



**A REQUEST FOR CONCEPT REVIEW APPROVAL BY:**  
**David & Daniel Bender,**  
**FOR: Taylor Shadows Subdivision,**  
**WHERE: East of Victor (Victor Cemetery Road)**  
Prepared for the Planning & Zoning Commission  
Public Hearing of April 8<sup>th</sup>, 2014

**APPLICANT:** David Bender  
**LANDOWNER:** Daniel Bender

**APPLICABLE COUNTY CODE:** Subdivision Concept Review pursuant to Title 9, Chapter 3 Teton County Zoning Ordinance, (revised 5-12-2011); Teton County Comprehensive Plan (A Vision & Framework 2012-2030)

**REQUEST:** David and Daniel Bender are requesting concept approval for a two (2) lot subdivision, on a 13.93-acre lot. The two resulting lots will be 3.75 acres and 9.68 acres with a .5 acre common area. The subdivision will be utilize an existing driveway off of Victor Cemetery Rd.

**LEGAL DESCRIPTION:** RP03N45E128850

Part of W ½ SE ¼ Section 12, Township 3N, Range 45E, B.M

**LOCATION:** Approx. 600 East Cemetery Rd.

**ZONING DISTRICT:** A-2.5, Borders Victor City (south) and Victor AOI (west)

**PROPERTY SIZE:** 13.93 acres

**VICINITY MAP:** The Bender property is on Victor Cemetery Rd. east of the cemetery.



**PROJECT DESCRIPTION:** Daniel Bender owns a 13.93 acre parcel located east of the City of Victor on Victor Cemetery Rd. The site was previously platted for cemetery use, however due to the difficult nature of digging graves on the property, the plat was abandoned and sold to Mr. Thompson (lot line adjustment). The parcel was then split off from the property to the north (Thompson property) in 2011 utilizing a one-time only lot split (#219995). In order to further divide this parcel it must go through the subdivision process.

The first step in the subdivision process is “Concept Review” (§9-3-2(B)). This approval is normally granted by the Planning Administrator, unless the project “falls within any overlay area” (§9-3-2(B-2)). If it is in an Overlay Area, a public hearing before Teton County Planning and Zoning is required. This project is completely in (WH) Wildlife Habitat Overlay.

There is an existing driveway on the property which will be improved for residential access. There is a .5 acres piece of land inside the driveway turnaround that the applicant would like to dedicate for common ownership by the two residential parcels. This .5 acre lot would be used for agricultural and/or septic uses. An easement providing public access to the BLM property to the east has been proposed. The exact alignment will need to be worked out as the project goes through the approval process.

**PROJECT BACKGROUND:**

David Bender submitted a completed application to the Teton County Planning Department on March 10<sup>th</sup>, 2014.

**OVERVIEW OF CONCEPT APPROVAL:** A concept review with the Planning Administrator or Planning and Zoning Commission is the required first step in the development process. The purpose of this review is to:

- a. Acquaint the applicant with the procedural requirements of Title 9;
- b. Provide for an exchange of information regarding applicant’s proposed development ideas and the regulations and requirements of Title 9, the Master Plan, the Natural Resources Assessment, and other subdivision/PUD requirements;
- c. Advise the applicant of any public sources of information that may aid the applicant or the application, and identify policies and regulations that create opportunities or pose significant restraints for the proposed development;
- d. Review the sketch plans, if any, and provide the applicant with opportunities to improve the proposed plan in order to mitigate any undesirable project consequences;
- e. Review the compatibility with nearby land uses, either proposed or existing; and
- f. Provide general assistance by County staff on the overall design of the proposed development.

It is not to determine the exactness of each item required in the checklists of the preliminary and final plat process.

**KEY ISSUES:**

**Planning Staff comments:**

On March 17<sup>th</sup> we had a Development Review Committee (DRC) meeting with the Teton County Engineer (Jay Mazalewski), Teton County Fire Division Chief (Earl Giles), Eastern Idaho Public Health District (Mike Dronan), City of Victor Planner (Brittany Skelton), the applicant David Bender, AW Engineering (Arnold Woolstenhulme) and Teton County Planning Administrator (Jason Boal). From this meeting the following key issues were identified:

- Fire Access will need to be provided (slope of the driveway and turning radii were discussed).
- The applicant will need to conduct a Natural Resource Analysis with the Wildlife Habitat Overlay additions.
- Access to Cemetery Road will need to be approved by the City of Victor.
- The slope of the eastern portion of the property was discussed. Building envelopes will be located on the western side of the property.
- A “Public Access Easement” has been discussed with the City, BLM, and Mountainside Village to the south.

**INTER-AGENCY AND DEPARTMENTAL REVIEW COMMENTS**

**Bureau of Land Management:** The BLM called to let me know that they are currently working on updating their access plan in the area. They have not requested a new access, and will consider this access through their planning process.

**U.S. Fish & Wildlife Services:** I received a letter from the US Fish & Wildlife services that identified “endangered, threatened, proposed and/or candidate species and designated critical habitat which may occur in the area of the proposed” subdivision. There is one listed species, one proposed species and two candidate species they identified. This information has been forwarded to the applicant to be used in the Natural Resource Analysis.

**SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE:** Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512, and Title 9, Section 3-2-(B-2) 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 and the mailing also went to many more people because anyone within a subdivision that has a lot within 300 feet of a project also gets a notification. A notice was also posted on the property providing information about the public hearing.

**COMMENTS FROM NOTIFIED PROPERTY OWNERS & PUBLIC AT LARGE:**

Staff has not received any written comments from the public.

## **CONSIDERATION OF APPROVAL:**

The following findings of fact shall be made if the Subdivision Concept is approved. If the application is being denied, the Commission should likewise specify the reasons for denial based on the items listed below.

### **1. The conformance of the subdivision/PUD with the comprehensive plan.**

- Applicants comments-
  - i. Page 1-8 “Maintain, nurture and enhance the rural character and heritage of Teton Valley.”
  - ii. Page 1-9 “the majority of future residents will live in high-quality neighborhoods on the east side of the Valley.”
  - iii. Page 4-9 “Conservation.....of Dark Skies.”
  - iv. Page 4-13 “Manage invasive weeds and open space”
  - v. Page 5-3 “In general, the areas proximate to the cities of Victor, Driggs and Teton are designated as “neighborhood” areas. Due to the availability of services and established land use patterns, these areas are appropriate for varying degrees of residential, commercial, and light industrial development that define the edge between “town and country.”
  - vi. Page 5-5 “The Foothills are located on..... the western slope of the Teton Range.”
  - vii. Goal ED-4, Policy 4.8: Encourage the development of low-density, high-quality neighborhoods adjacent to existing cities.
  - viii. Goal T-1, Policy 1.3: New development will provide adequate transportation facilities to accommodate needed services.
  - ix. Goal T-4, Policy 4.2: Encourage pedestrian connectivity in appropriate areas.
  - x. Goal NROR 1, Policy 1.5: Ensure adequate wastewater treatment.
  - xii. Goal NROR 5, Policy 5.2: Hazardous areas that present danger to life and property from flood, forest fire, steep slopes, erosion, unstable soil, subsidence or other hazards will be delineated, and development in such areas will be carefully controlled or prohibited by a rigorous building code and permitting process.
  - xiii. Goal ARH 1, Policy 1.1: Ensure that planned growth maintains Teton Valley’s rural character.
  - xiv. Goal ARH 3, Policy 3.1: Recognize the Right to Farm Act.
  - xv. Goal ARH 3, Policy 3.2: Improve and maintain roads important for agricultural production and transportation.
  - xvi. Goal ARH 5
- Staff comments-
  - I. Framework Map- This property is located in the Hillside designation on the Framework Map.
  - II. Economic Development
    - a) Goal ED 2: Preserve our rural character and heritage and promote local agricultural industries.
      - Goal ED 2, Policy 2.1: Encourage development and land use proposals that support prime economic values of rural character and heritage.

- Goal ED 2, Policy 2.3: Promote smart growth strategies that help preserve rural character by enhancing existing communities and directing development towards them.
  - Goal ED 2, Policy 2.5 : Encourage development that adheres to environmental standards.
- b) Goal ED 4: Accommodate additional population by supporting development that is economically responsible to the County and the community.
- Goal ED 4, Policy 4.1: Assess the public service requirements of new developments and weigh their off-site impacts against projected changes in revenue before approving new developments.
  - Goal ED 4, Policy 4.2: Support local retail by placing adequate residential density in close proximity to businesses.
  - Goal ED 4, Policy 4.3: Consider the economic impact of supply and demand in residential development.
  - Goal ED 4, Policy 4.4: Utilize a variety of regulatory and incentive-based tools to reduce density in sensitive areas and encourage density in areas where services exist.
  - Goal ED 4, Policy 4.8: Encourage the development of low-density, high-quality neighborhoods adjacent to existing cities.
  - Goal ED 4, Policy 4.9: Maintain rural areas that encourage farming and ranching and support low density residential development.

### III. Transportation

- a) Goal T 1: Provide well-maintained transportation infrastructure including roads, paved pathways and sidewalks.
- Goal T 1, Policy 1.3: New development will provide adequate transportation facilities to accommodate needed services.
  - Goal T 1, Policy 1.5: Provide/promote off-road transportation corridors to and from Public Lands suitable for both motorized and non-motorized vehicles.
- b) Goal T 3: Provide a well-connected transportation network within Teton Valley and within the region.
- Goal T 3, Policy 3.2: Develop trails and pathways where appropriate to connect all communities within the County to adjacent communities, recreation areas and amenities.
  - Goal T 3, Policy 3.4: Promote connectivity through design of well-connected local street systems and pathways.
  - Goal T 3, Policy 3.7: Seek out and seize opportunities to fund and build pathways.
  - Goal T 3, Policy 3.8: Coordinate efforts with federal, state, and municipal governments as well as other local and regional organizations to develop a contiguous and interconnected transportation and pathways system.
  - Goal T 3, Policy 3.12: When key transportation routes and pathways cross into or link with routes in other political jurisdictions, a substantial “extra” effort shall be made to coordinate with the other jurisdictions in planning and maintaining the affected roadways and pathways so that residents do not suffer as a result of an uncoordinated failure to take timely action.

IV. Natural resources + outdoor recreation

- a) Goal NROR 1: Conserve our public lands, trail systems, and natural resources (air, water, wildlife, fisheries, wetlands, dark skies, viewsheds, soundscape, soils, open space, native vegetation).
- Goal NROR 1, Policy 1.2: Conserve and enhance biodiversity and native ecosystems.
- b) Goal NROR 2: Enhance and preserve access to public lands and recognize the need to accommodate different user groups in a way that minimizes user conflict and damage to natural resources.
- Goal NROR 2, Policy 2.1: Maintain and improve existing public land and river access.
  - Goal NROR 2, Policy 2.2: Support the creation of new public land access when it's consistent with natural resource conservation goals.
  - Goal NROR 2, Policy 2.4: Consider and accommodate access for different user groups to minimize user conflict and resource damage.
  - Goal NROR 2, Policy 2.5: Seek cooperation of private landowners to improve accessibility to adjacent public lands.
  - Goal NROR 2, Policy 2.6: Work with state and federal agencies and private landowners to protect environmentally-sensitive areas from resource degradation.
- c) Goal NROR 3: Provide and promote exceptional recreational opportunities for all types of users (including but not limited to biking, skiing, fishing, off-highway vehicle use, target practice, hunting, trail users, equestrians, boating, non-motorized flight) as a means for economic development and enhanced quality of life.
- Goal NROR 3, Policy 3.1: Enhance and improve all-season access to public lands and waterways, except where necessary to protect areas from environmental degradation, negative impact to wildlife habitat, or to protect public safety.
  - Goal NROR 3, Policy 3.3: Support a diversity of recreation as a mechanism to bring together community and build acceptance of diverse lifestyles.
  - Goal NROR 3, Policy 3.4: Collaborate with Federal, State, and non-governmental agencies to improve recreational opportunities.
- d) Goal NROR 4: Balance private property rights and protection of our natural resources.
- Goal NROR 4, Policy 4.1: Ensure that development regulations balance natural resources protection, viewshed protection and growth, are clear and predictable, and preserve the economic value of the land.
- e) Goal NROR 5: Recognize, respect and/or mitigate natural hazards, including but not limited to flooding, earthquakes, landslides, radon and fires.
- Goal NROR 5, Policy 5.2: Hazardous areas that present danger to life and property from flood, forest fire, steep slopes, erosion, unstable soil, subsidence or other hazards will be delineated, and development in such areas will be carefully controlled or prohibited by a rigorous building code and permitting process.

- Goal NROR 5 Policy 5.3: Develop strategies to protect life and property from natural hazards.
- f) Goal NROR 7: On public lands and accesses, balance recreation with protection of natural resources.
  - Goal NROR 7 Policy 7.1: Allow only low-impact activities in sensitive resource areas and higher impact activities in resource areas of less sensitivity.
  - Goal NROR 7 Policy 7.3: Encourage siting structural improvements in areas that will result in the least amount of natural resource impact.
- g) Goal NROR 8: Respect sensitive habitat and migration areas for wildlife.
  - Goal NROR 8 Policy 8.1: Teton County recognizes that wildlife and wildlife habitats provide economic, recreational, and environmental benefits for the residents and visitors of Teton County. Land development decisions will strongly weigh the needs of wildlife to protect the inherent values that they provide.
  - Goal NROR 8 Policy 8.2: Work with landowners, the Idaho Department of Fish and Game, other state and federal agencies, non-governmental organizations, and other natural resources professionals to utilize wildlife habitat and species information and other tools (such as Western Governors Association Crucial Habitat Assessment Tool and the Wildlife Overlay Map), including new information as it becomes available, to make land use and site planning decisions.
  - Goal NROR 8 Policy 8.3: Minimize the cumulative impacts of development on wildlife and wildlife habitat.
  - Goal NROR 8 Policy 8.4: Protect and/or improve the diversity of native vegetation.
  - Goal NROR 8 Policy 8.6: A Wildlife Impact Mitigation Plan shall be developed for any development project which impacts an important habitat or which presents concerns of detrimental human-wildlife interaction. Requirements and performance standards for the mitigation plan shall be clearly established in the Zoning and/or Subdivision Ordinance and shall be the basis for approval of the plan.
  - Goal NROR 8 Policy 8.7: Provide incentives for voluntary habitat buffers, seasonal use restrictions, and aquatic connectivity along key drainages.

V. Agriculture + rural heritage

- a) Goal ARH 1: Preserve and enhance Teton Valley's small town feel, rural heritage and distinctive identity.
  - Goal ARH 1 Policy 1.1: Ensure that planned growth maintains Teton Valley's rural character.
  - Goal ARH 1 Policy 1.3: Ensure that open spaces are managed responsibly.
  - Goal ARH 1 Policy 1.5: Support the preservation of open space, farmland, natural beauty, and critical environmental areas.
- b) Goal ARH 2: Balance property rights and rural character.

- Goal ARH 2 Policy 2.3: Incentivize maintaining or creating large parcels.
  - c) Goal ARH 5: Reduce infestation/introduction of invasive species.
    - Goal ARH 5 Policy 5.6: Address the cause of invasive species infestations and work to reduce initial outbreaks especially on disturbed lands.
- 2. The availability of public services to accommodate the proposed development.**
- Applicant comments- Since Taylor Shadows is in the Area of Impact of the City of Victor, which by definition is an area a city foresees annexing in the future, it is within easy access of the public services located there such as fire protection, the county library, the commuter bus, city parks and bike and walking paths. There are no public services that will need to be either increased or extended to this development.
  - Staff comments- The subdivision will utilize private well and septic systems. Access will be provided by a public road- Victor Cemetery Rd. The applicant is to get approval from the City of Victor to use that access. The subdivision is in close proximity to the City of Victor, reducing the distance needed to travel for emergency services.
- 3. The conformity of the proposed development with the capital improvements plan.**
- Applicant comments-
    - i. No future public facilities will need to be constructed to serve this small development, as referenced in part 1 of the capital improvements plan. Impact fees will be collected at the time that building permits are issued for the two new residences.
    - ii. Land use and density assumptions: no non-residential development is being proposed.
    - iii. Study area: all unincorporated land within a city's area of impact will eventually be annexed into that city. Therefore most public facility services will be provided by the city and not the county. The two exceptions are the sheriff's dept. and the ambulance service. However, impact fees will still be assessed at the the time of issuing of building permits
  - Staff comments- Due to the proximity to the City of Victor this property will not place a large demand (or any demand) on Teton County for capital improvements.
- 4. The public financial capability of supporting services for the proposed development.**
- Applicant comments- For only 2 lots being developed in the Area of Impact of the City of Victor, the public financial capability of supporting services for these 2 lots is a non-issue
  - Staff comments- Due to the proximity to the City of Victor and the fact it is only two lots, should not place a financial burden on the county.
- 5. Other health, safety or general welfare concerns that may be brought to the County's attention.**
- Applicant comments- This property is not in a flood plain; has no wetlands and development is not being proposed on the steeper slope.
  - Staff Comments- The eastern portion of the property is very steep. The applicant is developing the property in a way so that those slopes are avoided and preserved.

**RECOMMENDED CONDITIONS OF APPROVAL**

- Compliance with Teton County Driveway Standards.
- Conduct a Natural Resource Analysis with the Wildlife Habitat Overlay additions.
- Obtain access approval from the City of Victor.
- Begin working with EIPHD for septic approval.
- Identify the location of the “Public Access Easement”.

**PLANNING & ZONING COMMISSION ACTION:**

A. Approve the Concept Plan, with the recommended conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.

B. Approve the Concept Plan, 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. Deny the Concept Plan application request 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.

**PLANNING STAFF RECOMMENDATIONS: The Planning Staff recommends:**

**ACTION A, APPROVE** the Concept Plan as described in the subdivision application materials submitted March 10, 2014.

Staff suggests the following motion:

The following motion could state a finding of fact and conclusion of law if a Commissioner wanted to approve the application:

*Having concluded that all the Criteria for Approval of a Concept Plan found in Title 9-3-2-B can be satisfied with the inclusion of the recommended conditions of approval,*

- *and having found that the considerations for granting the Concept Plan Approval to Mr. Daniel and David Bender can be justified and have been presented in the application materials, staff report, and presentations to the 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 APPROVE the Concept Plan for Taylor Shadows subdivision as described in the application materials submitted March 10, 2014 and as supplemented with additional applicant information attached to this staff report.*

Prepared by Jason Boal

**Attachments:**

- Application
- Deed
- Concept Plan Narrative
- Section IV Narrative
- Open Space Management Plan
- Concept Plat
- Road Construction Drawings

○ Soil & Geology Report

○ Slope Map

**• Letters of Agency review:**

○ US Fish and Game

End of Staff Report