



AGENDA
 PLANNING AND ZONING COMMISSION
 PUBLIC HEARING
 April 12, 2016
 STARTING AT 5:00 PM

Amended
 3/28/2016

DRAFT TETON COUNTY PLANNING AND ZONING COMMISSION
 Meeting Minutes from March 8, 2016
 County Commissioners Meeting Room, Driggs, ID

LOCATION: 150 Courthouse Dr., Driggs, ID
 Commissioners' Chamber – First Floor (lower level, SW Entrance)

1. Approve Available Minutes
 - March 8, 2016
2. Chairman Business
3. Administrator Business

5:00 PM – Item #1 – PUBLIC HEARING: Amendment to Title 9, Teton County Subdivision Ordinance. Proposing amendments to Title 9 to add CHAPTER 11 - GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS. This process is intended to rectify parcels that are currently out of compliance with our ordinance and need an official process to solidify their building rights.

The full text of the amendments is available at the Teton County Planning & Zoning office or on our website www.tetoncountydaho.gov

5:30 PM – Item #2 – WORK SESSION: Draft Code: Discussion of Draft Land Use Development Code. ~~with the Board of County Commissioners.~~
 No public comment will be taken regarding the Draft Land Use Development Code.

ADJOURN

- **Written comments received by 5:00 pm, April 1, 2016 will be incorporated into the packet of materials provided to the Planning & Zoning Commission prior to the hearing.**
- Information on the above application(s) is available for public viewing in the Teton County Planning and Zoning Office at the Courthouse between the hours of 9am and 5pm Monday through Friday.
- The application(s) and related documents are posted, at www.tetoncountydaho.gov. To view these items, select the Planning & Zoning Commission department page, then select the Public Hearing of April 12, 2016 item in the Additional Information Side Bar.
- Comments may be emailed to pz@co.teton.id.us. Written comments may be mailed or dropped off at: Teton County Planning & Building Department, 150 Courthouse Drive, Room 107, Driggs, Idaho 83422. Faxed comments may be sent to (208) 354-8410.
- Public comments at this hearing are welcome.

Any person needing special accommodations to participate in the above noticed meeting should contact the Board of County Commissioners' office 2 business days prior to the meeting at 208-354-8775.

- Carriage Court garage parking (Div. 8.19.1) was discussed, and it was not necessarily liked as an option.
- Consider rewriting Div. 8.19 Parking Location to be based on zoning district instead of building type. Generally, the PZC did not have a problem with parking being allowed on grass or off of a hard surface. It was suggested that rural zones or lots of a certain acreage could park in the grass, but residential, commercial, or industrial lots may need to have a hard surface for parking. Staff will look into changing the language in this section.

Article 14 Review:

- PZC agreed that the table in Div. 14.1 made sense.
- PZC felt that notice should be provided for the One Time Only. Site posting would be sufficient.
- References to other sections need to be verified and/or included (i.e. 14.3.5).
- It was asked if a time limit should be applied to how often the public could apply to amend the Land Use Code or the Comprehensive Plan. The PZC agreed that a time limit did not seem necessary as amendment applications are not a frequent occurrence. They also did not want to limit the ability of someone to propose an amendment if it was for a legitimate change.
 - PZC asked if there was a limit in the existing code. 8-11-1-C includes the following limit:
 SIMILAR APPLICATIONS: Any application substantially similar to one filed and denied within one year from the date of such denial may be summarily denied by the commission.
- Examples and density values need to be updated based on the new density values in Article 3.
- Design Review for the Scenic Corridor was discussed. PZC agreed that the Design Review could be approved administratively, but they would like to remain updated on the applications to see how the new standards are working (staff would provide a written determination for the Design Review, which could be compiled as part of a staff updated to PZC at their regular meetings). If PZC feels the standards need changed or it is not working, they may ask to have PZC approve the review again or just change the standards. If the standards are working, then staff could stop providing updates to PZC about the reviews. The fee for the Design Review can also be reviewed to possibly reduce the fee since PZC will not hold a meeting for the approval.
 - After discussing the design review and building types, PZC pointed out that language should be added to Article 9 for the Agricultural Option that states only Agricultural Buildings qualify.
- PZC felt a rezone to PRS: Preservation should be an expedited process compared to other rezone applications. Staff will work on writing this.

Moving Forward:

- The remaining articles (1, 2, 4-7, and 15) will be discussed at the March 15th meeting.
- IDFG will be contacted again, and a date will be provided of when staff feels Article 13 can be finished and given to the PZC.

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Bruce Arnold, Mr. Chris Larson, Ms. Marlene Robson, Mr. Jack Haddox, Ms. Sarah Johnston, and Mr. David Breckenridge.

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

The meeting was called to order at 5:05 PM.

Administrative Business:

Mr. Boal gave a brief introduction to a proposed ordinance before leaving the meeting. The proposed ordinance, which would create a process to provide building rights to previously created parcels that are not currently eligible to build on, will be reviewed by the Board on Monday, March 14, so the PZC could have a public hearing scheduled for the ordinance in the future.

Approval of Minutes:

MOTION: Mr. Larson moved to approve the minutes from February 9, 2016. Mr. Breckenridge seconded the motion.

VOTE: All in favor. Mr. Arnold abstained from voting because he was absent from the 2/9 meeting.

Chairman Business:

There was no Chair business.

WORK SESSION: Draft Code Discussion. Article 8: Building Types & Article 14: Administration

The Commission reviewed and discussed the proposed draft code presented by Ms. Rader.

Article 8 Review:

- Staff will add a description of the zoning districts to the table in Div. 8.1 as a reference for the abbreviated districts listed throughout the Article.
- The Accessory Building section will be added to the redline version.
- The "Heated Floor Area" will be adjusted to reference the correct section in Article 10 (for accessory dwellings), and the language will be changed to match the rest of the code related to accessory dwellings, such as total square footage or building area.
- The height of agricultural buildings versus accessory buildings was discussed. Agricultural buildings are still allowed to be 60' in height, but accessory buildings would be limited to 30' in height.
- Staff will look into changing the maximum length for a Recreation Residence. The current length and the maximum size would create a 5' wide building.

- Staff will have all redline versions to PZC by March 22, with the exception of Article 13 (unless IDFG comments and changes can be made by then).
- The joint meeting with the BoCC is currently scheduled for April 12. Depending on the timeframe for Article 13, this may be rescheduled to the second meeting in April or in May.
- If the joint meeting remains scheduled for April 12th, the complete redline version of the code will be provided to the BoCC and the PZC by April 1st (the "markup" version showing the changes and a "clean" version showing all changes accepted).

MOTION: Mr. Booker moved to adjourn the meeting. Mr. Larson seconded the motion.

VOTE: The motion was unanimously approved.

The meeting was adjourned at 6:40 pm.

Respectfully submitted,
 Kristin Rader, Scribe

 Dave Hensel, Chairman

 Kristin Rader, Scribe

Attachments:

1. PZC March 8, 2016 Meeting Packet

TETON COUNTY PLANNING AND ZONING COMMISSION Meeting Notes, February 16, 2016

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Cleve Booker, Mr. Chris Larson, Mr. Jack Haddox, Ms. Sarah Johnston, Mr. Pete Moyer, and Mr. David Brackelmann.

The March 8th meeting will be held in the Planning Conference Room instead of the Commissioners' Chamber because there is an election that evening.

- Mr. Robson provided comments prior to the meeting, which were read by the staff throughout the meeting.
- Update Agricultural Wetlands (AW) to Lowland Agriculture (LA)
- Vary of references to other sections and bold the text (hyperlinked in PDF).

- Article 1 Review:
- We are still waiting for a map from Driggs for the Airport Overlay Area.
- In general PZC was comfortable with this section. They agreed it could be tightened down in some areas by clarifying the height/uses allowed or restricted within the overlay. Staff will clarify what requirements are to be met (i.e. underlying zoning, etc. overlay).
- PZC had concerns that the language in the section could apply the overlay area to the entire county. There will be a map, which will designate where the actual overlay area is located. Staff showed a map from the Airport Master Plan that shows an area extending from each end of the runway. Some PZC members commented that the overlay could extend further than that map, but it shouldn't extend all the way to the flight lines.

- Article 2 Review:
- The staff is working on a new ordinance. It is currently being reviewed by IDWR, so it is expected in a couple weeks. The intent is to use the new state model ordinance in Article 9.
- Article 13 requires a setback from floodplains, so this section will only be used for those properties that cannot build outside of the floodplain. Staff will reference Article 13 in the floodplain section, so it is clear that development is not allowed in the floodplain without a variance.
- Staff is working with a graphic designer to create residential graphics for this section. Measurements and requirements shown on the graphics will be updated to match the text.
- Staff will update the description of the section or section that does not include within any limits. Staff will add language that clarifies what is included or excluded between the highway and buildings.
- PZC agreed to remove that fencing is required.
- An Option 5 will be added for Agricultural buildings.
- Transformed Development Rights
- A map of allowable open space was discussed. The RA, LA, and FR zones are being used as working areas for open space.
- Staff will add language to this section to identify the Area of Impacts as retaining areas.
- Worker's Housing
- This section is intended for the cities and Area of Impacts.
- Using this overlay in Park was discussed for agricultural workers, and it was agreed that it is not feasible because of the small lot sizes already on Park, and the needs to be located near existing services.

GENERAL COMMENTS
My concerns with this code are too numerous and fundamental to address in the context of our article-specific meeting minutes. It is not likely to be effective or efficient for PZC to be reviewing entire sections of code verbatim and suggest service level at this stage in the process, when serious policy decisions remain unexamined and unaddressed. For example, when we discussed specific ordinance level changes, they have not been consistently or reliably incorporated into the code. Changes that have been made to the code are not trackable and the progression of discussions, decisions, and resulting changes to the code language has not been documented.

As in review Article 1, there are many inclusions of subjective terms that are not defined in the Article or in the Definitions.

PUBLIC INPUT
During the time I have been a member of the PZC, we have not had a lot of open public input into the code making process or into the public input process that has been a working to implement. I believe the public should be involved.

DESIGN & DESIGN SPACE
I disagree with the approach of using the term "design" in the various parts of the code. Staff has indicated the goal of the code is to regulate the use of the land, not the design of the buildings. Staff has indicated the goal of the code is to regulate the use of the land, not the design of the buildings.

- Article 2 Review:
- Staff will verify the letters used for each permit type are accurate in the chart (i.e. "C" for Conditional Use and "D" for...
- Minor updates will be updated to include state of water/wastewater systems.
- Language will be added for Private Bunkies as an accessory use to any primary or secondary private property.
- Light vehicle/Equipment will be included as limited in the Industrial Light Zone.
- Building Mounted Wireless TV Facility will be included as a Conditional Use Permit in the Mixed Use Zoning Districts.
- Staff will reach out to the Cemetery Districts about zoning them as Civic zone.

Article 13 Review:
Signs - The sign ordinance has been partially updated to reflect a recent US Supreme Court Case. Signs may not be regulated based on their content.

- Article 14 Review:
- Signs are not allowed along designated scenic Byways per Idaho/Idahoian Laws. The IDW statute states that existing signs may stay, but no new signs are permitted. Staff has emailed IDW about this.
- Language will be added to Article 14.1.3.1 to include along the scenic Byways (this includes Highways 31, 24, and 33)
- Real Estate Signs were discussed. The sign ordinance will be allowed through the temporary sign provision or by getting a permit. There is also a provision that allows one, incidental sign (30" or smaller) per lot that does not require a permit.
- Erection signs fall under temporary signs.
- The majority of PZC members agreed of permit signs should not be allowed.

- Article 15 Review:
- Language will be added to Article 15.1.3.1 to require shielding (13.4.1.3.1.3).
- Language will be added to allow for temporary agricultural signs, same as the language already included for temporary signs (13.4.1.3.1.4).

- Article 16 Review:
- Commissioners between subdivisions was discussed. This section does require stub streets.
- Emergency services access was discussed for subdivisions.
- IDWR 12.2.3.3 will be updated to include that subdivisions may be required to provide multiple entrances/exits to a public or private street.

Article 17 Review:
- Requiring phone lines to be installed in subdivisions was discussed. It was agreed that should remain a requirement because phone lines are still used for areas with poor cell reception, not everyone has a cell phone, internet service, etc.

Article 18 Review:
- The 2016 meeting to the BCC is scheduled for April 12.

- Article 19 Review:
- April 29th will be a PZC meeting to review the Bylaws Version of the code, review any comments from the BCC/CCZ meeting, and make any necessary changes before the public input process.
- Public Comments will take place in May and June. July will be used to review public feedback and make any necessary changes. If possible, public meetings will take place in August or the end of July to make a formal recommendation to the Board.
- Outreach events will take place in multiple locations. Staff will consider local events for public feedback, such as Music on Main and the Farmers' Market.

ORDINANCE NO. 2016-041

AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDRESSING TETON COUNTY CODE, CHAPTER 11 TO ADDRESS PREVIOUSLY CREATED PARCELS THAT DID NOT FOLLOW THE LEGAL PROCESS AT THE TIME OF CREATION OR REZONING PERMITS.

BE IT ORDAINED BY the Board of County Commissioners of Teton County, Idaho that Title 9, Chapter 11 of the Teton County Code shall be added as follows:

CHAPTER 11 GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

- SECTION:
9-11-1. APPLICABILITY
9-11-2. APPLICATION REQUIRED
9-11-3. PROCESS FOR APPROVAL
9-11-4. CRITERIA FOR APPROVAL
9-11-5. APPEAL OF FINAL DECISIONS
9-11-6. EXPIRATION OF THIS CODE SECTION

9-11-1. APPLICABILITY: This chapter is only applicable to parcels where the current property owner desires to be recognized as a "legally designated lot" for building permit purposes, as defined in Teton County Code 9-11-1, and only apply to those parcels that were created after June 14, 1999 other than: (1) a parcel outside of those identified in the Teton County Title 9 Subdivision Regulations; (2) following a process in the Teton County Title 9 Subdivision Regulations that meeting the criteria of approval identified or (3) created through an agricultural only permit process.

- 9-11-2. APPLICATION REQUIRED: A property owner of parcels identified through the Property Registry process as not established due to the way they were created, must complete and submit the "Granting Building Permit Eligibility of Previously Created Parcel" application provided by the Planning and Building Department. Application to this process does not guarantee approval.
1. Fee (Application and Survey Plat view fee).
2. Narrative outlining how, when, and by whom the parcels were originally created.
3. Approval letter from Eastern Idaho Public Health.
4. Approval letter from Teton County Fire District.

9-11-3. PROCESS FOR APPROVAL: The applicant will review staff's findings and the application during a regularly scheduled public meeting. The Board will approve, deny, or table the application to another meeting if additional information is needed. Approvals will only be granted if the application meets the criteria found in 9-11-4.
E. Survey Review: Once the Board has approved the application, the County Surveyor will review the submitted plat. Any changes needed to the plat will be forwarded to the applicant.
F. Reviewing Once the plat has been reviewed and approved by the County Surveyor, the application shall be submitted to the Teton County Planning and Building Department for review.
- Two email copies of the Final Plat with approval signatures
- At least one paper copy of the Final Plat with approval signatures (for the applicant)
- Development Agreement, if required
- Final Commission, Conditions, and Restrictions
- IDPW form of Final Plat on CD
The applicant is responsible for all recording fees required at the time of recording.

9-11-4. CRITERIA FOR APPROVAL: The following criteria must be met in order for the application to be approved by the Board.
A. The proposed lot must meet the minimum lot size of the underlying zone, exclusive of any public dedicated easements or right-of-ways, other than the adopted requirements at the time of this application or the adopted requirements at the time the parcels were created through one of the processes identified in 9-11-1.
B. The proposed lot must have approved access.
C. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.
D. No more than two (2) buildable lots are being created.

9-11-5. DENIAL OR APPLICATION: If the application fails to meet the criteria identified above, other remedies, such as a Full Plat Subdivision, may still remain available to the property owner. Fees paid are not refundable if the application is denied.

9-11-6. APPEAL OF FINAL DECISIONS: Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is rendered to request reconsideration by the BCC/CCZ. If not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court or Idaho State District Court.

9-11-7. EXPIRATION OF THIS CODE SECTION: This code section and the ability to utilize this process shall expire January 1, 2018.

9-11-8. MODIFICATIONS TO PREVIOUS APPROVALS: This section has been included to clarify the process for modifying any previous approval.

9-11-9. APPEAL OF FINAL DECISIONS: Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is rendered to request reconsideration by the BCC/CCZ. If not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court or Idaho State District Court.

9-11-10. EXPIRATION OF THIS CODE SECTION: This code section and the ability to utilize this process shall expire January 1, 2018.

9-11-11. MODIFICATIONS TO PREVIOUS APPROVALS: This section has been included to clarify the process for modifying any previous approval.

Table with 2 columns: Div. 8.18, Description. Includes sections for 8.18.1. Description, 8.18.2. Lot and Placement, 8.18.3. Height and Form, 8.18.4. Building Setbacks, 8.18.5. Signage, 8.18.6. Other.

Table with 2 columns: Div. 8.18, Description. Includes sections for 8.18.1. Description, 8.18.2. Lot and Placement, 8.18.3. Height and Form, 8.18.4. Building Setbacks, 8.18.5. Signage, 8.18.6. Other.

TETON COUNTY PLANNING AND ZONING COMMISSION Meeting Notes, March 15, 2016 Commissioners' Chamber, Driggs, ID

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Cleve Booker, Mr. Chris Larson, Mr. Jack Haddox, Ms. Sarah Johnston, Ms. Marlene Robson, and Mr. Pete Moyer.

All Articles:

- Update Agricultural Wetlands (AW) to Lowland Agriculture (LA)
Make sure the language is the same (section vs. division)
Verify all references to other sections and bold the text (hyperlinked in PDFs).

Article 1 Review:

- Right to Farm Act language will be added to this section. Staff will look at the Comprehensive Plan to see if it referenced any other acts/legislation that should be added.
Zoning districts will be updated to Div. 1.2.
Staff will have Kathy Spitzer read the language in Div. 1.1.3 to verify that the restrictive language (state code vs. local code) is adequate.

Article 2 Review:

- Language for rounding will be added to this section (lot area, linear measurement, & time measurements).
Using "street" vs. "road" was discussed in Div. 2.2.1. Street is defined as a road in Article 15, so street is sufficient.
Div. 2.5.2.A should say height encroachments "may exceed..." instead of "must"
Change the maximum height of agriculture buildings to 60' in Div. 2.5.2.D.
There was a question on the height of wireless communication facilities and public utilities. Div. 2.5.2.E says they are exempt from general height limits. Article 10 includes height restrictions for these structures, so this section will be updated to match and/or reference that section.
Graphics will be updated.

Articles 4 & 5 Review:

- Language will be added to these sections that clarifies they are only intended for the Area of Impact after a negotiation between the County/City.
Industrial Flex was discussed on whether it should be in the County in addition to the Light and Heavy Industrial districts. In general, the PZC did not feel Industrial Flex should be in the County, but the Light and Heavy Industrial districts could allow accessory dwellings (i.e. Backyard Cottages).
Building Heights will be updated in these sections to match the 30' required in the County.

Articles 6 & 7 Review:

- Language about building types not applying due to the unique, purpose built building types found in these districts will be added. It has already been added to the Article 8 redline version.
Building Heights will be updated in these sections to match the 30' required in the County.
The Civic District and zoning existing uses was discussed. Staff will work with GIS to build an inventory of existing civic uses. Some of these uses may be appropriate to zone as Civic now, like the cemetery districts, but other uses should be zoned with the Rural Districts. Property Owners have the option to rezone in the future.

- 13. Waiting for IDFG comments for wildlife sections and maps from GIS.
- 14. Updating Temporary Uses/Permit, then will be finished, potentially by 3/18
- 15. 3/15 changes will be made and sent out by 3/18
- The joint meeting with the BoCC is currently scheduled for April 12. Jason will inform the BoCC at their next meeting of some of the delays that have occurred (IDFG comments, floodplain, ITD), so they are aware that the completed "final draft" may not be ready by April 12. Later in April may be an option or in May.
- There will be a public hearing during the April 12th meeting to recommend adoption of a new ordinance.



AMENDMENT TO TITLE 9, TETON COUNTY SUBDIVISION ORDINANCE –

ADDING CHAPTER 11 - GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS.

Prepared March 22 for the Planning and Zoning Commission

APPLICANT: Teton County Planning Department

APPLICABLE CODE: Idaho State Code- 67-6513 Subdivision Ordinance
Teton County Subdivision Ordinance- Title 9-10-1 Amendment Procedure

REQUESTS: Add a section of code to the Subdivision Ordinance to develop a process for rectifying parcels that are currently out of compliance with our ordinance, out of compliance when they were created, and need an official process to obtain building rights.

APPLICABILITY: County wide, all zoning districts

AMENDMENT DESCRIPTION: The proposed ordinance identifies the application, processing and approval requirements that are needed to utilize this new process. This process will be used to "rectify" parcels that were created and may have had an expectation of a building permit. However, they cannot be considered "legally designated "lots"" (Teton County Code: 8-3-5) because they did not meet the legal (ordinance) requirements at the time of their creation. The purpose is to provide an official process, for land owners, where these lots can be reviewed and approved, and the building rights guaranteed.

BACKGROUND: At present, if a lot was created through a survey, but did not meet the ordinance at the time of the creation, it is not considered "legally designated" and building permits cannot be issued on the lot. As the Planning Department has researched how lots were created, we have identified a large number of lots that appear to be "legally designated" but are not. The reasons they did not meet the ordinance mainly can be narrowed down to two issues: 1) lot size and 2) they were not eligible to split (the parent parcel was created through the OTO, the parent parcel was illegally created, or the parent parcel was created through an Ag Split). The ordinance is mainly aimed at remedying parcels that didn't meet the ordinance due to reason #2. If a new zoning ordinance is adopted with different minimum lots sizes, parcels with issue #1 may be able to use this process within the new code as well.

AMENDMENTS TO TITLE 9 -TETON COUNTY SUBDIVISION ORDINANCE
See attached text.

STAFF ANALYSIS:

1. **Consistent with purposes of the Teton County Subdivision Ordinance.** The proposed amendment and associated text changes are consistent with Section 9-1-3 Purposes and Scope of Title 9 of the Teton County Subdivision Ordinance, and in particular 9-1-3-G: "The manner and form of making and filing of any plat." This process would require a plat to be recorded to ensure the building rights are obtained.
2. **Consistent with Comprehensive Plan.** The proposed amendment is consistent with the Teton County Comprehensive Plan 2012-2030. This proposal maintains larger lots in most cases, and provides an approval process to reduce the "incentives" or desire to subdivide into smaller lots to obtain building rights.
3. **Consistent with other sections of the Teton County Zoning and Subdivision Ordinance.** The proposed amendment is consistent with other provisions of the Teton County Code. The proposed amendment utilizes the basic framework for the Plat Amendment Process.
4. **Consistent with State Statute.** The proposed amendment is consistent with the Idaho State Local Land Use Act 67-65.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed amendment supports the goals, purposes and intent of the Teton County Comprehensive Plan.
2. The proposed amendment supports the goals, purposes and intent of Teton County Title 9, Subdivision Ordinance.
3. The proposed amendment is in compliance with Idaho State Statute.

PUBLIC NOTICE: Legal ads were made to the Teton Valley News in accordance with local and state requirements.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

No comments have been received at the time of this reports writing.

STAFF RECOMMENDATION: It is staff's recommendation that you recommend approval this amendment to the BoCC.

Recommended Motion: Having found that the proposed amendment to Title 9 is in compliance with state statute and supports the comprehensive plan and other Teton County ordinances, and that a public hearing was legally noticed and conducted, I move to recommend approval of the amendment as presented in the attachment entitled "**CHAPTER 11 GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**" to the Board of County Commissioners [with the following changes].

ORDINANCE NO. 2016-9-11

AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDING TETON COUNTY CODE TITLE 9, CHAPTER 11 TO ADDRESS PREVIOUSLY CREATED PARCELS THAT DID NOT FOLLOW THE LEGAL PROCESS AT THE TIME OF CREATION TO QUALIFY FOR BUILDING PERMITS.

BE IT ORDAINED by the Board of County Commissioners of Teton County, Idaho that Title 9, Chapter 11 of the Teton County Code shall be added as follows:

CHAPTER 11

GRANTING BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

SECTION:

- 9-11-1: APPLICABILITY
- 9-11-2: APPLICATION REQUIRED
- 9-11-3: PROCESS FOR APPROVAL
- 9-11-4: CRITERIA FOR APPROVAL
- 9-11-5: DENIAL OF APPLICATION
- 9-11-6: APPEAL OF FINAL DECISIONS
- 9-11-7: EXPIRATION OF THIS CODE SECTION

9-11-1: **APPLICABILITY:** This chapter is only applicable to parcels where the current property owner desires to be recognized as a "legally designated lot" for building permit purposes, as required in Teton County Code 8-3-5, and only applied to those parcels that were created after June 14, 1999 either through: 1) a process outside of those identified in the Teton County Title 9: Subdivision Regulations, 2) following a process in the Teton County Title 9: Subdivision Regulations but not meeting the criteria of approval identified, or 3) created through an agricultural only parcel process.

9-11-2: **APPLICATION REQUIRED**

Application: A property owner(s) of parcels identified through the Property Inquiry process (application for a Property Inquiry was made and finding letter was sent to the property owner) as not buildable due to the way they were created, must complete and submit the "Granting Building Permit Eligibility of a Previously Created Parcel" application provided by the Planning and Building Department. Application to this process does not guarantee approval. In addition to the complete application form, the following is required:

1. Fees (Application and Survey/Plat review fee);
2. Narrative outlining how, when, and by whom the parcels were originally created;
3. Approval letter from Eastern Idaho Public Health;

4. Approval letter from Teton County Fire District;
5. Acceptance letter from the city for sewer hookup, or from the providing community, if applicable;
6. Covenants, Conditions, and Restrictions, if being proposed;
7. Plat created by a surveyor, licensed in the State of Idaho which includes:
 - i. Vicinity Map, Date of Survey, and North Arrow
 - ii. Map scale adequate to depict all adjusted lots (show Bar Scale)
 - iii. Legend with a description for all line weights and symbols used
 - iv. All bearings and distances for all property lines. Include Basis of Bearing and CP&F Reference
 - v. All known easements shown with their instrument numbers
 - vi. All existing physical access points shown
 - vii. Legal access points shown or possibility for future County Road access permits established
 - viii. Property Legal Descriptions
 - ix. Surveyor's Certification – Signature block with statement
 - x. County Treasurer's Certification
 - xi. County Assessor's Certification
 - xii. Easter Idaho Public Health Certification
 - xiii. Teton County Board of County Commissioners Chair Certification
 - xiv. Fire District – Signature block with approval statement
 - xv. Certificate of Survey Review – Signature block with approval statement
 - xvi. Owner's Certificate – Signature block with approval statement. **MUST BE NOTARIZED**
 - xvii. Recorder's Certificate
 - xviii. Certificate of Acceptance of Mortgagee, if applicable. **MUST BE NOTARIZED**

9-11-3: PROCESS FOR APPROVAL: Property owners desiring to have their lots recognized as a "legally designated lot" for building permit purposes must follow the process outlined below:

- A. Property Inquiry: A Property Inquiry Request must be submitted to Teton County Planning and Building Department, and a Property Inquiry Results Letter must be returned to the applicant prior to beginning this process.
- B. Application: Once the Property Inquiry Results Letter is returned to the property owners and verifies eligibility for this chapter, an application to the Planning and Building Department can be made. A complete application including the items listed in 9-11-2 must be submitted.
- C. Staff Review: Any proposed application shall first be reviewed by the Planning Administrator to determine if the application meets the criteria of this Chapter and the intent of the Comprehensive Plan. The Planning Administrator has the discretion to schedule a meeting with the applicant to review possible modifications of the application. Once the Planning Administrator has reviewed the application and finds it does or does not meet the criteria of this Chapter and the intent of the Comprehensive Plan, a letter will be sent to the applicant outlining the findings. If

the application does meet the criteria of this section and the intent of the Comprehensive Plan, it will be scheduled on the next available Board of County Commissioner Agenda.

- D. Board Review: The Board will review staff's findings and the application during a regularly schedule public meeting. The Board will approve, deny, or table the application to another meeting if additional information is needed. Approvals will only be granted if the application meets the criteria found in 9-11-4.
- E. Survey Review: Once the Board has approved the application, the County Surveyor will review the submitted plat. Any changes needed to the plat will be forwarded to the applicant.
- F. Recording: Once the plat has been reviewed and approved by the County Surveyor, the following shall be submitted to the Teton County Planning and Building Department for recording:
 - Two mylar copies of the Final Plat with approval signatures
 - At least one paper copy of the Final Plat with approval signatures (for the applicant)
 - Development Agreement, if required
 - Final Covenants, Conditions, and Restrictions
 - DWG format of Final Plat on CD
 The applicant is responsible for all recording fees required at the time of recording.

9-11-4: CRITERIA FOR APPROVAL: The following criteria must be met in order for the application to be approved by the Board.

- A. The proposed lots must meet the minimum lot size of the underlying zone, exclusive of any public dedicated easements or right-of-ways, either based on the adopted requirements at the time of this application or the adopted requirements at the time the parcels were created through one of the processes identified in 9-11-1.
- B. The proposed lots must have approved access.
- C. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.
- D. No more than two (2) buildable lots are being created.

9-11-5: DENIAL OF APPLICATION: If the application fails to meet the criteria identified above, other remedies, such as a Full Plat Subdivision, may still remain available to the property owner. Fees paid are not refundable if the application is denied.

9-11-6: APPEAL OF FINAL DECISIONS: Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the BoCC. If still not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court within 28 days of the written decision being delivered.

9-11-7: EXPIRATION OF THIS CODE SECTION: This code section and the ability to utilize this process shall expire January 1, 2018.

TETON COUNTY PLANNING AND ZONING COMMISSION

Meeting Primer, April 12, 2016

Board of County Commissioner Chambers, Driggs, ID

We have made revisions to Article 13. I worked on developing 3 different options for the Wildlife Habitat Plan division. These are not our only options, but I felt these were the ones we had the most discussion about previously. I did email some information, including one of the options, over to IDFG's new Regional Habitat Manager to get some feedback. I am hoping to have it back before our meeting. You should have received Blaine County, Idaho's Habitat ordinance to give you an idea of what another community is doing. Finally, you should have received the- [A Summary of Key Fish and Wildlife Resources of Low Elevation Lands in Teton County, Idaho](#) report as well.

Goals:

- Make sure we are comfortable with Article 13. Make sure everyone has Redline versions.
- Identify any deficiencies

Article 13 – Property Development Plan

This is the general list of changes that were made-

Throughout Article 13-

- Added "Requirement Table" in each section.
- Updated language to match/corrected typos

13.3.1 Riparian Buffer Plan-

- Clarified that the uses allowed in 13.2.1.H, are only allowed as part of the permit being applied for.
- Clarified that a variance is required to encroach into the Riparian Buffer.
- Removed NRCS Standards.
- Added Section K. Implementation

13.3.2 Skyline View Protection Plan-

Only minor changes.

13.3.3 Steep Slopes Plan-

- Only minor changes.
- Changed "no development on slopes that exceed 25%" to "30%" to match the current ordinance

13.3.4 Grading Plan-

Only minor changes.

13.3.5 Vegetative Management Plan-

- Removed NRCS Standards
- Added clarification in the Standards section
- Modified required portions of the plan
- Added F. Implementation section

13.3.6 Wildfire Hazard Mitigation Plan-

Only minor changes.

13.3.7 Fencing Plan- **REMOVED**

13.3.7 Wildlife Feeding Plan-

- Only minor changes.

13.3.8 Wildlife Habitat Management Plan-

As noted in an email that was sent out 3/28, Idaho Fish and Game was not able to make comments. At the time of this of this primer I have had a phone conversation with the local biologist. I forwarded him the Code and am anticipating sitting down with him. I will keep you updated on our conversations. From the 3/30 conversation he offered these comments-

1. Blaine County had issues not using a map for their habitat protection
2. The Teton River buffer should be 300 ft.
3. There should be a required buffer from the Forest Service Lands.
4. There should be a required buffer from land that is in a conservation easement.

In the meantime, I have developed 3 options- 2 with a map and 1 without. The map comes from an IDFG report- [A Summary of Key Fish and Wildlife Resources of Low Elevation Lands in Teton County, Idaho](#) that was developed for the Comprehensive Plan. The 3 options are fairly similar with the exception of the map.

1. Option #1 bases the Applicability (Sections A. & B) on density.
2. Option #2 bases the Applicability (Sections A. & B) on density and the map.
3. Option #3 bases the Applicability (Sections A. & B.) on the map.

In the review section, I added an optional IDFG review prior to the application.

13.3.9 Nutrient Pathogen Analysis-

- Only minor changes.

13.3.10 Public Service/Fiscal Impact Analysis-

- Added Conditional Use Permits
- We talked about me including a set formula. In researching other ordinances, and fiscal impacts it may not be prudent to include a set formula. Depending on the location and type of development there are different types of Average Cost Methodology analysis.

13.3.11 Traffic Impact Analysis-

- Added Conditional Use Permits.
- Rearranged portions to make it flow better.

13.3.12 Lighting Management Plan-

- No changes

13.3.13 Stormwater Management Plan-

- Removed the NRCS Standards
- Added "Catalog of Stormwater Best Management Practices for Idaho Cities and Counties. Based on the Public Works Directors recommendation

13.3.14 Access Management Plan-

- Added reference to the "Local Highway Technical Assistance Council Manual for Use of Public Right of Way Standard Approach Policy.
- Minor changes.

13.3.15 Plat

- Only minor changes.

13.3.16 Survey-

- Clarified when mylars are required

13.3.17 Deed-

- Clarified the difference between new deeds being created and existing deeds to verify ownership

13.3.18 Geotechnical Analysis

- Removed the Map

13.3.19 Parking Plan

- No changes

13.3.20 Fire Protection Plan

- Added this section

13.3.8. Wildlife Habitat Management Plan #1

	Site Disturbance: Driveway, Grading, etc.	Building Permit or Variance	Conditional Use Permit	Rezone	One Time Only Division	Land Division	Short Plat	Full Plat
Wildlife Habitat Management Plan	P	--	P	--	P	P	P	P

Key: R = Required P = Possibly Required -- = Not Required

A. Areas Applicability

This Division Section applies to all land found in Teton County

B. Scale/Scope of Development Requiring Applicability

1. If the proposed development will cause the density of the property to reach or exceed the following, the standards of this Division are applicable.
 - a. Rural Districts- 1 unit per 30
 - b. Agricultural Rural Neighborhood- 1 unit per 5 acres.
2. For Grading and Conditional Use permits, Div. 13.3.8.F.1 should be followed.

C. Intent

The intent of this Division is to ensure that habitat utilized by key indicator species, along with other forms of wildlife is managed in a way to ensure the long term viability of the habitat.

D. Standards

A wildlife habitat assessment in a form acceptable to Teton County is required for any indicator species of wildlife designated below. All development is subject to design review to ensure that the location of buildings and structures avoids or mitigates impacts to indicator species and habitat to the maximum extent feasible.

1. Design Review Criteria

A development application may only be recommended for approval where the following specific guidelines are met:

a. Building Envelopes

- i. Building envelopes must be located:
 - ii. To minimize fragmentation of any functional, intact areas of native vegetation and indicator habitat;
 - iii. To avoid rare landscape elements such as unique rock formations, sheltered draws or drainage ways, or other features, and locate buildings near areas containing more common landscape elements;
 - iv. To maintain connections among fish and wildlife habitats and to protect sensitive fish and wildlife breeding areas;
 - v. To provide adequate buffers between any building envelope for a habitable building and;
 - vi. Any wildlife migration corridors identified through the wildlife habitat assessment and;
 - vii. Any fish or wildlife breeding areas or big game wintering habitat identified through the wildlife habitat assessment.
 - viii. The buffer distance and configuration must be determined by a qualified professional who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines and must be designed to minimize the effect of planned development and infrastructure (including roads,

pathways, and trails) on use of the habitat or migration corridor by the indicator species.

b. Fencing

- i. Fencing and other infrastructure must be designed to minimize impacts on indicator species and indicator habitat.
- ii. Where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, and the person conducting the assessment believes that inappropriate fencing could interfere with the use of the area as habitat by one or more of the indicator species included in the assessment, the person must recommend a fencing design and specifications that would minimize interference with the movement or safety of the indicator species.
- iii. Fencing must be required to comply with those recommendations to the maximum extent feasible.
- iv. The proposed design and specifications must take into account the current and foreseeable uses of adjacent lands and the potential need for adjacent lands to be protected from the impacts of wildlife on the subject property.

c. Avoiding Vegetation Impacts

- i. Impacts to indicator species and indicator habitat must be avoided to the maximum extent feasible.
- ii. The applicant must mitigate unavoidable impacts appropriately and adequately.

- iii. In areas where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, the development must avoid disturbing existing native vegetation used by or needed to support the indicator species to the maximum extent feasible.
- iv. When existing native vegetation must be altered to accommodate the proposed subdivision, the applicant must replace lost habitat function with an equal or greater amount of like-functioning, native vegetation according to the recommendations of a qualified professional and ensure successful establishment of that vegetation through monitoring and adaptive management.

E. Section Format for the Property Development Plan

If required, this section of the Property Development Plan should include the following:

1. Wildlife Habitat Assessment

The applicant must arrange for a qualified professional who has demonstrated appropriate expertise in the fields of resource biology, fish or wildlife management, or similar discipline, to complete a Wildlife Habitat Assessment (WHA). The WHA must describe, evaluate, and quantify (as appropriate) habitat for the indicator species.

2. Impact Analysis and Mitigation Plan

An Impact Analysis and Mitigation Plan must:

- a. Identify and analyze the type, duration, and intensity of direct and indirect impacts to indicator species and indicator habitat reasonably expected to result from the proposed development (inclusive of

infrastructure layout, proposed recreational uses, anticipated human presence, anticipated land uses, proposed wildland fire protection measures, etc.);

- b. Address how applicant intends to avoid, or minimize and mitigate any impacts to indicator species and indicator habitat. Avoidance of impacts is preferred to minimization of impacts with mitigation;
- c. Provide a list of proposed mitigation measures, that may include habitat preservation, restoration, enhancement, and creation and an analysis of the probability of success of such measures. If the impact mitigation plan requires significant construction or restoration activities, Teton County may require that the applicant provide a financial security in the form of a letter of credit for 125% of the estimated cost of those activities. When the construction or restoration has been completed as described in the impact assessment and mitigation plan all but 25% of the fiscal security will be released. The remaining 25% will be held for two (2) years as a guarantee of the work that is performed.

3. Detailed Site Plan

A site plan that identifies the location of:

- a. Proposed development
- b. Existing vegetation
- c. Existing habitat for the indicator species

F. Review

1. Optional preliminary IDF&G review

- a. The applicant may contact IDF&G to identify any sensitive lands on the subject property.

IDF&G shall forward all preliminary reviews to the Administrator. If sensitive lands are determined to exist on the subject property, the applicant shall be required to complete the provisions in this division.

- b. If the preliminary review by IDF&G determines that the proposed development will have no significant impact on wildlife or wildlife habitat, no further action is required of the applicant pursuant to this division.

2. Application Review

If the applicant forgoes the optional preliminary IDF&G review OR if the preliminary IDF&G review finds that sensitive lands are determined to exist on the subject property, the following review process shall be followed:

- a. The Wildlife Habitat Management Plan, including the Wildlife Habitat Assessment will be forwarded to IDF&G for their review. They will review the methods used in the assessment, the findings from the assessment, the design of the development, possible conflicts and the proposed mitigation efforts. IDF&G shall forward their review and recommendations, if any, to the Administrator prior to the scheduling of the public hearing.

G. Implementation

1. If there is sufficient concern that the development was not done in conformance with the approved Wildlife Habitat Management Plan, a third-party inspector may be hired at the applicants expense, to verify the plan was followed, or identify corrections that need to be made.
2. No fiscal guarantee shall be released for a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made.

13.3.8. Wildlife Habitat Management Plan #2

	Site Disturbance: Driveway, Grading, etc.	Building Permit or Variance	Conditional Use Permit	Rezone	One Time Only Division	Land Division	Short Plat	Full Plat
Wildlife Habitat Management Plan	P	--	P	--	P	P	P	P

Key: R = Required P = Possibly Required -- = Not Required

3. No certificates of occupancy shall be issued for or in a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made. A Conditional Certificate of Occupancy may be issued if the timing of the season would not allow the mitigation measures to be completed.

H. Indicator Species

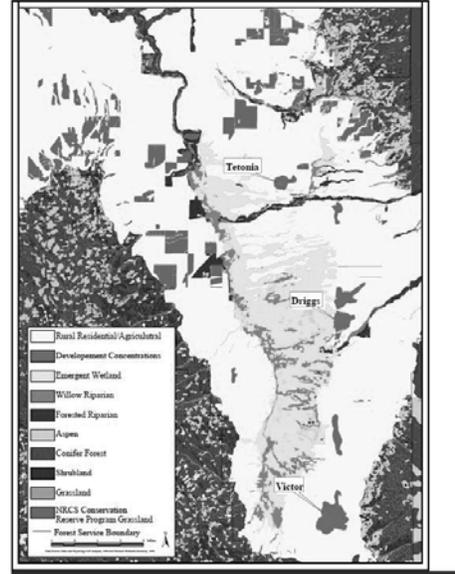
The following are considered Indicator Species in Teton County (This list comes from- A Summary of Key Fish and Wildlife Resources of Low Elevation Lands in Teton County, Idaho, dated June 14, 2012):

- Columbian Sharp-Tailed grouse
- Bald Eagle
- Grizzly bear
- Rocky Mountain Elk
- Mule Deer
- Moose
- Trumpeter Swans
- Greater Sandhill Crane
- Long-billed Curlew
- Yellowstone Cutthroat Trout
- Any other Federally Listed threatened or Endangered Species

A. Wildlife Habitat Protection Map

IDFG identified Major Plant Communities in tier report- Summary of Key Fish and Wildlife Habitats of Low Elevation Lands in Teton County, Idaho 2012. Any area outside of the Rural Residential/Agriculture or Development Concentrations is considered a Key Plant Community.

Figure 2. Major Plant communities of Teton County, Idaho. (Data Sources: USGS ID GAP Analysis and USFWS National Wetlands Inventory)



A Summary of Key Fish and Wildlife Habitats of Low Elevation Lands in Teton County, Idaho Idaho Department of Fish and Game June 14, 2012

B. Areas Applicability

This Division applies to all land found in Teton County found within a Key Plant Community, as identified on the Map found on page 13-23 of this Code.

C. Scale/Scope of Development Requiring Applicability

1. If the proposed development will cause the density of the property to reach or exceed the following, the standards of this Division are applicable:
 - a. Rural Districts = 1 unit per 30
 - b. Agricultural Rural Neighborhood- 1 unit per 5 acres
2. For Grading and Conditional Use permits, Div. 13.3.8.G.1 should be followed.

D. Intent

The intent of this Division is to ensure that habitat utilized by key indicator species, along with other forms of wildlife is managed in a way to ensure the long term viability of the habitat.

E. Standards

A wildlife habitat assessment in a form acceptable to Teton County is required for any indicator species of wildlife designated below. All development is subject to design review to ensure that the location of buildings and structures avoids or mitigates impacts to indicator species and habitat to the maximum extent feasible.

1. Design Review Criteria

A development application may only be recommended for approval where the following specific guidelines are met:

- a. Building Envelopes
 - i. Building envelopes must be located:

- ii. To minimize fragmentation of any functional, intact areas of native vegetation and indicator habitat;
 - iii. To avoid rare landscape elements such as unique rock formations, sheltered draws or drainage ways, or other features, and locate buildings near areas containing more common landscape elements;
 - iv. To maintain connections among fish and wildlife habitats and to protect sensitive fish and wildlife breeding areas;
 - v. To provide adequate buffers between any building envelope for a habitable building and;
 - vi. Any wildlife migration corridors identified through the wildlife habitat assessment and;
 - vii. Any fish or wildlife breeding areas or big game wintering habitat identified through the wildlife habitat assessment.
 - viii. The buffer distance and configuration must be determined by a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines and must be designed to minimize the effect of planned development and infrastructure (including roads, pathways, and trails) on use of the habitat or migration corridor by the indicator species.
- b. Fencing
 - i. Fencing and other infrastructure must be designed to minimize impacts on indicator species and indicator habitat.

- ii. Where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, and the person conducting the assessment believes that inappropriate fencing could interfere with the use of the area as habitat by one or more of the indicator species included in the assessment, the person must recommend a fencing design and specifications that would minimize interference with the movement or safety of the indicator species.
- iii. Fencing must be required to comply with those recommendations to the maximum extent feasible.
- iv. The proposed design and specifications must take into account the current and foreseeable uses of adjacent lands and the potential need for adjacent lands to be protected from the impacts of wildlife on the subject property.

c. Avoiding Vegetation Impacts

- i. Impacts to indicator species and indicator habitat must be avoided to the maximum extent feasible.
- ii. The applicant must mitigate unavoidable impacts appropriately and adequately.
- iii. In areas where the wildlife habitat assessment has found evidence of indicator species or the presence of indicator habitat, the development must avoid disturbing existing native vegetation used by or needed to support the indicator species to the maximum extent feasible.

- iv. When existing native vegetation must be altered to accommodate the proposed subdivision, the applicant must replace lost habitat function with an equal or greater amount of like-functioning, native vegetation according to the recommendations of a qualified professional and ensure successful establishment of that vegetation through monitoring and adaptive management.

F. Section Format for the Property Development Plan

If required, this section of the Property Development Plan should include the following:

1. Wildlife Habitat Assessment

The applicant must arrange for a qualified professional who has demonstrated appropriate expertise in the fields of resource biology, fish or wildlife management, or similar discipline, to complete a Wildlife Habitat Assessment (WHA). The WHA must describe, evaluate, and quantify (as appropriate) habitat for the indicator species.

2. Impact Analysis and Mitigation Plan

An Impact Analysis and Mitigation Plan must:

- a. Identify and analyze the type, duration, and intensity of direct and indirect impacts to indicator species and indicator habitat reasonably expected to result from the proposed subdivision (inclusive of infrastructure layout, proposed recreational uses, anticipated human presence, anticipated land uses, proposed wildland fire protection measures, etc.);
- b. Address how applicant intends to avoid, or minimize and mitigate any impacts to indicator species and indicator habitat. Avoidance of impacts is preferred to minimization of impacts with mitigation;

- c. Provide a list of proposed mitigation measures, that may include habitat preservation, restoration, enhancement, and creation and an analysis of the probability of success of such measures. If the impact mitigation plan requires significant construction or restoration activities, Teton County may require that the applicant provide a financial security in the form of a letter of credit for 125% of the estimated cost of those activities. When the construction or restoration has been completed as described in the impact assessment and mitigation plan all but 25% of the fiscal security will be released. The remaining 25% will be held for two (2) years as a guarantee of the work that is performed.
3. Detailed Site Plan
- A site plan that identifies the location of:
- a. Proposed development
 - b. Existing vegetation
 - c. Existing habitat for the indicator species

G. Review

1. Optional preliminary IDF&G review
- a. The applicant may contact IDF&G to identify any Key Plant Community lands on the subject property. IDF&G shall forward all preliminary reviews to the Administrator. If Key Plant Communities are determined to exist on the subject property, the applicant shall be required to complete the provisions in this division.
 - b. If the preliminary review by IDF&G determines that the proposed development will have no significant impact on wildlife or

wildlife habitat, no further action is required of the applicant pursuant to this division.

2. Application Review-

If the applicants forgoes the optional preliminary IDF&G review OR if the preliminary IDF&G review finds that Key Plant Communities are determined to exist on the subject property, the following review process shall be followed.

- a. The Wildlife Habitat Management Plan, including the Wildlife Habitat Assessment will be forwarded to IDF&G for their review. They will review the methods used in the assessment, the findings from the assessment, the design of the development, possible conflicts and the proposed mitigation efforts. IDF&G shall forward their review and recommendations, if any, to the Administrator prior to the scheduling of the public hearing.

H. Implementation

1. If there is sufficient concern that the development was not done in conformance with the approved Wildlife Habitat Management Plan, a third-party inspector may be hired at the applicants expense, to verify the plan was followed, or identify corrections that need to be made.
2. No fiscal guarantee shall be released for a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made.
3. No certificates of occupancy shall be issued for or in a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made. A Conditional Certificate of Occupancy may be issued if the timing of the season would not allow the mitigation measures to be completed.

I. Indicator Species

The following are considered Indicator Species in Teton County (This list comes from- A Summary of Key Fish and Wildlife Resources of Low Elevation Lands in Teton County, Idaho, dated June 14, 2012):

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- Trumpeter Swans
- Greater Sandhill Crane
- Long-billed Curlew
- Yellowstone Cutthroat Trout

Any other Federally Listed threatened or Endangered Species

13.3.8. Wildlife Habitat Management Plan #3

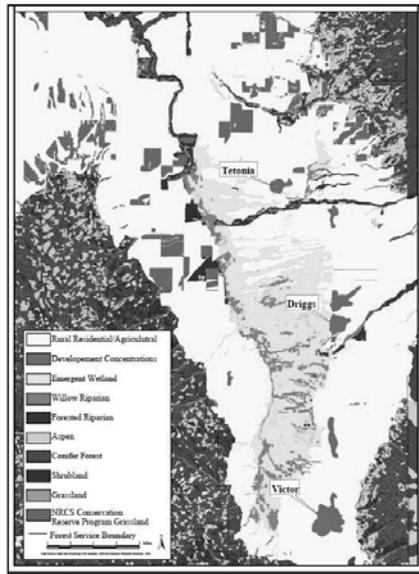
Wildlife Habitat Management Plan	Site Disturbance: Driveway, Grading, etc.	Building Permit or Variance	Conditional Use Permit	Rezzone	One Time Only Division	Land Division	Short Plat	Full Plat
	P	--	P	--	P	P	P	P

Key: R = Required P = Possibly Required -- = Not Required

A. Wildlife Habitat Management Map

IDFG identified Major Plant Communities in tier report- Summary of Key Fish and Wildlife Habitats of Low Elevation Lands in Teton County, Idaho 2012. Any area outside of the Rural Residential/Agriculture or Development Concentrations is considered a Key Plant Community.

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A Summary of Key Fish and Wildlife Habitats of Low Elevation Lands in Teton County, Idaho Idaho Department of Fish and Game June 14, 2012 Page 6

B. Areas Applicability

This Division Section applies to all land found in Teton County found within a Key Plant Community, as identified on the Map found on page 13-23 of this Code.

C. Scale/Scope of Development Requiring Applicability

If the proposed development contains any Key Plant Communities this division is required.

D. Intent

The intent of this Division is to ensure that habitat utilized by key indicator species, along with other forms of wildlife is managed in a way to ensure the long term viability of the habitat.

E. Standards

A wildlife habitat assessment in a form acceptable to Teton County is required for any indicator species of wildlife designated below. All development is subject to design review to ensure that the location of buildings and structures avoids or mitigates impacts to indicator species and habitat to the maximum extent feasible.

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 - vi. Any wildlife migration corridors identified through the wildlife habitat assessment and;
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of the indicator species included in the assessment, the person must recommend a fencing design and specifications that would minimize interference with the movement or safety of the indicator species.

- iii. Fencing must be required to comply with those recommendations to the maximum extent feasible.
 - iv. The proposed design and specifications must take into account the current and foreseeable uses of adjacent lands and the potential need for adjacent lands to be protected from the impacts of wildlife on the subject property.
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 - ii. The applicant must mitigate unavoidable impacts appropriately and adequately.
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2. Impact Analysis and Mitigation Plan
An Impact Analysis and Mitigation Plan must:
 - a. Identify and analyze the type, duration, and intensity of direct and indirect impacts to indicator species and indicator habitat reasonably expected to result from the proposed subdivision (inclusive of infrastructure layout, proposed recreational uses, anticipated human presence, anticipated land uses, proposed wildland fire protection measures, etc.);
 - b. Address how applicant intends to avoid, or minimize and mitigate any impacts to indicator species and indicator habitat. Avoidance of impacts is preferred to minimization of impacts with mitigation;
 - c. Provide a list of proposed mitigation measures, that may include habitat preservation, restoration, enhancement, and creation and an analysis of the probability of success of such measures. If the impact mitigation plan requires significant construction or restoration

activities, Teton County may require that the applicant provide a financial security in the form of a letter of credit for 125% of the estimated cost of those activities. When the construction or restoration has been completed as described in the impact assessment and mitigation plan all but 25% of the fiscal security will be released. The remaining 25% will be held for two (2) years as a guarantee of the work that is performed.

3. Detailed Site Plan

A site plan that identifies the location of:

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- b. Existing vegetation
- c. Existing habitat for the indicator species

G. Review

1. Optional preliminary IDF&G review

- a. The applicant may contact IDF&G to identify any Key Plant Community lands on the subject property. IDF&G shall forward all preliminary reviews to the Administrator. If Key Plant Communities are determined to exist on the subject property, the applicant shall be required to complete the provisions in this division.
- b. If the preliminary review by IDF&G determines that the proposed development will have no significant impact on wildlife or wildlife habitat, no further action is required of the applicant pursuant to this division.

2. Application Review

If the applicants forgoes the optional preliminary IDF&G review OR if the preliminary IDF&G review finds that Key Plant Communities are determined

to exist on the subject property, the following review process shall be followed:

- a. The Wildlife Habitat Management Plan, including the Wildlife Habitat Assessment will be forwarded to IDF&G for their review. They will review the methods used in the assessment, the findings from the assessment, the design of the development, possible conflicts and the proposed mitigation efforts. IDF&G shall forward their review and recommendations, if any, to the Administrator prior to the scheduling of the public hearing.

H. Implementation

1. If there is sufficient concern that the development was not done in conformance with the approved Wildlife Habitat Management Plan, a third-party inspector may be hired at the applicants expense, to verify the plan was followed, or identify corrections that need to be made.
2. No fiscal guarantee shall be released for a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made.
3. No certificates of occupancy shall be issued for or in a development until the necessary mitigation measures in the approved Wildlife Habitat Management Plan are made. A Conditional Certificate of Occupancy may be issued if the timing of the season would not allow the mitigation measures to be completed.

I. Indicator Species

The following are considered Indicator Species in Teton County (This list comes from- A Summary of Key Fish and Wildlife Resources of Low Elevation Lands in Teton County, Idaho, dated June 14, 2012):

Chapter 20 WILDLIFE OVERLAY DISTRICT (W)

9-20-1: PURPOSE:

The Blaine County board of county commissioners finds that the county contains wildlife habitat and species of local, statewide, and national significance as documented by Idaho department of fish and game (IDF&G), the federal bureau of land management, United States fish and wildlife service and the United States forest service. It is the purpose of these regulations to preserve and enhance the diversity of wildlife habitat and species throughout the county for the economic, recreational, and environmental benefit of county residents and visitors. (Ord. 2006-19, 11-14-2006)

9-20-2: ESTABLISHMENT OF DISTRICT:

The wildlife overlay district (W) is hereby established and shall cover all lands within Blaine County. (Ord. 2008-17, 11-25-2008)

9-20-3: APPLICABILITY:

Any subdivision of land within Blaine County. (Ord. 2006-19, 11-14-2006)

9-20-4: DEFINITIONS:

The following terms used in this chapter shall be defined as follows:

CLASSIFIED LANDS: Lands within Blaine County, as follows:

Class I Lands: Lands within Blaine County that include elk winter habitat or mule deer winter habitat as defined within references used by IDF&G and other professional sources.

Class II Lands: Lands within Blaine County that include elk migration corridors or mule deer migration corridors as defined within references used by IDF&G and other professional

Columbian Sharp-Tailed grouse

Bald Eagle

Grizzly bear

Rocky Mountain Elk

Mule Deer

Moose

Trumpeter Swans

Greater Sandhill Crane

Long-billed Curlew

Yellowstone Cutthroat Trout

Any other Federally Listed threatened or Endangered Species

sources.

Class III Lands: Lands within Blaine County that include current endangered, threatened, and candidate species pursuant to the endangered species act of 1973, species of greatest conservation need as listed within IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or defined within references used by IDF&G and other professional sources.

CONSERVATION PLAN (MITIGATION PLAN): A plan that discusses wildlife habitat management and protection, mitigation, and habitat enhancement planned to become part of the development.

ELK MIGRATION CORRIDORS: The migration routes used by elk to migrate from summer habitat to winter habitat. Elk migration corridors in Blaine County are designated by IDF&G.

ELK WINTER HABITAT: Generally consists of low to mid elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by elk. Winter habitat is essential to the survival of these animals during winter. Elk winter habitat in Blaine County is designated by IDF&G.

ENDANGERED, THREATENED AND CANDIDATE SPECIES: Protected under the endangered species act of 1973, and administered by the U.S. fish and wildlife service.

HABITAT ASSESSMENT: A study that determines the types and values of vegetation and habitat, including sensitive lands. It shall include, but not be limited to, a description and maps of ownership, location, type, size, condition, habitat potential, and other attributes of wildlife habitat on site. A habitat assessment shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

MAXIMUM EXTENT PRACTICABLE: Under the circumstances, that reasonable efforts have been undertaken to comply with the regulation or requirement, that the costs of compliance clearly outweigh the potential benefits to the public or would unreasonably burden the proposed project and that reasonable steps have been undertaken to minimize any potential harm or adverse impacts resulting from noncompliance.

MULE DEER MIGRATION CORRIDORS: The routes used by mule deer to migrate from summer habitat to winter habitat. Mule deer migration occurs over a few days or may span several weeks, depending upon the weather and other factors. Mule deer migration corridors in Blaine County are designated by IDF&G.

MULE DEER WINTER HABITAT: Generally consists of low elevation, southern exposed xeric and mesic sagebrush grasslands and mixed shrub grasslands that are used during winter months by mule deer. Winter habitat is essential to the survival of these animals during winter. Mule deer winter habitat in Blaine County is designated by IDF&G.

SENSITIVE LANDS: Lands professionally determined to be integral to the functioning of the

ecosystem, including wetlands, riparian areas and wildlife habitat.

SPECIES OF GREATEST CONSERVATION NEED: Those species listed as within the IDF&G's 2005 Idaho comprehensive wildlife conservation strategy, or as subsequently updated.

WILDLIFE HABITAT: An area with a combination of resources (food, water, cover, and space) and environmental conditions (temperature, precipitation, and presence or absence of predators and competitors) that promotes occupancy by individuals of a given species (or population) and allows those individuals to survive and reproduce. Components of wildlife habitat include, but are not limited to, principal feeding or foraging areas, winter range, summer range, transition areas, production and breeding areas, movement corridors, and areas providing essential minerals and water.

WILDLIFE SURVEY: Current and historical observation and documentation of the animals using the property. It shall include, but not be limited to, a description and map of the populations of wildlife species that inhabit or use the site, including a qualitative description of their spatial distribution and abundance. A wildlife survey shall be prepared at the applicant's expense under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, or similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-5: REVIEW PROCEDURE:

The following procedures shall apply to all applications for subdivision in Blaine County:

A. Preliminary Review:

1. Prior to the planning or designing of any subdivision, the applicant shall contact IDF&G and any other applicable agency or professional as determined by the administrator to identify any classified lands on the subject property. IDF&G shall forward all preliminary reviews to the planning and zoning administrator who will determine if classified lands are on the subject property. If classified lands are determined to exist on the subject property, the applicant shall be referred to section 9-20-6 of this chapter.
2. If the preliminary review by the administrator determines that the proposed subdivision will have no significant impact on wildlife or wildlife habitat, no further action is required of the applicant pursuant to this chapter.
3. An applicant may appeal the administrator's classified lands determination to the board pursuant to section 9-32-3 of this title. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-6: CONSERVATION PLAN:

The following procedures shall apply to all subdivisions in the wildlife overlay district determined by the administrator in section 9-20-5 of this chapter to have classified lands:

A. Plan Preparation: A conservation plan required by this section shall be prepared by a qualified person at the applicant's expense and shall be submitted by the applicant.

A conservation plan shall be prepared at the applicant's expense, under the direction of a qualified person who has demonstrated appropriate expertise in the fields of resource biology, fish and wildlife management, and similar disciplines. It may be subject to peer review at the applicant's expense. Habitat assessments for subdivisions creating ten (10) or more lots shall be subject to peer review at the applicant's expense.

B. Plan Content: The conservation plan required by this section shall include, but not be limited to, the following information:

1. Wildlife survey and habitat assessment, as described in section 9-20-4 of this chapter.
2. Conservation plan:
 - a. An analysis of the potential adverse impacts of the proposed development on wildlife and wildlife habitat on or off site;
 - b. A list of proposed mitigation measures and an analysis of the probability of success of such measures;
 - c. A plan for implementation, maintenance and monitoring of mitigation measures;
 - d. A demonstration of prohibition of wildlife feeding;
 - e. A plan for any relevant enhancement or restoration measures, including noxious weed eradication and control; and
 - f. A demonstration of fiscal, administrative, and technical competence of the applicant or other relevant entity to successfully execute the plan.

C. Waiver Of Requirements: The administrator may waive in writing specific submittal requirements based on the location of the development, the previous use of the site, the size and potential impact of the development, the absence of a particular species on the site and other relevant factors.

D. Commission Or Board Review: If upon review of the application, the commission or board determines that a conservation plan is necessary the commission or board may require a conservation plan be prepared and submitted. (Ord. 2008-17, 11-25-2008; Ord. 2006-19, 11-14-2006)

9-20-7: DESIGN STANDARDS¹:

The following standards shall apply to all subdivisions in the wildlife overlay district and for which a completed conservation plan has been required. The applicant has the burden of demonstrating compliance with this chapter, including each of the following design review standards of evaluation. Before approving or conditionally approving this application, the board shall find that the proposed development meets the following standards:

- A. Wildlife And Wildlife Habitat:** All development shall be designed so it does not have a significant adverse impact on wildlife or wildlife habitat or that such significant adverse impacts have been avoided or mitigated to the maximum extent practicable. In determining if a new development will or may have a significant adverse impact on wildlife or wildlife habitats or that such adverse impacts have been avoided or mitigated to the maximum extent practicable, the administrator, commission, or board as relevant shall consider the following criteria:
1. **Wildlife Species:** Impacts on wildlife species, including, but not limited to, human related activities (including impacts from domestic pets) that disrupt necessary life cycle functions of wildlife, displace wildlife from suitable habitat or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
 - a. Activities in previously undisturbed areas involving any combination of humans, pets, and machines or equipment that disturb or harass an individual animal, group of animals or wildlife species;
 - b. Site development or activities that disrupt necessary life cycle functions, resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of nonnative vegetation; excessive use of fertilizers and other chemicals; placement of structures in close proximity to nesting and feeding areas; and excessive exterior lighting;
 - c. Species reliance on specific, unique habitat features, such as riparian areas, that may be affected;
 - d. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, controls on domestic animals and household pets; approval of an outdoor lighting plan as required by chapter 29A of

this title; seasonal restrictions of recreational travel (motorized and nonmotorized) and activities, clustering of development to avoid intrusion into or fragmentation of habitat; and creation of buffers around critical areas.

2. **Wildlife Habitat:** Impact on wildlife habitat, including, but not limited to, the loss, degradation or fragmentation of wildlife habitat to the extent that the capacity of an area to support wildlife is diminished and the diversity of wildlife species occurring in the county is reduced. Assessment of significant impacts will be based on the following:
 - a. The amount of vegetation/habitat removal or alteration within the development site;
 - b. The amount of habitat of similar type and quality within the development site that remains contiguous;
 - c. The existing and proposed amount of lot coverage;
 - d. The existence of contiguous habitat of similar type and quality on adjoining land; and
 - e. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; restrictions on vegetation removal; and enhancement or restoration of equivalent habitat on or adjacent to the site.
3. **Wildlife Movement Patterns:** Impact on wildlife movement patterns, wildlife displacement and habitat use, including, but not limited to, disruption of necessary migration or movement patterns that prevent wildlife from using current or traditional habitats; displacement of wildlife species into areas that cannot support or sustain the species over the long term; or decrease the capacity of an area to support wildlife. Assessment of significant impacts will be based on the following:
 - a. Preventing wildlife from using current or traditional habitats, such as blocking migration corridors from summer to winter range;
 - b. Causing wildlife to find new routes that expose them to significantly increased predation, interaction with motor vehicles, intense human activity or more severe topography and climatic conditions;
 - c. The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area;
 - d. The human activity and development that would result in the inability of a single or multiple species to adapt to the new conditions;
 - e. Inability of affected species to adapt to significant alteration of their current habitats or to find a new habitat that is sufficient to sustain the species over the long term; and
 - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering or location of development to avoid intrusion into migration or movement areas; creation of buffers

around critical areas; limits on fencing that might interfere with migration and movement patterns; and enhancement or restoration of equivalent habitat on or adjacent to the site.

4. **Uniqueness Of Habitat And Species:** Uniqueness of habitat and species to Blaine County, including, but not limited to, loss, degradation, or fragmentation of important wildlife habitat that is identified as unique to Blaine County in that it supports wildlife species that do not commonly occur outside the county to the extent that the health and viability of a species is threatened in the county and impacts on wildlife species that do not commonly occur outside Blaine County to the extent that a species is threatened in the county. Assessment of significant adverse impacts will be based on the following:
 - a. The extent that habitat similar to that affected by the proposed development exists in Blaine County;
 - b. Whether the species does not commonly occur outside Blaine County, as determined by listing by state or federal agencies as threatened or endangered or as determined by Blaine County in conjunction with the Idaho department of fish and game;
 - c. Whether the habitat does not commonly occur outside of Blaine County as determined by the county in conjunction with the Idaho department of fish and game;
 - d. The extent of the threat to the viability of the species;
 - e. The extent of the reduction of the diversity of wildlife species in the county; and
 - f. Mitigation efforts that directly address the potential adverse impacts of the proposed land use on wildlife species, including, but not limited to, clustering of development to avoid intrusion into or fragmentation of habitat; creation of buffers around critical areas; limits on the amount of disturbance on a site; and enhancement or restoration of equivalent habitat on the site or elsewhere in the county.
5. **Cumulative Impacts Assessment:** An assessment of cumulative impacts including the effects of past, present, and reasonably foreseeable future actions within and beyond the boundaries of the proposed site. Assessment of significant adverse impacts will be based on the following:
 - a. The area, including land outside the project site, in which effects of the proposed project will occur and the impacts of the proposed project that are expected to occur in that area; and
 - b. A cumulative assessment of the incremental impacts on wildlife populations and habitat of the proposed development in conjunction with the past, present, and reasonably foreseeable future impacts of other activities and developments.
6. **Vegetation Removal And Revegetation:**
 - a. Removal of natural vegetation shall be minimized and restricted to the smallest area necessary to construct permitted uses and associated structures, septic systems, and driveways within an activity envelope.

- b. All disturbed areas shall be revegetated with native vegetation as soon as possible and no later than one growing season after construction of the primary structure(s) is completed.
- c. Planting nonnative ornamental plants on sites near or adjacent to designated big game winter habitat is prohibited and strongly discouraged on all other sites. In areas immediately surrounding residential dwelling units, planting of nonpalatable vegetation is strongly encouraged to reduce potential human/wildlife conflicts. (Ord. 2010-06, 5-25-2010; Ord. 2006-19, 11-14-2006)