information.

POSSIBLE MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to approve or deny the application:

APPROVAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2(C) can be satisfied with the inclusion of the following conditions of approval:

1. Conduct a Nutrient Pathogen Evaluation, or get a waiver approved by the Board of County Commissioners.
 2. Conduct a Natural Resources Analysis.
 3. Begin working with Eastern Idaho Public Health for approval.
- *and having found that the considerations for recommending Preliminary Plat approval to Valoie Nelson can be justified and have been presented in the application materials, staff report, and presentations to the Teton County Planning & Zoning Commission,*
 - *and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,*
 - *I move to RECOMMEND APPROVAL of the Preliminary Plat for Nelson Subdivision as described in the application materials submitted October 4, 2016 and as supplemented with additional applicant information attached to this staff report.*

DENIAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2(C) have not been satisfied, I move to RECOMMEND DENIAL of the Preliminary Plat for Nelson Subdivision as described in the application materials submitted October 4, 2016 and as supplemented with additional applicant information attached to this staff report. The following could be done to obtain approval:

1. ...

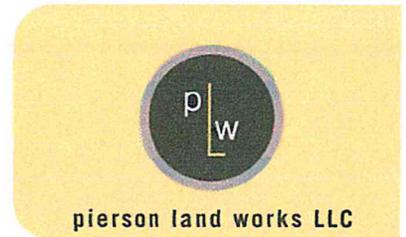
Prepared by Kristin Owen

Attachments:

- | | |
|--|---|
| 1. Narrative (3 pages) | 6. Billing Statement (1 page) |
| 2. Application (2 pages) | 7. Preliminary Plat (2 pages) |
| 3. Preliminary Development Agreement (7 pages) | 8. Deed (2 pages) |
| 4. Preliminary CC&Rs (11 pages) | 9. Letter of Authorization (1 pages) |
| 5. Overlay Maps (2 pages) | 10. Adjacent Landowner Notification (2 pages) |
| | 11. Public Comment (2 pages) |

End of Staff Report

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the places where you play, live & work



www.piersonlandworks.com

October 4, 2016

Teton County Planning & Zoning Department
Attn: Kristin Rader
Teton County Courthouse
150 Courthouse Drive
Driggs, ID 83422

RE: Preliminary/Master Plat Narrative for proposed 2 Lot Subdivision 680 East 5500 South Victor ID

Dear Staff:

Please consider this Preliminary/Master Plat Narrative we are submitting on behalf of Valoie Nelson owner and applicant for a Two Lot subdivision of 8.11 acres within the SW1/4 NE1/4 of Section 25 T. 4 N., R. 45 E., B.M., TETON COUNTY, IDAHO.

Attached are the following items for your review:

- 1) Application for Preliminary/Master Plat
- 2) Draft of Preliminary/Master Plat 2 - 11" x17" Color
- 3) Development Agreement
- 4) Narrative referencing the Preliminary Plat Subdivision Application
- 5) Draft of Final Protective Covenants

Please let me know if you need additional information or have any questions.

Sincerely,

Patrick Gilroy

Enclosure

RECEIVED
BY: K. Owen
DATE: 10-4-2016

Preliminary/Master Plat Narrative for the Nelson Subdivision

The proposed Nelson Subdivision is dividing one parcel of land containing 8.11 acres into a 2-Lot Subdivision containing Lot 1 of 5.6 acres and Lot 2 of 2.5 acres. This Preliminary/Masterplan conforms to all Title 6, 8 and 9 of the Teton County Code as amended. The 2-Lot Subdivision, Zoned A-2.5 has set in place infrastructure to supply access and utilities to the proposed subdivision.

Section II.

See attached Preliminary/Master Plat for the "Nelson Subdivision".

1. Attached 11 Sheets of the Preliminary/Master Plat
2. All Items referenced on Plat
3. Utility statement referenced on Plat. Well and Septic permit numbers noted
4. Improvement Standards, Not Applicable infrastructure in place.

Section III.

1. Development Agreement attached.
2. Draft of Final Protective Covenants attached.
3. PUD, N/A

Section IV.

1. Design Standards
 - a. The property remains within Fox Creek Canal Company Irrigation District.
 - b. Wells are establish and permitted on both proposed lots
 - c. Water Rights dedicated per share/acreage.
 - d. Septic systems established and permitted on both proposed lots
 - e. Fox Creek runs seasonally through the Lot 2
 - f. Access via County Road 5500 South and 750 Ease; Right of Way noted on Plat. No new roads proposed
2. Maps Required
 - a. Property does not contain any lands included in any of the Overlay Areas defined in Title 9 or in any of the overlay areas defined in Title 8.
 - b. Geographical Hazards are a non-issue
 - c. Nutrient-Pathogen (NP) Evaluation is not required, infrastructure is in place and permits on record with Teton County Health Department.
 - d. Overlay exhibits attached as determined by Teton County Planning & Zoning Department mapping as depicted in Subdivision Title 9 Maps.
3. Land Use Applications
 - a. Does not apply.

Section V.

1. Correspondence Required
 - a. Items addressed on Plat and letters of intent sent to appropriate parties.
2. Infrastructure Improvement Plans
 - a. Infrastructure set in place to supply access and utilities to the proposed subdivision.
3. Roads
 - a. Access addressed on Plat, County Road 5500 South and 750 Ease; Right of Way noted on Plat. No new roads proposed.
4. Water Rights
 - a. The property remains within Fox Creek Canal Company Irrigation District.
 - b. Wells are establish and permitted on both proposed lots
 - c. Water Rights dedicated per share/acreage.
 - d. Irrigation lines lie within dedicated County Road R.O.W
 - e. Fox Creek runs seasonally through the Lot 2
 - f. Water drainage is a non-issue as all infrastructure and Teton County Public Roads are established.



RECEIVED
BY: K. Owen
DATE: 10-4-2016

NAME OF SUBDIVISION/PLANNED UNIT DEVELOPMENT

PRELIMINARY PLAT

SUBDIVISION/PLANNED UNIT DEVELOPMENT APPLICATION

The Preliminary Plat is the second of three steps in the development process. Upon receipt of the required materials the planning staff shall stamp the application received and prepare a staff report. Once the Planning Administrator or his designee has reviewed the staff report and deemed the application complete a public hearing will be scheduled with the Planning and Zoning Commission. It is recommended that the Applicant review Titles 6, 8 and 9 of the Teton County Code prior to submittal. These Titles along with application materials are located on the County website at www.tetoncountyidaho.gov. The planning staff is also available to discuss applications and answer questions prior to receiving an application.

To expedite the review of your application, please be sure to address each of the following items.

SECTION I: PERSONAL AND PROPERTY RELATED DATA

Owner: Valoie Nelson

Applicant: Valoie Nelson E-mail: _____

Phone: (208) 787-2729 Mailing Address: _____

City: Victor State: ID Zip Code: 83455

Engineering Firm: Pierson Land Works Contact Person: Patrick Gilroy Phone: (307) 733-5429

Address: 18n. main st Suite 305 Driggs ID E-mail: patrick@plwllc.com

Location and Zoning District:

Address: 680 E 5500 S Parcel Number: RP04N45E251500

Section: 25 Township: 4N Range: 45E Total Acreage: 8.11

Proposed Units/ Lots: 2 Proposed Open Space Acres: _____

Proposing a Subdivision Proposing a Planned Unit Development

Zoning: A 2.5 A 20 Planned Community Rural Reserve

- Latest recorded deed to the property
- 60% of total base fee (see current fee schedule)
- \$1500.00 minimum retainer for Nutrient Pathogen Evaluation Review, as applicable
- Affidavit of Legal Interest
- Concept Plan approved on August 31, 2016

Fees are non-refundable.

I, the undersigned, have reviewed the attached information and found it to be correct. I also understand that the items listed below are required for my application to be considered complete and for it to be scheduled on the agenda for the Planning and Zoning Commission public hearing.

• Applicant Signature: Owner Date: _____

I, the undersigned, am the owner of the referenced property and do hereby give my permission to Owner to be my agent and represent me in the matters of this application. I have read the attached information regarding the application and property and find it to be correct.

• Owner Signature: *Salvatore Nelson* Date: 9-12-2016

SECTION II: CHECKLIST OF ITEMS REQUIRED ON THE PLAN/PLAT DOCUMENT

1. Number of Plan/Plats:

- Thirty (30) Preliminary Plats (18" X 27" or 11" X 17") Prepared By A Professional Land Surveyor/Engineer
- Ten (10) Master Plans (18" X 27" or 11" X 17") Prepared By A Professional Land Surveyor/Engineer

2. Items on Plan/Plat:

- Plans and Plats are labeled in lower right hand corner
- Section(s), Township, Range
- Accurate angular and lineal dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, and easements areas to be dedicated for public use, and other important features are shown.
- Identification for all lots and blocks and road names are clearly shown. Lot lines show dimensions in feet and hundreds.
- Perimeter subdivision lines are accurately related by distance and bearings to established roads or street lines, or 1/16 section corners, and closures are a minimum of one (1) foot in 5000 feet.
- True angles and distances to the nearest established street lines or official monuments are accurately described in the plat and shown by appropriate symbol.
- Radii, internal angles, points and curvatures, tangents, tangent bearings, chord, chord bearings and the lengths of all arcs are shown.
- Accurate location of all monuments and fire protection to be installed, shown by appropriate symbol, and all of the U.S., State, County, or other official bench marks, monuments, or triangulation stations in or adjacent to the property.
- Each lot corner is monumented or witnessed with permanent marker, in accordance with the rules and regulations of the State Board of Registration for professional engineers and land surveyors, and the markers are shown either by legend or separate description on the plat.
- Accurate boundaries and legal descriptions are given of any easement or area to be dedicated for public use, with the purpose indicated thereon, and of any area to be reserved by deed or covenant for the common use of all property owners or the general public.
- Vicinity map with any existing subdivisions within 1 mile and all existing road names
- Names of adjoining developments and ownership of surrounding land
- North arrow
- Contours
- Section and incorporation lines in and within 200 feet
- Boundaries and identification of zoning districts
- Building envelopes
- Setback requirements
- Road names
- Accurate Scale

3. Utilities:

- Statement in bold letters of proposed water, wastewater and maintenance services
- Location, width and information of utility right(s)-of-way and easement(s) (telephone, power, water, sewer irrigation)
- Location and approximate depth of active and abandoned wells and all reservoirs in and within 100 feet

Recording Requested By and
When Recorded Return To:

Planning Administrator
Teton County Planning Department
150 Courthouse Drive, Ste. 107
Driggs, Idaho 83422

For Recording Purposes Do
Not Write Above This Line

DEVELOPMENT AGREEMENT FOR NELSON SUBDIVISION

THIS AGREEMENT is made and entered into as of the _____ day of _____, 20__ , by and between Valoie Neslon and/or assigns (hereafter "Developer") and Teton County Idaho, a political subdivision of the State of Idaho (hereafter "County").

WHEREAS, it is the intent and purpose of the Developer to meet the conditions of approval for the final plat allowing the creation of NELSON SUBDIVISION as approved by the Board of County Commissioners of Teton County on _____, 20__.

WHEREAS, the Developer is the sole owner, in law or equity, of certain Property located in the County, which Property is hereinafter referred to as the "Development".

WHEREAS, it is the intent and purpose of the Developer and the County to enter into this Agreement that will guarantee the full and satisfactory completion of the required Improvements on the Property described in this Agreement and it is the intent of this Agreement and the parties to satisfy the Improvement guarantee requirements for the final plat recordation of the subdivision.

WHEREAS, the County has the authority to enter into a development Agreement for the construction of required Improvements associated with the Development.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

Section 1. Definitions

- 1.1 **DEVELOPMENT:** The subject of this Agreement, which is designated and identified as NELSON SUBDIVISION located on the Property described in Exhibit A in the jurisdiction of Teton County, Idaho. This definition shall include any and all future names or titles for NELSON SUBDIVISION.

- 1.2 **IMPROVEMENT:** Any alteration to the land or other physical construction located on or off the Property that is associated with this subdivision/PUD and building site developments.
- 1.3 **OWNER/DEVELOPER:** means and refers to Valoie Nelson whose address is 689 East 5500 South Victor, ID, the party that owns and is developing said Property and shall include and subsequent owner(s) or developer(s) of the Property.
- 1.4 **PROPERTY:** means and refers to the certain parcel(s) of Property located in the County of Teton, as described in Exhibit A.

Section 2. Building Permits. No lots or units may be offered for sale or sold (warranty deeds transferred) prior to recordation of the final plat.

Section 3. Control of trash, weeds, dust, erosion, and sedimentation. The Developer shall be fully responsible for all dust abatement, erosion, sedimentation, weed, and trash control on the Property. Developer shall use best management practices and industry standards for control. Trash shall be contained at all times.

Section 4. Permits. The Developer is responsible for obtaining all right-of-way, access, excavation, and other permits and approvals required by local, State, and Federal regulations.

Section 5. Remedies. In the event the Developer fails to perform any of the terms, conditions or obligations in this Agreement or has not resolved a defect or deficiency under this Agreement, the County, at its option, may exercise any rights and remedies it may have under law. Furthermore, the County reserves the right, in its absolute discretion, to revoke the Developer's entitlements for NELSON SUBDIVISION and after such revocation, if Developer chooses to move forward, Developer will have to reapply for approval under the then current County ordinances.

Section 6. Voided Agreement. The County, at its option, may void this Agreement and any vested right should the Developer's failure to perform in compliance with this Agreement results in the County seizing the escrow to complete the Infrastructure or correct the defect or deficiency.

Section 7. Transfer of Lots or Units. No lots or units may be offered for sale or sold (warranty deeds transferred) prior to final Improvement completion and a Certificate of Completion being issued by the County.

Section 8. Time of the Essence. Time is of the essence in the performance of all terms and provisions of this Agreement.

Section 9. Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including County's corporate authorities and their successors in office. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereof and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed.

Section 10. Notices. All notices in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee when delivered in person on a business day at the address set forth below or on the third day after being deposited in the United States mail, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, to the address set forth below.

Notices to the County shall be addressed to, or delivered at, the following address:

Teton County Board of County Commissioners
ATTN: Planning Administrator
150 Courthouse Drive, Rm. 107
Driggs, Idaho 83422

Notices to the Developer shall be addressed to, or delivered at, the following address:

Valoie Nelson
689 East 5500 South
Victor Idaho, 83455

By notice complying with the requirements of this Section, each party shall have the right to change the address for all future notices, but no notice of a change of address shall be effective until received as provided above.

Section 11. Enforcement. The parties may, in law or in equity, by suit, action, mandamus, or any other proceeding, without limitation enforce or compel the performance of this Agreement.

Section 12. Indemnification.

- A. No Liability for County Approval. The Developer acknowledges and agrees (1) that the County is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the County's issuance of any approvals or acceptances of the Improvements or use of any portion of the Improvements, and (2) that the County's issuance of any approvals or acceptances does not, and shall not, in any way be deemed to insure the Developer, or any of its heirs, successors, assigns, tenants, or licensees or any third party, against damage or injury of any kind at any time.
- B. Indemnification. Except as provided below, the Developer agrees to, and does hereby, indemnify the County, and all of its elected and appointed officials, officers, employees, agents and representatives from any and all claims, costs and liability of every kind and nature that may be asserted at any time against any such parties for injury or damage received or sustained by any person or entity in connection with the performance by the Developer of its obligations under this Agreement. The Developer is not an agent or employee of the County.

Section 13. Amendments or Alterations. All changes, amendments, omissions, or additions to this Agreement shall be in writing and shall be signed by both parties.

Section 14. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

Section 15. Filing. The Developer shall have this Agreement recorded in the office of the Teton County Clerk and Recorder at the same time as the final plat is recorded. The Developer shall be responsible for all recording fees associated with this Development.

Section 16. No Conflicts. The County and the Developer hereby acknowledge and agree that all required notices, meetings and hearings have been properly given and held by the County with respect to the approval of this Agreement. The County and the Developer also acknowledge and agree that this Agreement is supported by Title 9 of Teton County Code. The County and the Developer agree not to challenge this Agreement or any of the obligations created by it on the grounds of any procedural infirmity or any denial of any procedural right.

Section 17. Authority to Execute. The County hereby warrants and represents to the Developer that the persons executing this Agreement on its behalf have been properly authorized to do so by the Board of County Commissioners. The Developer hereby warrants and represents to the County (1) that it is the record owner of fee simple title to the subdivision, (2) that it has the right, power, and authority to enter into this Agreement and to agree to the terms, provisions, and conditions set forth herein and to bind the subdivision as set forth herein, (3) that all legal action needed to authorize the execution, delivery, and performance of this Agreement have been taken, and (4) that neither the execution of this Agreement nor the performance of the obligations assumed by the Developer hereunder will (i) result in a breach or default under any Agreement to which the Developer is a party or to which it or the subdivision is bound or (ii) violate any statute, law restriction, court order, or Agreement to which the Developer or the subdivision is subject.

Section 18. Codes. The Developer agrees to abide by all ordinances, regulations, and codes of Teton County and those of the special purpose districts providing service to the Development.

Section 19. Governing Law. This Agreement shall be construed and governed according to the laws of the State of Idaho. The venue for any action arising out of this Agreement shall be exclusively in the District Court of the Seventh Judicial District of the State of Idaho, Teton County, or in the United States District Court for the District of Idaho.

Section 20. Attorney's Fees. Should any litigation be commenced between the parties concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorney's fees as determined by a court of competent jurisdiction.

Section 21. Final Agreement. This Agreement sets forth all promises, inducements, agreements, condition and understandings between Owner/Developer and County relative to the subject matter hereof, and there are no promises, agreements, conditions or understanding, either oral or written, express or implied, between Owner/Developer and County, other than as are stated herein. All Exhibits referenced herein are incorporated in this Agreement as if set forth in full including all text information in the Exhibits. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to County, to a duly adopted ordinance or resolution of County.

Section 22. No Waiver of County Rights. No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision nor will it be deemed to constitute a continuity waiver unless expressly provided for; nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to exercise any obligation under this Agreement will not constitute the approval of any wrongful act by the Developer or the acceptance of any Improvement. Developer acknowledges that Teton County reserves the right to revoke all approvals for NELSON SUBDIVISION upon failure to comply with the conditions of approval of Final Plat, upon any of the violations of Teton County Title 9, or for misrepresentations or material omissions made to the Teton County Planning Commission or Board of County Commissioners.

Section 23. Effective Date. This Agreement shall become valid and binding only upon its approval by the Teton County Board of County Commissioners and its recording in the Teton County Clerk and Records Office; and it shall be effective on the date first written above.

****The rest of this page is intentionally left blank****

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the date first above written.

Agreed:

BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, IDAHO

Chairman, Teton County Board of
County Commissioners

STATE OF IDAHO)
) ss:
COUNTY OF TETON)

On this day of _____, 20 , before me, a Notary Public for the State of Idaho, personally appeared _____, Chairman, known to me to be the person(s) whose name(s) is executed above, and acknowledged that he executed the same.

(SEAL)

Notary Public
Residing _____
Commission expires _____

(Owner, President or
Managing Director)

STATE OF _____)
) ss:
COUNTY OF _____)

On this _____ day of _____, 20 , before me, a Notary Public for the State of _____, personally appeared _____ known to me to be the person(s) whose name(s) is executed above, and acknowledged that he executed the same.

(SEAL)

Notary Public
Residing _____
Commission expires _____

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION OF LAND SUBDIVIDED:

A PARCEL OF LAND IN THE SW 1/4 NE 1/4 SECTION 25, TOWNSHIP 4 NORTH, RANGE 45 EAST, BOISE MERIDIAN, TETON COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF THE SW 1/4 NE 1/4 SECTION 25 MARKED BY A 5/8 INCH DIAMETER STEEL REINFORCING BAR WITH AN ALUMINUM CAP INSCRIBED "PLS 14222" AND HAVING A C.P.F.R. FILED IN THE OFFICE OF THE CLERK, TETON COUNTY, IDAHO;

THENCE ALONG LATITUDINAL CENTERLINE OF SAID SECTION 25; N89° 26'26"W, 331.9 FEET TO THE TRUE POINT OF BEGINNING;

THENCE N89°26'26"W, 257.63 FEET TO A POINT;

THENCE N04°12'56"W, 722.35 FEET TO A POINT;

THENCE N04°17'48"W, 286.18 FEET TO A POINT;

THENCE S89°43'52"E, 648.51 FEET TO A POINT ON THE LONGITUDINAL E 1/16 LINE OF SAID SECTION;

THENCE ALONG SAID LONGITUDINAL LINE S00°53'39"E, 121.96 FEET TO A POINT;

THENCE S77°16'14"W, 336.60 FEET TO A POINT;

THENCE S00°43'17"E, 778.55 FEET TO THE POINT OF BEGINNING;

CONTAINING 8.11 ACRES MORE OR LESS.

SUBJECT TO COUNTY ROAD AND UTILITY EASEMENT FOR COUNTY ROAD S5500E BOTH EXISTING AND OF RECORD WHICH MAY NOT BE SHOWN ON THIS SURVEY.

**DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR THE
NELSON SUBDIVISION**

THIS DECLARATION is made effective as of the date of recording, by E. Valoie Nelson (“Declarant”).

ARTICLE 1 - RECITALS

The property subject to this Declaration includes the property legally described on Exhibit A attached hereto (the “Property”) and made a part hereof by this reference.

The purpose of this Declaration is to set forth the basic restrictions, covenants, limitations, easements, conditions, and equitable servitudes (collectively “Restrictions”) that apply to the Property. The Restrictions are designed to preserve the Property’s value, desirability, and attractiveness, to ensure a well integrated high-quality development, in a cost effective and administratively efficient manner.

ARTICLE 2 - DECLARATION

Declarant declares that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied, and improved subject to the following terms, covenants, conditions, easements, and restrictions, all of which are declared and agreed to be in furtherance of a general plan for the protection, maintenance, subdivision, improvement, and sale of the Property, and to enhance the value, desirability, and attractiveness of the Property. The terms, covenants, conditions, easements, and restrictions set forth herein:

A. shall run with the land constituting the Property, and with each estate therein, and shall be binding upon all persons having or acquiring any right, title, or interest in the Property or any lot, parcel, or portion thereof;

B. shall inure to the benefit of every lot, parcel, or portion of the Property and any interest therein; and,

C. shall inure to the benefit of, and be binding upon, Declarant, Declarant’s successors in interest, and each grantee or Owner, and such grantee’s or Owner’s respective successors in interest, and may be enforced by Declarant, by any Owner, or such Owner’s successors in interest, or by the Association as hereinafter described.

Notwithstanding the foregoing, no provision of this Declaration shall be construed as to prevent or limit Declarant’s right to complete development of the Property and to construct improvements thereon, or any public right-of-way, nor Declarant’s right to post signs incidental

to construction, sales, or leasing, nor Declarant's right to modify plans for the Property, all in accordance with any necessary approvals of Teton County.

ARTICLE 3 - DEFINITIONS

"Association." Association shall mean the governing body of the Nelson Subdivision, which shall consist of the Owners.

"Association Rules." Association Rules shall mean those rules and regulations promulgated by an Association governing conduct upon and use of the Property under the jurisdiction or control of an Association, the imposition of fines and forfeitures for violation of Association Rules and regulations, and procedural matters for use in the conduct of business of an Association.

"Declaration." Declaration shall mean this Declaration as it may be amended or supplemented from time to time.

"Declarant." Declarant shall mean E. Valoie Nelson.

"Design Guidelines." Design Guidelines shall mean the construction guidelines approved by the Architectural Committee.

"Improvement." Improvement shall mean any structure, facility, or system, or other improvement or object, whether permanent or temporary, which is erected, constructed, or placed upon, under, or in, any portion of the Property, including but not limited to buildings, fences, streets, drives, driveways, sidewalks, bicycle paths, curbs, landscaping, signs, lights, mail boxes, electrical lines, pipes, pumps, ditches, waterways, and fixtures of any kind whatsoever.

"Lot." Lot shall mean one or more lots shown on any Plat, upon which Improvements may be constructed.

"Member." Member shall mean each person or entity holding a membership in the Association. Where specific reference or the context so indicates, it shall also mean persons or entities holding membership.

"Owner." Owner shall mean the person or other legal entity, including Declarant, holding fee simple interest of record to a Lot which is a part of the Property, and sellers under executory contracts of sale, but excluding those having such interest merely as security for the performance of an obligation.

"Nelson Subdivision." Nelson Subdivision shall mean the Property.

"Person." Person shall mean any individual, partnership, corporation, or other legal entity.

“Plat.” Plat shall mean any subdivision plat covering any portion of the Property as recorded at the office of the County Recorder, Teton County, Idaho, as the same may be amended by duly recorded amendments thereof.

“Property.” Property shall mean the real property described in Exhibit A, including each lot, parcel, and portion thereof and interest therein, including all water rights associated with or appurtenant to such property, which are brought within the jurisdiction hereof by any supplemental Declaration or otherwise. The Property also may include, at Declarant’s sole discretion, such additional property in addition to that described in Exhibit A as may be annexed by means of supplemental Declaration.

“Waterway.” Waterway shall mean any surface water amenity, including, without limitation, any, canal, ditch, channel, slough, stream or reservoir, natural or artificial, which is located on the Property.

ARTICLE 4 - GENERAL AND SPECIFIC RESTRICTIONS

4.1 Structures - Generally. All structures are to be designed, constructed and used in such a manner as to promote compatibility between the types of use contemplated by this Declaration.

4.2 Architectural Committee Review. No Improvements which will be visible above ground or which will ultimately affect the visibility of any above ground Improvement shall be built, erected, placed, or materially altered or removed from the Property unless and until the building plans, specifications, and plot plan or other appropriate plans and specifications have been reviewed in advance by the Architectural Committee and the same have been approved in writing.

4.3 Setbacks and Height. No residential or other structure (exclusive of fences and similar structures) shall be placed nearer to the Lot lines or built higher than permitted by the Development Setback Line or other restriction set forth in the Plat, by any applicable zoning restriction, by any conditional use permit, or by a building envelope designated by the Architectural Committee. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.3.1 Accessory Structures. Detached garages and other out buildings shall be allowed if in conformity with the provisions of this Declaration, and as approved by the Architectural Committee. The Owner is responsible for obtaining all approvals and permits required by state and local law.

4.3.2 Driveways. All access driveways shall be properly graded to assure proper ingress, egress, and drainage.

4.3.3 Fencing. All fencing and boundary walls constructed on any Lot shall be approved by the Architectural Committee. In no event shall a fence extend higher than six (6) feet above the finished grade surface of the Lot or extend past the front setback of the home. All fencing must meet the setback requirements of Teton County ordinance.

4.4 Lighting. Exterior lighting, including flood lighting, shall be part of the architectural concept of the Improvements on a Lot. Fixtures, standards, and all exposed accessories shall be harmonious with building design, and shall be as approved by the Architectural Committee. Lighting shall be restrained in design, and excessive brightness shall be avoided. Adequate lighting for safety and security that is not excessive, does not interfere with vision because of glare, avoids excessive visual adjustment to varying light levels, permits the viewing of the night sky in compliance, and is not obtrusive to homes and public places shall be allowed. All exterior lighting shall conform with Teton County Code Title 8, Chapter 4, Sections 5 and 6, and any amendments thereto. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.5 No Further Subdivision. No Lot may be further subdivided, nor may any easement or other interest therein, unless such subdivision complies with all applicable laws. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.6 Signs. No sign of any kind shall be displayed for public view without the approval of the applicable Architectural Committee or Association, except:

A. such signs as may be used by Declarant in connection with the development of the Property and sale of Lots;

B. temporary signs naming the contractors, the architect, and the lending institution for particular construction operation;

C. such signs identifying Subdivision, or informational signs, of customary and reasonable dimensions as prescribed by the Architectural Committee; and,

D. one (1) sign of customary and reasonable dimensions not to exceed three (3) feet by two (2) feet may be displayed by an Owner other than Declarant on or from a Lot advertising the residence for sale or lease

All signage, including signage for the exceptions listed in (A)-(D), must be done in accordance with the Subdivision signage format. In addition, all signs must conform with Teton County Code, Title 8, Chapter 9, and any amendments thereto.

4.7 Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate anywhere upon the Property, and no odor shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive, or detrimental to the Property or to its occupants, or to any other property in the vicinity thereof or to its occupants. No noise or other nuisance, as described in the Teton County Code, as amended from time to time, shall be permitted to exist or operate upon any portion of the Property so as to be offensive or detrimental to the Property or to its occupants or to other property in the vicinity or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices (other than security devices used exclusively for security purposes which have been approved by the Association), flashing lights,

or search lights, shall be located, used, or placed on the Property without the prior written approval of the Association.

4.8 Right to Farm. The Property is subject to provisions of Idaho Code §22-4501 *et seq.*, the Idaho Right to Farm Act. Nothing in this Declaration shall be construed to define any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a “nuisance,” or to deprive any Owner of full and complete use of agricultural land for production of any agricultural product as such rights are defined by the Right to Farm Act, provided such agricultural use complies with all state and local laws and regulations including those promulgated pursuant to Idaho Code §67-6529, which authorizes counties to regulate the siting of certain animal operations and facilities. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.9 Weed Abatement. Each owner is responsible for destroying and preventing the spread of noxious weeds found upon the Owner’s Lot. Noxious weeds are those plants designated by the Idaho Director of Agriculture, or local ordinance to be noxious. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.10 Exterior Maintenance: Owner’s Obligations No Improvement shall be permitted to fall into disrepair, and each Improvement shall at all times be kept in good condition and repair. In the event that any Owner shall permit any Improvement, including trees and landscaping, which is the responsibility of such Owner to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly, or unattractive condition, or damages property or facilities outside the boundary of that Owner’s Lot, the Association, upon fifteen (15) days prior written notice to the Owner of the offending property, shall have the right to correct such condition, and to enter upon such Owner’s Lot for the purpose of doing so. The Owner of the offending property shall be personally liable, and such Owner’s property shall be subject to a lien, for all costs and expenses incurred in taking such corrective acts, plus all costs incurred in collecting the amounts due, including attorney’s fees and costs. Any offending Owner shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

4.11 No Hazardous Activities. No activities shall be conducted on the Property, and improvements constructed on any property, which are or might be unsafe or hazardous to any person or property.

4.12 No Temporary Structures. No house trailer, mobile home, tent (other than for short term individual use which shall not exceed one (1) month unless approved by the Association), shack or other temporary building, improvement, or structure shall be placed upon any portion of the Property, except temporarily as may be required by construction activity undertaken on the Property. Also excepted from this requirement is any sales office established for the Property.

4.13 Water and Sewage Disposal Systems. Each Owner will be responsible for drilling his or her own well and installing his or her own septic system. The Owner will be responsible for all damage caused by drilling his or her well or installing his or her sewer system

and for all damage, which may later be caused by his or her water or sewage. Each Owner shall obtain all testing, permits, and other authorization required by the Eastern Idaho Public Health Department (EIPHD), and all other applicable laws, and any state or local government agencies. This provision of the Declaration is subject to state and local law and cannot be amended in derogation of such laws.

4.14 Screening and Landscaping. All Lots shall be screened as required by Title 8, Chapter 12 of the Teton County, Code, and any amendment thereto. All Lots shall be landscaped in a manner that is compatible with the surrounding area and in accordance with any applicable county ordinance.

4.15 Water Rights Appurtenant to Lots. All water rights and assessment obligations appurtenant to the Property, as noted on the Plat, shall be transferred by the to purchaser of the Lot to which the water rights are appurtenant, or to the Association for the benefit of the Lot Owners as may be appropriate, and shall comply with all requirements set forth in Idaho Code § 31-3805.

ARTICLE 5 - NELSON SUBDIVISION HOMEOWNERS ASSOCIATION

5.1 Organization of the Nelson Subdivision Homeowners Association. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in this Declaration.

5.2 Membership. Each Owner, by virtue of being an Owner and for so long as such ownership is maintained, shall be a Member of the Association. Memberships in the Association shall be appurtenant to the Lot, or other portion of the Property owned by such Owner. The memberships in the Association shall not be transferred, pledged, assigned, or alienated in any way except upon the transfer of Owner's title and then only to the transferee of such title. Any attempt to make a prohibited membership transfer shall be void and will not be reflected on the books of the Association.

5.3 Voting. Each Member shall be entitled to cast one (1) vote for each Lot owned by such Member on the day of the vote. Fractional votes shall not be allowed. If the Owner of a Lot shall be more than one (1) Person, all such Persons shall be deemed Members, but the voting rights in the Association attributable to that Lot may not be split and shall be exercised by one representative selected by such Persons as they, among themselves, may determine. In the event that such joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter being put to a vote. When an Owner casts a vote, it will thereafter be presumed conclusively for all purposes that such Owner was acting with authority and consent of all joint owners of the Lot(s) from which the vote derived. The right to vote may not be severed or separated from the ownership of the Lot to which it is appurtenant, except that any Owner may give a revocable proxy, or may assign such Owner's right to vote to a lessee, mortgagee, beneficiary, or contract purchaser of the Lot concerned, for the term of the lease, mortgage, deed of trust, or contract. Any sale, transfer, or conveyance of such Lot to a new Owner shall operate automatically to transfer the appurtenant voting right to the Owner, subject to any assignment of the right to vote to a lessee, mortgagee, or beneficiary as provided herein.

5.4 Power and Duties of the Association.

5.4.1 Powers. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under Idaho law and under this Declaration, and to do and perform any and all acts which may be necessary to, proper for, or incidental to the proper management of the Property the performance of the other responsibilities herein assigned, including without limitation:

5.4.1.1 Right of Enforcement. The power and authority from time to time in its own name, on its own behalf or on behalf of any Owner who consents thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration, including any Association Rules adopted pursuant to this Declaration, and to enforce by injunction or otherwise, all provisions hereof.

5.4.1.2 Emergency Powers. The power, exercisable by the Association or by any person authorized by it, to enter upon any property (but not inside any building constructed thereon) in the event of any emergency involving illness or potential danger to life or property or when necessary in connection with any maintenance or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Owner as practicable, and any damage caused thereby shall be repaired by and at the expense of the Association.

5.4.1.3 Rule Making. Make, establish, promulgate, amend, and repeal such Association Rules as the Association shall deem advisable.

5.4.1.4 Right to lien. The power and authority to place a lien on any Lot for all amounts incurred by the Association in exercising its rights and duties under this Declaration owed to the Association, including any attorney fees and costs.

5.4.1.5 Enforcement of Restrictions and Rules. Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably advisable or necessary to enforce any of the provisions of the Declaration, including, without limitation, the recordation of any claim of lien with the Teton County Recorder, as more fully provided herein.

5.5 Personal Liability. No member of any committee of the Association, or any officer of the Association, if any, or the Declarant, or the manager, if any, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss, or prejudice suffered or claimed on the account of any act, omission, error, or negligence of the Association, the manager, if any, or any other representative or employee of the Association, including the Declarant, the Architectural Committee, or any other committee, or any Owner, provided that such person, upon the basis of such information as may be possessed by such person, has acted in good faith without willful or intentional misconduct.

5.6 Declarant's Exemption. Any and all Improvements constructed by Declarant on or to the Property are not subject to review and approval by the Architectural Committee.

ARTICLE 6 - ARCHITECTURAL COMMITTEE

6.1 Committee. The Architectural Committee shall consist of one Owner of Lot 1 and one Owner of Lot 2. The Architectural Committee may adopt rules and regulations it deems necessary to fulfill its responsibilities under this Declaration, provided those rules and regulations are consistent with this Declaration.

6.2 Authority and Duties. The Architectural Committee shall meet when necessary to review all building plans, specifications, and plot plan or other appropriate plans and specifications, and will provide the applicant Owner with a timely decision as to whether such plans and specifications are approved or disapproved. The review and approval or disapproval may be based upon the following factors - size, height, design and style elements, mass and form, topography, setbacks, finished ground elevations, architectural symmetry, drainage, color, materials, including Architectural Committee approved architectural shingles roofing material, physical or aesthetic impacts on other properties artistic conformity to the terrain and the other Improvements on the Property, and any and all other factors which the Architectural Committee, in its reasonable discretion, deems relevant. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of the Improvements. This Declaration is not intended to serve as authority for the Architectural Committee to control the interior layout or design of residential structures except to the extent incidentally necessitated by use, size, and height restrictions.

ARTICLE 7 - EASEMENTS

7.1. Waterway Easements. Declarant hereby reserves for the benefit of the Association and Owners an easement for all Waterways and related pipes, irrigation risers, pumps and other equipment over, across and under all Lots, to the extent reasonably required to maintain any Waterway or water delivery system installed by the Declarant or by the Fox Creek Canal Company for the benefit of the Property. Any relocation of the water lines installed as a part of such system shall not be undertaken in any way which interrupts the flow of water through the system or damages the system in any other fashion.

7.2. Other Easements. Other easements and rights-of-way benefitting and/or burdening the Lots in the Property are shown on the Plat.

ARTICLE 8 - MISCELLANEOUS

8.1 Amendment.

8.1.1 Any amendment shall be by an instrument in writing signed and acknowledged by all Owners of Lot 1 and Lot 2, and such amendment shall be effective upon its recordation with the Teton County Recorder.

8.1.2 Effect of Amendment. Any amendment of this Declaration approved in the manner specified above shall be binding on and effective as to all Owners and their respective properties notwithstanding that such Owners may not have voted for or consented to such amendment. Such amendments may add to and increase the covenants, conditions,

restrictions, and easements applicable to the Property but shall not prohibit or unreasonably interfere with the allowed uses of such Owner's property which existed prior to the said amendment.

8.2 Enforcement and Non-Waiver.

8.2.1 Right of Enforcement. Except as otherwise provided herein, any Owner of any Lot shall have the right to enforce any or all of the provisions hereof against any property within the Property and Owners thereof.

8.2.2 Violations and Nuisances. The failure of any Owner to comply with any provision of this Declaration or any Association Rules, is hereby declared a nuisance and will give rise to a cause of action in the Declarant, the Association or any Owner within the Property for recovery of damages or for negative or affirmative injunctive relief or both.

8.2.3 Violation of Law. Any violation of any state, municipal, or local law, ordinance, or regulation pertaining to the ownership, occupation or use of any property within the Property is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth in this Declaration and any or all enforcement procedures in law and equity.

8.2.4 Remedies Cumulative. Each remedy provided herein is cumulative and not exclusive.

8.2.5 Non-Waiver. The failure to enforce any of the provisions herein at any time shall not constitute a waiver of the right to enforce any such provision.

8.3 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property. This Declaration shall be construed and governed under the laws of the State of Idaho.

8.3.1 Restrictions Construed Together. All of the provisions hereof shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Property as set forth in the recitals of this Declaration.

8.3.2 Restrictions Severable. Notwithstanding the provisions of the foregoing paragraph 8.3.1, each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision herein.

8.3.3 Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural singular, and the masculine, feminine, or neuter shall each include the masculine, feminine, and neuter.

8.3.4 Captions. All captions and titles used in this Declaration are intended solely for convenience or reference and shall not affect that which is set forth in any of the provisions hereof.

8.4 Successors and Assigns. All references herein to Owner or Association, shall be construed to include all successors, assigns, partners, and authorized agents of such Owner or Association.

IN WITNESS WHEREOF, the Declarant has executed this Declaration effective as of the date first set forth above.

E. Valoie Nelson

State of Idaho

ss.

County of Teton

On this _____ day of _____, in the year of 2016, before me, an Idaho notary public, personally appeared E. Valoie Nelson, known or identified to me, to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Notary Public for Idaho

Residing at _____

Commission Expires:

(Seal)

EXHIBIT A

Legal Description of the Property

A PARCEL OF LAND IN THE SW 1/4 NE 1/4 SECTION 25, TOWNSHIP 4 NORTH, RANGE 45 EAST, BOISE MERIDIAN, TETON COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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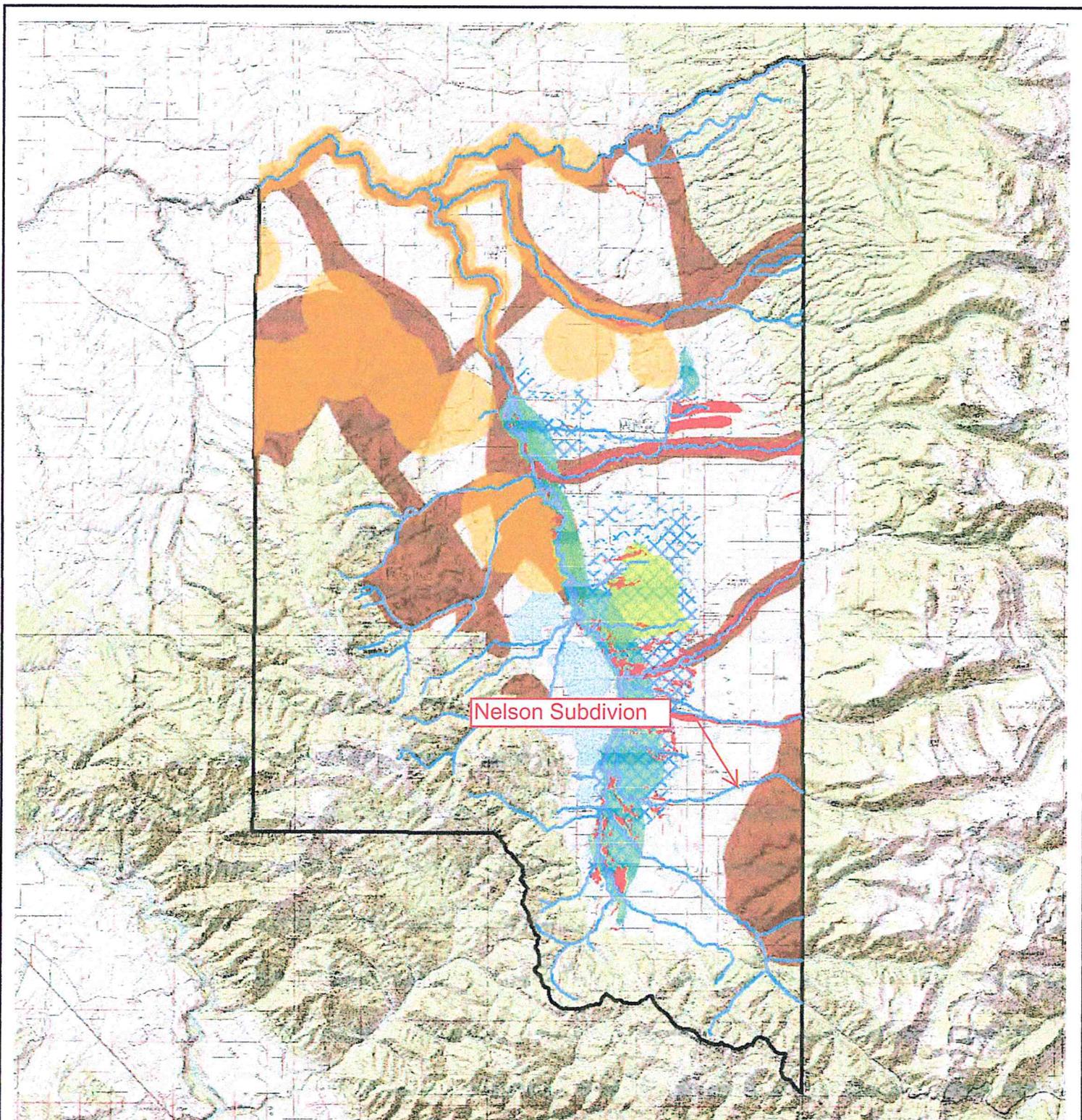
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THENCE S00°43'17"E, 778.55 FEET TO THE POINT OF BEGINNING;

CONTAINING 8.11 ACRES MORE OR LESS.



Nelson Subdivision

TETON COUNTY NATURAL RESOURCES OVERLAY

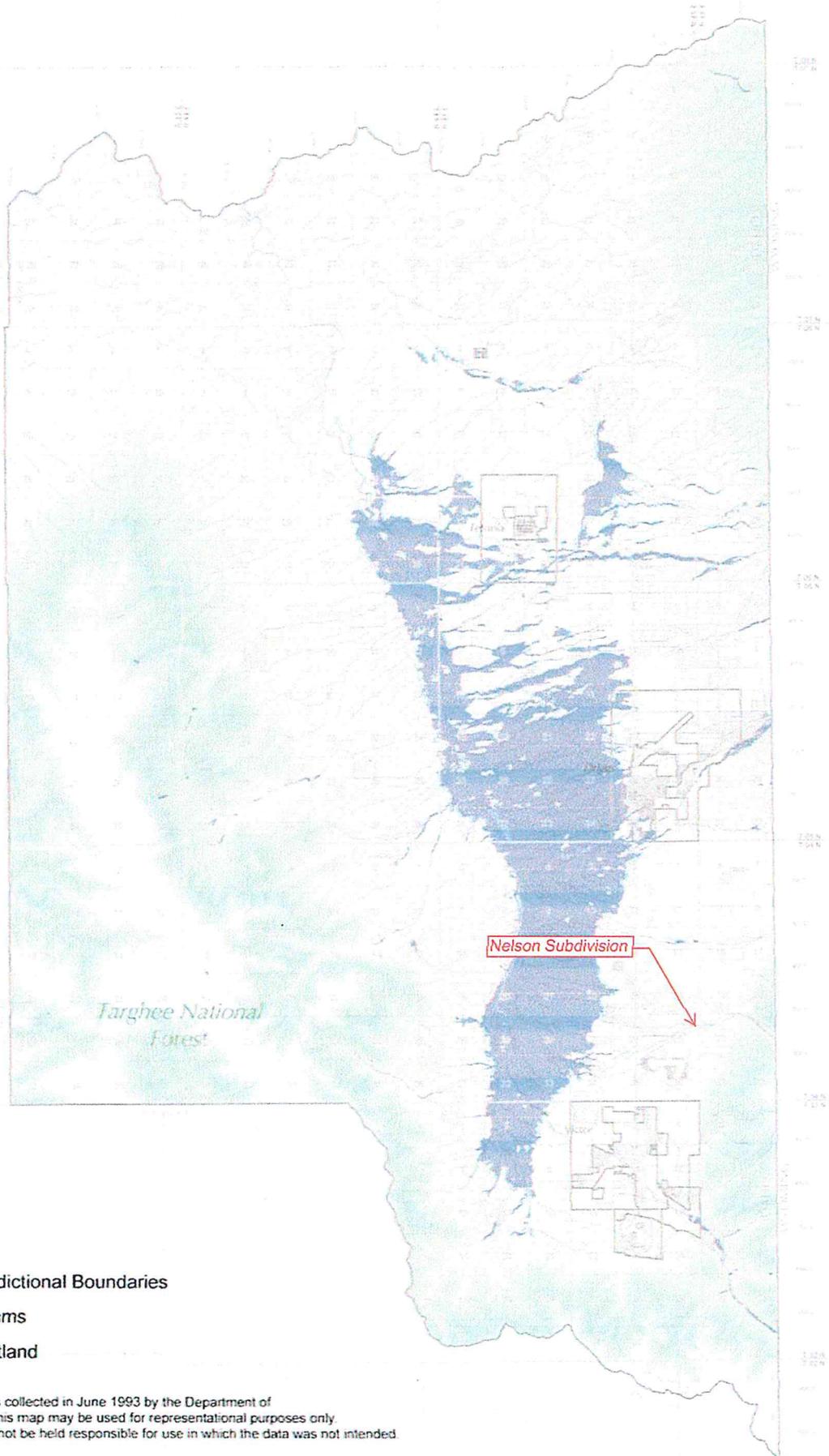


Scale: 1:275,000
 USGS Topographic Quad 1-100,000
 Rexburg, Idaho and Wyoming 1982
 Data Sources: TRLT Surveys (2002-2007)
 IDF&G Data (2003, 2006),
 USFWS National Wetlands Inventory (1993),
 Gregory Aquatics and Henry's Fork Foundation (2005)
 Map by Teton Regional Land Trust, June 2008

-  BIG GAME MIGRATION CORRIDORS AND SEASONAL RANGE
-  WATERBIRD MIGRATION, FORAGING HABITAT
-  WATERBIRD BREEDING, MIGRATION, FORAGING, WINTERING HABITAT
-  SONGBIRD/RAPTOR BREEDING AND WINTERING HABITAT
-  SHARP-TAILED GROUSE BREEDING AND WINTERING HABITAT
-  PRIORITY WETLAND HABITAT
-  PRIORITY WETLAND HABITAT - WOODS CREEK FEN
-  PRIORITY WETLAND HABITAT - SOUTH LEIGH
-  PERENNIAL AND SEASONAL TROUT HABITAT



TETON REGIONAL LAND TRUST



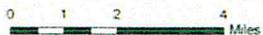
Legend

-  Jurisdictional Boundaries
-  Streams
-  * Wetland

* Wetland data was collected in June 1993 by the Department of Fish and Wildlife. This map may be used for representational purposes only. Teton County may not be held responsible for use in which the data was not intended.



TETON COUNTY WETLANDS



Adopted by Teton County
Date: 12-11-2006





Teton County Planning
 150 Courthouse Dr. Ste 107
 Driggs, ID 83422
 208-354-2593

Statement Date: 9/12/2016
 Date Due: Upon Receipt

Sent via email
 9/12/2016

APPLICATION STATEMENT - ONE TIME ONLY

Valoie Nelson
 680 E. 5500 S.
 Victor, ID 83455

c/o Pat Gilroy | Pierson Landworks, 151 N. Ridge Ave., Ste. 117, Idaho Falls, ID 83402

DATE	DESCRIPTION	CHARGES	CREDITS	ACCOUNT BALANCE
	Subdivision Application	\$1,000.00		
5/26/2015	10% Due at Concept Phase	\$100.00		\$0.00
	-Paid CK#6703 by Valoie Nelson		\$100.00	
	-Paid CK#367768 by Bank of Commerce		\$113.90	
9/12/2016	60% Due at Preliminary Phase	\$600.00		\$486.10
[DATE]	30% Due at Final Phase	\$300.00		\$300.00
[DATE]	Teton County Survey Review	\$350.00		\$350.00
PRELIMINARY TOTAL DUE				\$486.10
SUBDIVISION PROCESS TOTAL				\$1,136.10

Payment accepted by cash or check only. Please make checks payable to Teton County. If mailing payment, please send to the Planning Department at the address above.

VALOIE NELSON
 PH# 787-2729
 680 E 5500 S
 VICTOR, ID 83455

6778
 92-41/1241
 12
 FRAUDARMOR

Date 9-12-16

Pay to the Order of Teton County \$ 486.10
Four Hundred Eighty Six and 10/100 Dollars

The Bank of Commerce
 DRIGGS OFFICE
 P.O. BOX 787
 DRIGGS, IDAHO 83422

For Preliminary Phase Valoie Nelson MP

Instrument # 219558

TETON COUNTY, IDAHO

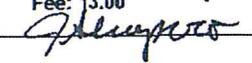
11-10-2011 12:16:26 No. of Pages: 2

Recorded for : ALLIANCE TITLE & ESCROW CORP

MARY LOU HANSEN Fee: 13.00

Ex-Officio Recorder Deputy

Index to: DEED, QUIT-CLAIM



Alliance Title & Escrow Corp.

QUITCLAIM DEED

ATEC ORDER NO.: 118420

FOR VALUE RECEIVED,

Fox Meadows South, LLC, an Idaho Limited Liability Company

do(es) hereby convey, release, remise and forever quitclaim unto

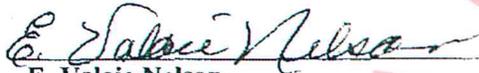
E. Valoie Nelson, an unmarried person

the following described premises:

See Attached Exhibit "A"

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

Dated: November 9, 2011

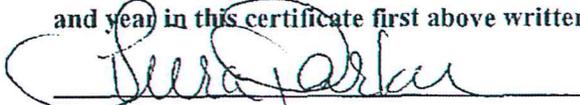


E. Valoie Nelson

State of Idaho} ss
County of Teton}

On this 9th day of November, 2011, before me, Tiera Parker, a Notary Public in and for said state, personally appeared E. Valoie Nelson known or identified to me to be the Managing Member in the Limited Liability Company known as Fox Meadows South, LLC who executed the foregoing instrument, and acknowledged to me that he/she executed the same in said LLC name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Tiera Parker

Exhibit "A" Legal Description

East Half of the Southwest Quarter of the Northeast Quarter of Section 25, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho; save and except the following: Beginning at the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 25, Township 4 North, Range 45 East, Boise Meridian, thence South 330 feet, thence West 660 feet, thence North 330 feet, thence East 660 feet to the point of beginning.

Save and except: A part of the South Half of the Northeast Quarter of Section 25, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, being further described as: From a steel rod which is accepted to be the center quarter corner of said Section 25, South $89^{\circ}26'26''$ East 684.53 feet along the South line of the Northeast Quarter to the Southwest corner of the East half Southwest Quarter Northeast Quarter, the true point of beginning; thence North $00^{\circ}43'17''$ West 710.13 feet along the West line of the East Half Southwest Quarter Northeast Quarter to a point on the county road; thence North $80^{\circ}09'49''$ East 51.0 feet more or less to a point on the projection of a fence line; thence South $04^{\circ}50'00''$ East 722.35 feet more or less along a fence line to a point on the South line of the Northeast Quarter of said Section 25; thence North $89^{\circ}26'26''$ West 102.2 feet more or less along the South line of the Northeast Quarter to the point of beginning.

Save and except: Beginning at the Southeast corner of the Southwest Quarter Northeast Quarter of Section 25, Township 4 North, Range 45 East, Boise Meridian, Teton County, Idaho, and running North $89^{\circ}26'26''$ West 331.9 feet along the South line of said Northeast Quarter; thence North $0^{\circ}43'17''$ West 772.0 feet to the county road; thence North $80^{\circ}40'$ East 332.70 feet along the county road; thence South $0^{\circ}55'02''$ East 829.20 feet to the point of beginning.



PLANNING AND BUILDING DEPARTMENT
AFFIDAVIT OF LEGAL INTEREST and
LETTER OF AUTHORIZATION

Valoie Nelson, "Owner" whose address is
680 E. 5500 South City Victor State Id Zip 83455

As owner of property more specifically described as:
RP04N45E 251500

HEREBY AUTHORIZES Pierson Roadworks Patrick Gilroy as Agent to represent and act
for the Owner in making application for and receiving and accepting on Owners behalf, any permits or other action by the Teton County
Commissioners, Teton County Planning and Zoning, Building, and or other County Departments relating to the modification, development,
planning, platting, re-platting, improvements, use or occupancy of land in Teton County, Idaho. Owner agrees that; Owner is or shall be deemed
conclusively to be fully aware of and to have authorized and/or made any and all representations or promises contained in said application of any
Owner information in support thereof, and shall be deemed to be aware of and to have authorized any subsequent revisions, corrections or
modifications to such materials. Owner acknowledges and agrees that; Owner shall be bound and shall abide by the written terms or conditions of
issuance of any such named representative, whether actually delivered to Owner or not. Owner agrees that no modification, development, platted
or re-platting, improvement, occupancy, or use of any structure or land involved in the application shall take place until approved by the
appropriate official of Teton County, Idaho, in accordance with applicable codes and regulations.

Owner agrees to pay any fines and be liable for any other penalties arising out of failure to comply with the terms of any permit or arising
out of any violation of applicable laws, codes, or regulations applicable to the action sought to be permitted by the application authorized herein.

Under penalty of perjury, the undersigned swears that the foregoing is true and, if signing on the behalf of a corporation, partnership,
limited liability company or other entity, the undersigned swears that this authorization is given with the appropriate approval of such entity, if
required.

OWNER:

X Valoie Nelson
(Signature of Owner)

Valoie Nelson Title OWNER
(Print Name)

X
(Signature of Co-Owner)

(Print Name) Title

X
(Secretary or Corporate Owner)

(Print Name)

NOTARY: STATE OF: Idaho SS. Driggs

COUNTY OF: Teton Zip 83422

Subscribed and sworn to before me by Valoie Nelson
this 20th day of May, 2015.



WITNESS my hand and official seal.
Wendy A. Danielson

X Notary Public Expiration Date 1-24-2017



October 20, 2016

RE: Notice of Public Hearing and Solicitation for Comments from property owners within 300 feet of a property that has an application for a Subdivision – Preliminary Plat.

Dear Property Owners:

This letter is to notify you that an application for a Subdivision Preliminary Plat has been submitted to the Teton County Planning Department by a nearby landowner. Subdivisions are allowed in Idaho State Code and the Teton County Code. This two-step Preliminary Plat review process is the phase of the process where the fact-finding details and specifics required by ordinance, and law, are determined. All of the issues surrounding necessary infrastructure will be resolved or have a clearly identified solution to the satisfaction of the County prior to scheduling of the third and final phase of the process. The Planning and Zoning Commission reviews Preliminary Plat applications, then makes a recommendation to the Board of County Commissioners. The Board will also hold a public hearing, after they receive the Commission's recommendation, to approve or deny the Preliminary Plat application.

The planning staff is soliciting comments from people in the vicinity of the applicant's property so that we can be aware of neighborhood issues and then include your comments in the packet of information provided to the Planning & Zoning Commission for their consideration prior to the hearing. Please provide comments related to this application and the Subdivision Preliminary Plat criteria of approval found in Teton County Code (9-3-2 C).

Applicant/Landowner: Valoie Nelson

Addresses: 680 E. 5500 S. & 5482 S. 750 E., Victor, ID 83455

Legal Description: RP04N45E251500; E2SW4NE4 LESS #3584, #3614 SEC 25 T4N R45E

Zoning District: A-2.5

Description of the Request: Valoie Nelson is proposing a 2-lot subdivision on her property (8.49 acres) located north of Victor at 680 E 5500 S. This property is not located in any overlay areas.

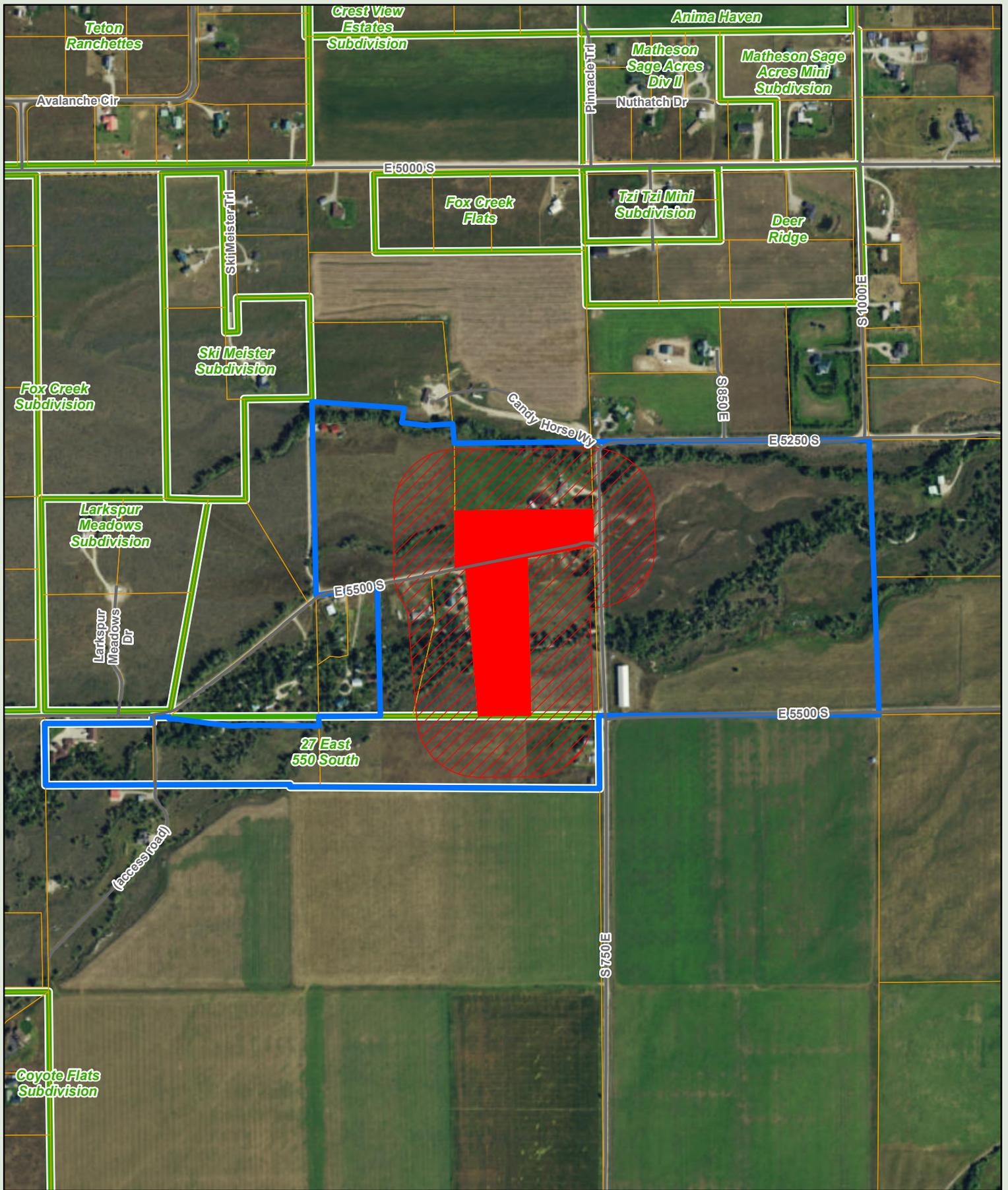
PUBLIC HEARING

The Planning & Zoning Commission will hold a public hearing in the Main Courtroom located on the Third Floor (lower level, southwest entrance) at 150 Courthouse Drive, Driggs, Idaho on **November 8, 2016** on this matter. This application is the first item on the agenda, and it is scheduled to be heard at **5:00 pm**.

Information on the above application is available for public viewing in the Teton County Planning Department at the Teton County Courthouse in Driggs, Idaho. The development application and various related documents are also posted, as they become available, at www.tetoncountyidaho.gov. To view these items, go to the Planning & Zoning Commission department page, then select the 11-8-2016 Meeting Docs item in the Additional Information Side Bar. Written comments will be included in the packet of information provided to the Commission for consideration prior to the hearing if they are received in the Planning Department no later than 5:00pm on November 1, 2016. Written comments may be e-mailed to pz@co.teton.id.us, mailed to the address above, or faxed. You may also present your comments in person at the hearing.

The public shall not contact members of Planning & Zoning Commission or the Board of County Commissioners concerning this application, as their decision must, by law, be confined to the record produced at the public hearing.

If you have any further questions, please do not hesitate to contact Kristin Owen, Planning Administrator (kowen@co.teton.id.us).



Legend

- 300 ft Notification Buffer
- Subject Parcel
- Notified Parcels
- Subdivisions / Phases
- Parcels

**NELSON SUBDIVISION PRELIMINARY
PLAT APPLICATION NOTIFICATION**

Printed: October 14, 2016



Kristin Rader

From: Baerbel Lucchitta <[REDACTED]>
Sent: Monday, October 31, 2016 1:20 PM
To: PZ
Subject: Re: Nelson Subdivision Preliminary Plat Application
Attachments: Lucchitta-Nelson-Hibbs parcels.jpg

TETON COUNTY
PLANNING & ZONING

OCT 31 2016

RECEIVED

Dear
P
lanning and
Zo
ning
C
ommission members,

This note is for the record concerning the Nelson Subdivision public hearing scheduled for November 8, 2016. We, Ivo and Baerbel Lucchitta, are neighbors joining the proposed subdivision on the south side of Lot 2. In general, we have no objections to the proposed subdivision. We hope it will be approved and meet the requirements of our neighbors, the Nelsons. However, we would like to bring to the attention of the commissioners a few items of concern.

1). The legal property boundary on the south side of proposed Lot 2 of the subdivision lies as much as 30 feet north of an

existing fence. See draft plat and image attached below

Future owners of Lot 2 might mistake the fence as their property boundary and should be made aware of this error.

Perhaps a note could be added in the Development Agreement to alert future owners to possible boundary disputes.

2). Access to Lot 2: The driveway lies only partly within the

Right of Way

. A

about one third of the driveway lies within the Lucchitta property. Future owners should be urged to remedy this situation.

3). Section 3 of the Development Agreement refers to the control of trash and weeds

. We would be gratified if the developer

s follow the ir own recommendation

s and improve the aesthetics of the property

and the value of adjacent properties with a major clean-up operation, including the removal of several junked cars that have been parked on the property for a long time (as of October 3, 2016).

We appreciate the thoroughness of the application and the attention to detail.

We sincerely hope you will amend the application to consider the few items of our concern

.
Thank you for your attention.

Ivo and Baerbel Lucchitta

██████████, Victor, Idaho

and

██████████, Flagstaff, A

rizona

Telephone: ██████████

Cell: ██████████

