



**TETON SPRINGS PLANNED UNIT DEVELOPMENT
AMENDMENT TO EXPAND PERMITTED HELICOPTER USES TO
INCLUDE A WINTERTIME ONLY HELI-SKI OPERATION**

Prepared for the Board of County Commissioners
Public Hearing of December 15, 2011

APPLICANT: Jeff Naylor **LANDOWNERS:** Teton Springs Golf & Casting, LLC

APPLICABLE

COUNTY CODE: Teton County Subdivision Ordinance- Title 9 as amended August 11, 2011

REQUEST: Pursuant to Teton County Subdivision Ordinance 9-7-1-B, a proposed change to the Teton Springs Planned Unit Development Master Plan and its Development Agreement. The amendment to the PUD Master Plan would allow an expansion of uses on the existing and approved Teton Springs helipad, Lot 8C, to allow the commercial use of the pad during the ski season for High Mountain Heli-skiing's operation.

VICINITY MAP



LEGAL DESCRIPTION:

Tract 8C Heliopad -Teton Springs Golf & Casting Club

LOCATION: 36 Springs Parkway; Township 3 North, Range 45 East, Section 23;

The helicopter pad is located within a few hundred feet of the cart barn and in the general vicinity of the Teton Springs Lodge & Spa building, which is in the south-central portion of the Teton Springs Planned Unit Development; south of Victor.

ZONING DISTRICT: Teton Springs PUD/ Victor Area of Impact

PROPERTY SIZE: Tract 8C = .26 acre

PLANNING & ZONING COMMISSION RECOMMENDATION: (from October 11 minutes)
The Commission went through the conditions of approval listed in the staff report one by one and provided input for their suggested changes in order to achieve a list of conditions that could be attached to a motion for approval of the application.

Motion: *Mr. Colyer moved to recommend approval of the amendment to the Teton Springs PUD Development Agreement to extend permanent helicopter uses to include the winter time only heli-ski operation with the following conditions of approval:*

Mr. Arnold seconded the motion.

Vote: *After a roll call vote, the motion was approved by a 4-3 vote. Mr. Eagens, Ms. Dustin and Mr. Hensel voted against the motion.*

PROJECT DESCRIPTION: This proposed amendment to the Teton Springs Planned Unit Development would expand the original uses allocated on Tract 8C, which was platted as the planned unit development's "Heliopad". The proposed expanded use would allow a wintertime commercial helicopter flight service to land and take off from the Teton Springs helipad. The 2002 Teton Springs Planned Unit Development Agreement designated the helipad - but flights with a commercial component were not authorized under the Teton Springs PUD approval. This application proposes the expansion of uses designated for the Teton Springs helipad to allow ski season-only use by High Mountain Heli-skiing (HMH) to fly clients to its Forest Service special use permit area to the south. This application and its supplementary information specify the following operational characteristics:

- High Mountain Heli-skiing would use the Lot 8C Heliopad from December 25 to April 1 each season. There are 99 days of potential flying, weather-permitting. No other commercial transport or commercial sight-seeing flights are requested, nor would they be authorized.
- The maximum number of days of flying by HMH during the 99-day season is proposed to not exceed fifty (50) days.
- No single day shall have more than seven (7) round trip flights to and from the Teton Springs Heli-pad. This means a maximum of seven takeoffs and seven landings for a maximum of fourteen one-way flights.
- The hours of operation for taking off or landing the helicopter from Teton Springs shall be limited to 9:00 AM to 4:30 PM, all days of the week.
- The flight path shall be limited to a corridor from Lot 8C on a bearing generally due south directly to the National Forest without flying over properties outside of Teton Springs and limited to a flight path that minimizes flights over residences within Teton Springs. The applicant provided an annotated aerial photo that depicts the flight path; see page 6.
- A designated fuel truck shall provide refueling of the helicopter, which often takes place at Lot 8C. The helicopter may be stored overnight on Lot 8C on occasion.

PROJECT BACKGROUND:

- When the Teton Spring PUD resort was planned and approved, a heli-pad was depicted near the proposed lodge. Pre-approval Teton Springs planning documents show a heliopad lot depicted in preliminary drawings dating back to 1999. In 2000, the heli-pad was depicted as Tract 6 on the Master Plan and the helicopter use was described in the recorded Development Agreement. Later, when the same area was platted, the heliopad was platted as Lot 8C- Heliopad; it is about ¼ acre in size. The original PUD approval stipulated that the helicopter flights were to be restricted, stating: *“Heli-port:-For alternative transportation and emergencies which would be located immediately east of the Clubhouse. This internal location will mitigate any potential disturbance to properties surrounding Teton Springs.”*
- In January 2004, a call to the Planning Department reported that commercial heli-ski flights were taking place from Teton Springs.
- Planning Administrator Larry Boothe wrote a letter dated January 27, 2004 to Teton Springs developer Mike Potter that commercial flights were not allowed, per the Development Agreement; see attached letters.
- Since 2004, it has been reported that heli-ski flights have taken place once again. In 2011, the owner of High Mountain Helicopter stated that he was told the issue had been resolved between Teton Springs and the County.
- One complaint in the winter of 2010/2011 was investigated by the Planning Department and it revealed that heli-skiing flights were taking place from the Teton Springs lodge area. Since the end of the ski season was near at hand, and there was a possibility that misunderstandings since 2004 may have taken place, the Planning Department did not immediately issue a cease and desist letter. High Mountain Heli-skiing was allowed to finish out the season they had begun and no further complaints were received from other citizens. The Planning Department informed Teton Springs and High Mountain Helicopter that they must apply for a Conditional Use Permit before the next ski season; otherwise they would not be permitted to fly from private land. The heli-pad could be located at either Teton Springs or at another valley location zoned A-20, A-2.5 or C-3 or M-1. This application at the Teton Springs PUD helipad location is the result of that dialogue.
- A pre-application conference was held between the Planning Staff and Teton Springs in the spring of 2011. The applicant did not submit a conditional use application until August 5, 2011. A conditional use permit public hearing was scheduled for September 13 in front of the Planning and Zoning Commission. After further staff review of the Teton Springs Master Plan, it was determined that there was need to amend the restrictions within the Development Agreement and on the Master Plan concerning commercial helicopter use. The Teton County Zoning Ordinance is not clear on requiring conditional use permits within a Planned Unit Developments such as Teton Springs where the Master Plan already specifies a mix of uses that are commercial, residential, and resort facilities.
- An application to amend the PUD was submitted in September 2011 and heard in front of the Planning & Zoning Commission on October 11, 2011.

KEY ISSUES:

1. Ownership of Lot 8C:

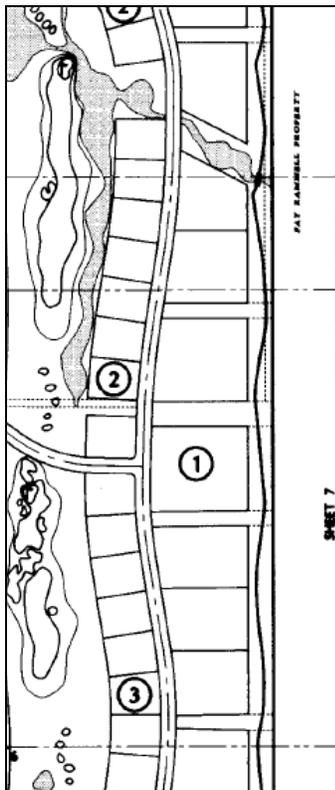
Lot 8C had been part of a previous transfer of ownership between the Teton Springs Home Owners Association (HOA) and Teton Springs Golf & Casting (TSG&C). According to the applicant, Lot 8C was inadvertently transferred to the HOA along with other common

properties. At the time of application for this heli-pad, the lot was technically owned by the HOA. It became apparent that this lot had been intended to remain under Teton Springs Golf & Casting's ownership and on November 11, 2011 the Seventh Judicial District Court rendered a judgment to quiet the title; TSG & C is now the record owner of Lot 8C; see attached judgment. The ownership of the parcel was a point of discussion during the Planning & Zoning Commission's hearing because it was not clear that the HOA officers were authorized to decide on behalf of the entire HOA membership, especially without a vote from the members. The benefit of having a vote about the heli-pad by the entire Teton Springs HOA membership was discussed. The Commission would have liked a clear-cut HOA vote and decision, but there would be complications to such an election. Some parcels are newly owned by banks, and multiple parcels are owned by single individuals. The timing for having such an election would exclude the operation this year. The Commissioner's noted that the County's two notifications already went to all owners in Teton Springs and the returned comments from property owners seemed about evenly split between those in favor and those opposed to the heli-skiing operation.

2. Previous Helicopter Use Approvals at Teton Springs:

What specific restrictions concerning helicopter flights were previously placed on Teton Springs and specifically on the "Heliopad" lot (labeled Tract 6 below and later platted as Lot 8C), which is on the Teton Springs Master Plan that was approved in 2002?

Planning Staff comments: The 2002 Teton Springs Development Agreement stated that the heliport was for "alternative transportation and emergencies". During the master plan approval meetings for Teton Springs, the helipad was intentionally not authorized for commercial flights. For some regional context, during the late 1990's and early 2000's various helicopter-related stories were printed in the Teton County, Wyoming newspapers. Among these headlines, scenic helicopter flight operators were proposing short duration scenic helicopter flights over the mountains. This issue became one of regional concern similar to the well-known flight issues over Grand Canyon and Glacier National Parks. Given the context of these events at the time of the Teton Springs PUD review, it is understandable that commercial flights, especially quick scenic flights, were prohibited. It is not clear from the Commissioner's record if heli-ski flights were explicitly discussed, but commercial flights, including heli-skiing, were later determined by Planning Administrator Larry Boothe to not be an acceptable type of helicopter flight from Teton Springs. Helicopters being used for "alternative transportation" were allowed to land and take off from Teton Springs Lot 8C, but there was no restriction on the number of flights. The assumption for allowing some helicopter flights but prohibiting commercial flights would likely be because the commercial flights, especially quick scenic ones would be much more numerous than the occasional flight in by a resident.



BYRON NELSON

AREA/UNITS/DENSITY TABLE - MASTER PLAN					
AREA	BLOCK(S)	ACRES	UNITS(R)	UNITS(C)	DENSITY
COUNTY ROADS	-	7.65	-	-	-
SUBDIVISION ROADS	-	60.79	-	-	-
OLD TOWN ALLEYS	-	4.25	-	-	-
TOTAL ROADS	-	72.69	-	-	-
RANCH ESTATE LOTS	1, 4	35.28	18	-	0.51
GOLF ESTATE LOTS	2-3, 5-8	72.46	98	-	1.35
GOLF HOME LOTS	9-19	76.24	172	-	2.26
OLD TOWN NORTH LOTS	20-23	10.79	88	-	8.16
OLD TOWN SOUTH	24-26	10.19	84	-	8.24
TRACT 9 (CLUSTERED CABINS)	-	12.82	50	-	3.90
TOTAL RESIDENTIAL	-	217.78	510	-	2.34
HILLSIDE CABINS	-	11.33	-	(50)	4.42
TRACT 8 (COMMERCIAL)	-	17.32	-	50	2.89
TRACT 5 (COMMERCIAL)	-	6.00	-	100	16.67
TOTAL COMMERCIAL	-	34.64	-	200	5.77
TRACT 15 (HASTINGS' RANCH)	-	5.00	5	-	1.00
TRACT 1 (OPER. & MAINT.)	-	5.12	24	-	4.69
TRACT 2 (WELCOME LOT)	-	0.49	-	-	-
TRACT 3 (EQUEST. & ACT.)	-	3.97	-	-	-
TRACT 4 (OLD BARN)	-	0.74	-	-	-
TRACT 6 (HELIPAD)	-	1.20	-	-	-
TRACT 7 (GOLF ACADEMY)	-	1.44	-	-	-
TRACT 16 (WELL LOT)	-	0.92	-	-	-
TOTAL MISCELLANEOUS	-	18.88	29	-	1.54
OPEN AREAS (A-D)	-	3.25	(ADMINISTERED BY HOMEOWNERS)		
OPEN SPACE (1-7)	-	426.93	(ADMINISTERED BY GOLF COURSE)		
TOTAL OPEN SPACE	-	430.18	(55.6% OF TOTAL LAND IN PROJECT)		
TOTAL PROJECT	-	774.17	539	200	0.95

An excerpt from the 2002 Teton Springs Master Plan- "Tract 6-Heliopad" is enumerated

3. Noise Impacts:

What is the expected pattern and level of noise disturbance related to this operation?

Planning Staff comments: Excess noise from the helicopter is probably the greatest issue relevant to the impact analysis of this application. If helicopter engines and rotors were not so loud when they are close by or overhead, then this application would likely not have generated as many letters of opposition.

In contrast to the Teton Springs heli-ski situation, helicopter noise and nuisance complaints were filed by dozens of people a few dozen of miles away in Wyoming when a private citizen flew his Bell Jet Ranger to his property south of Wilson, Wyoming about 10 years ago. Those Wyoming complainants noted that their livestock became agitated. The comparative lack of noise complaints filed during the 2010-2011 heli-ski operations suggest that the short flights from Teton Springs south to the National Forest probably did not impact as many rural residents because the noise is propagated over a lightly populated area before entering an uninhabited area less than one mile to the south.

Letters from several residents within Teton Springs, some with property near the Lodge and helipad, stated they were not disturbed by the noise and flights from last year's flights. Other Teton Springs residents reported they are vehemently opposed and do not want to have to suffer from the helicopter noise and intrusion, especially if it was more than one flight out and one trip back per day. It appears some Teton Springs residents were not aware that a heli-pad was part of the initial resort approval approximately 10 years ago. From the public comments received, there is a lack of a clear consensus about the level of impact and disturbance of the helicopter noise, even among those who live relatively close to the helipad and near its flight path. Some find the nearby heli-skiing related landings and its associated noise exciting rather

than disturbing. For others, the sound reminds them of urban airports and busy freeways. Staff would have expected more complaints from last year's operation if the helicopter flights and noise had caused widespread or acute effects.

4. Flight Patterns:

What are the proposed High Mountain Helicopter Skiing flight patterns from the Teton Springs heli-pad and what alternative flight pattern could they legally use?

Planning Staff comments:

The applicant updated their application with a diagram depicting the proposed flight patterns. The flight path heads due south towards the National Forest. Over private property, their path does not fly over any dwellings outside of the Teton Springs PUD. Within the PUD, the flights would pass over an area known as "The Cabins" to the south of the Lodge. Clearly, flights to the north, northeast, or northwest would impact many more dwellings and properties within and beyond Teton Springs.



Helicopter take-off is towards the south where National Forest begins less than 1 mile away

5. **Alternative heli-pad site.** High Mountain Helicopter stated that their alternative to flying from Teton Springs is to fly from the Driggs-Reed Memorial Airport, about eight miles to the north. Given this legal alternative, the denial of the Teton Springs heli-ski application will likely displace the operations to the airport rather than shutting down heli-ski operations from Teton Valley. Since much of Teton County's population lives between the Driggs airport and the National Forest lands at the south end of the valley, the number of residents exposed to aircraft

noise if this route is used would be greater than if the helicopter flew from southern locations adjacent to the National Forest. The County has no jurisdiction to restrict flights originating from the airport. There is no Conditional Use Permit required by the County or the City of Driggs to fly a helicopter out of the airport. Depending on the flight pattern and Above Ground Level (AGL) elevation, a helicopter flight is likely to be noticed by more people and farm animals if flown from the airport. While there is an existing level of aircraft noise around the Driggs Airport, it is unlikely that the many neighbors to the airport would be indifferent to the addition of more aircraft flights, especially helicopter flights.

6. **Number of flights per day:**

Planning Staff comments: If one helicopter take-off and one landing count as two trips, then there could be as many as fourteen one-way trips during the daylight hours beginning December 25, through the end of March. The helicopter cannot fly everyday due to weather and the number of skier use-days is also restricted by the USFS permit to 872. HMH may also fly from the Jackson Hole side, so not all skier/ days would originate from Teton Springs. The applicant proposed a maximum of 50 days of flying from Teton Springs. Fourteen flights per day is a significant number of daily flights; nevertheless the Planning Department received complaints from only one person during the 2010-2011 season in which HMH actually operated from Teton Springs. That complaint was made to the Planning & Zoning Administrator and seemed to have emphasized the fact that *commercial operations* were not approved in the Teton Springs PUD. The 2010-2011 ski-season may have had fewer flights than average because of particularly bad flying conditions and weather. The Sheriff's Department did not forward any helicopter noise complaints, if it received any, during that period to the Planning Department.

7. **Impact Mitigation:**

What mitigation measures are feasible to reduce helicopter noise both within Teton Springs and to nearby areas in the south valley?

Planning Staff comments: Restricting the flight pattern from Teton Springs to the south, as depicted, will minimize the number of dwellings that are flown over. The effects of winds or clouds on the flight patterns and direction has not been studied, but some stipulations to expedite the helicopter's climb or place a restriction on how far north it can fly may be warranted. Some restrictions on the AGL elevation may be worth considering once the flights are out of the immediate take-off and landing area. See the related recommended condition of approval about flight paths.

8. **Economic Impacts:**

What economic benefits does the HMH ski operation bring to the Victor area and the Teton Valley?

Planning Staff comments: The applicant's narrative provides information about the economic pluses that trickle down from their operations. Also, positive economic impacts were described in several letters, which are attached to this report. Letters were received from several local business owners who stated that the heli-skiers or High Mountain Helicopter had brought an influx of valued "slow-season" sales to their business. The businesses who claimed a benefit from the heli-skiers include Victor Valley Market, Wildlife Brewing, The Victor Emporium, Teton Thai, Spoons Bistro, an operator of a small steelworks company, short-term-vacation rental property managers, individual condo landlords-lesers, a European ski-tour business, a drift boat dealership, River Rim Ranch, a guide with the Grand Targhee

Powder Cat ski operation (cat skiing when flying not possible), and a massage therapist. In addition to the business owners, several employees stated their jobs were strongly related, if not dependent, upon the Teton Springs base for the heli-skiers and their eating and spending in the valley. These people included the heli-ski guides and some hotel personnel. The employment of these locals who directly benefit from the heli-skiing business has some multiplier effect because these locals might spend their wages on local goods and services.

9. Property Values:

Would a decrease in property values be expected to private homes close to the helicopter-landing zone?

Planning Staff comments: While there is a case to be made that the heli-ski flights might lower property values to homes very close by, there is a counterargument that heli-skiing will bring notoriety to Teton Springs and make some properties more valuable, at least for rental. There does not seem to be a clear-cut answer the property value question. The main negative economic impact that the planning staff could discover was the potential devaluation of a property's value because of its proximity to the helipad and its associated noise. While it is true that homes near airport runways generally have less value than similar homes outside of the noise and flight path, it is not clear that the same applies for a seasonal heli-ski operation and helipad. The runway-property argument may not be comparing "apples to apples". Heli-skiing is limited to winter time and not year round, and the flying characteristics of fixed-wing aircraft is different from helicopters, which can gain elevation almost vertically and they are not limited to strict runway approaches like fixed wing aircraft are. Certainly there may be some real estate buyers who will choose to not buy a property next to a heli-pad, or may make a lower sales offer. This could harm the value of some existing homes in Teton Springs. Some letters allude to the monetary devaluation of their property from the noise. Other Teton Springs property owners feel quite differently and state that their currently distressed rental properties might be rented to heli-skiers. Yet another group of property owners indicate that having one of the six heli-ski operations in the lower 48 states located in Teton Springs will increase the resort's status and national visibility and, therefore, add value and help real estate sales or rentals. Heli-skiing in the lower 48 states is associated with high-end destination resorts such as Telluride, Snowbird, Sun Valley, and Jackson Hole. It is debatable whether the resort community neighborhoods with helicopter skiing flights have had similar financial impacts like houses at the end of runways in these same regions. It is not clear from the letters received that a decrease in property values is an inevitable consequence of heli-skiing operations. Teton Springs is only about one third built-out; it is not clear how more residents will feel about helicopter traffic.

There is a stronger argument for economic harm to nearby properties if this commercial operation has many flights per day all week long versus a couple flights per day, only 2-3 days per week between late December and the end of March. For example if this application sought scenic helicopter flights all year long, flying north toward the Grand Teton or Big Hole Mountains, then Teton Springs and its residents would be much more negatively impacted. Areas in Hawaii, near the canyon lands of Sedona and Grand Canyon, or around Glacier National Parks are heavily impacted by helicopter noise and flights. Likewise, some Teton Springs residents have mentioned urban area like Los Angeles where helicopters regularly fly over residences.

10. Safety Concerns

Are the homes in Teton Springs at a significant risk of having a helicopter crash onto them?

Planning Staff comments: There is an increased chance that the HMM helicopter might crash in Teton Springs, as there is an increased chance that it might crash into homes, a school or hospital if it flies out of the Driggs-Reed Memorial Airport. HMM has not had crashes like this in its history of operations. For many years the helicopter flew out of the Jackson Hole Ski Area, which is also a densely populated resort area. Helicopters fly in very dense urban areas, land on hospital building roofs and fly in mountainous conditions on a regular basis; but this does not eliminate the possibility that a crash could happen in Teton Springs. A few residents in Teton Springs brought this safety concern up while other residents did not write about having a concern of the helicopter crashing.

INTER-AGENCY AND DEPARTMENTAL REVIEW COMMENTS

Teton County Engineer:

The County Engineer Jay Mazalewski wanted additional information on the following: 1) fuel storage and fueling details, 2) the emergency procedures for spill containment of fuel, 3) what FAA authorizations, if any, are required, 4) that there is adequate parking onsite to accommodate the use. See the attached letter from Mr. Mazalewski in response to these issues

City of Victor:

A comment letter–email was received and is attached to this report. The email stated:

“The Teton Springs helicopter skiing operations (Heli-Ski) poses no known adverse impacts to the City of Victor. In fact, the city supports the operation as an attractive recreational choice for winter visitors. Our support assumes that the Teton Springs Homeowners Association residents likewise support the activity”.

Idaho Fish & Game Department:

The IDFG did respond that they intended to provide an agency response later, saying *“Thanks for speaking with me today concerning a Conditional Use Permit application submitted by Teton Springs Lodge for a Heli-ski landing pad. As noted in your August 19, 2011 letter sent to Mr. Steve Schmidt we are notifying you that we intend to provide written comments within the 45-day review period. We were unable to adequately review the proposed activity and provide written comments prior to August 31, 2011.”*

On December 7th, the following email was received from IDFG:

Just wanted to touch base. Given other higher priority issues I could not find time to provide comments concerning this issue.

Given the proximity of the proposed heliskiing landing pad to a bald eagles nest we recommend that the County and/or applicant consult directly with the US Fish and Wildlife Service to determine any regulatory consequences of this action to the Federal Bald and Golden Eagle Protection Act.

Good luck on this issue.

Tom P. Bassista

Environmental Staff Biologist

On December 7th, Planning Staff spoke with USFWS personnel and were directed to a biologist. We left voice messages and sent two emails to the biologist with the US Fish & Wildlife Service Field Office in Rigby. Staff had previously sent an email on November 9th to IDFG and mentioned the

possible presence of an eagle nest to the southwest of the flight path. No calls have been returned from USFWS at the time of this report.

US Forest Service- Teton Basin Ranger District:

A comment letter–email from District Ranger Jay Pence was received and is attached to this report.

Teton County Emergency Management:

Greg Adams was contacted about this application on September 2nd. He did not voice any concerns in regard to this application and the County EMS operations.

Driggs –Reed Memorial Airport Board:

A response email was sent from Driggs Airport Board on August 29th; they did not object to the flights taking off from Teton Springs.

Teton Fire Protection District: A comment letter is attached. It states “*I have reviewed the CUP for Teton Springs Heli-Ski program utilizing the approved Heli-pad site. The Fire District grants agency approval for this CUP.*” It was signed by Bret Campbell.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE: Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512, and Title 8, Section 8-6-1 of the Teton County Zoning Ordinance. The public hearing for the Planning & Zoning Commission was duly noticed in the Teton Valley News first for a conditional use permit and then for a PUD Amendment. 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. Almost all property owners within Teton Springs were mailed a notification to their tax-related address. To date, several letters were “returned to sender”. The Lot 8C property was posted in accordance with Idaho Code 67-6511 and 67-6509.

COMMENTS FROM NOTIFIED PROPERTY OWNERS & PUBLIC AT LARGE

A letter from VARD was received and is attached to this report. Numerous letters were received and rather than summarize the many thoughtful points, staff suggests that all letters be read because this PUD application has not been vetted by the Teton Springs Home Owners Association (HOA). The opinions of Teton Springs residents in the nearby vicinity are the most relevant for consideration of this project. While the issues that residents of a mile or more away from the flight path have are a consideration here, it is particularly important to consider the opinions of those Teton Springs property owners who will be directly impacted at a close range.

CONSISTENCY WITH THE APPLICABLE GOALS & OBJECTIVES OF THE TETON COUNTY COMPREHENSIVE PLAN 2004-2010

The 2004 Comprehensive Plan proposed a vision and policies for the Valley, some of which are listed below. The Commission should examine these statements and consider how the Teton Springs heli-ski expansion relates to the policies and goals.

Chapter 2 Purpose of the Plan

- *To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.*

- *To ensure that adequate public facilities and services are provided to the people at reasonable cost.*
- *To ensure that the economy of the state and localities is protected.*
- *To ensure that the important environmental features of the state and localities are protected.*
- *To encourage the protection of prime agricultural, forestry, and mining lands for production of food, fiber, and minerals.*
- *To encourage urban and urban-type development within incorporated cities.*
- *To avoid undue concentration of population and overcrowding of land.*
- *To ensure that the development on land is commensurate with the physical characteristics of the land*
- *To protect life and property in areas subject to natural hazards and disasters.*
- *To protect fish, wildlife, and recreation resources*
- *To avoid undue water and air pollution*
- *To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.*

Planning Staff Analysis: The introductory chapter's Purpose statement contains somewhat nebulous statements that can be interpreted and emphasized differently and are sometimes at odds with other policy statements. Basically, it is not clear whether the environment or the local economy should be emphasized more from the statements in this Chapter.

Chapter 5 Property Rights

Policy 1: *The Teton County Comprehensive Plan acknowledges private property rights are protected under the 5th and 14th amendments of the United States Constitution and sections 13 & 14 of article 1 of the Constitution of the State of Idaho.*

Policy 2: *The Teton County Comprehensive Plan acknowledges the right and responsibility of Teton County to reasonably regulate land use.*

Policy 3: *The land use ordinances and actions of Teton County, including the policies, restrictions, conditions and fees, shall not violate private property rights, shall minimize adverse impact on property values and minimize technical limitation on the use of property consistent with state and federal constitution and statutory law. Implementation is implicit in and mandated by state and federal law.*

Planning Staff Analysis: The minimization of adverse impacts on property values is a common goal of many comprehensive plans. The adverse impacts to a few nearby property owners is significant, but nevertheless some of these owners did not state opposition perhaps because they believe there are offsetting benefits to the resort and economically to all of South Teton Valley. So the meeting or failing to meet this Comp Plan goal is not clear. It is not clear that property values in Teton Springs will be further diminished if the heli-skiing flights are allowed. This helipad situation is not completely analogous to an urban airport runway situation. On the one hand, heli-skiing brings in wealthier tourists who are attracted to the activity and on the other hand some people may not get as high a value out of their home if it is near the landing zone. Residents of Teton Springs gave mixed reactions to the heli-skiing operation. At least two residents found year-round flights unacceptable, but were in support of the present application of wintertime only skiing use.

Chapter 7 School Facilities & Transportation:

Planning Staff Analysis: Staff did not find any goals in this chapter relevant to this application.

Chapter 8 Economic Development

Policy 2: *Grand Targhee is recognized to be of great economic importance to the economy. The county planning should complement and maximize economic opportunities for commercial support of this facility. County Planning should consider the impact on values important to tourism.*

Policy 3: *One of the county's prime economic values is the attraction of a rural, small town lifestyle, magnificent views, clean air and water, and abundances of outdoor recreational opportunities. Development and land use proposals that support and balance these values with desirable growth should be encouraged.*

Policy 4: *Employment opportunities are vital to a sound local economy. Support proposals that provide a variety of jobs for existing and future work forces without sacrificing quality of life.*

Policy 5: *To predict infrastructure costs, it is imperative that the County adopts a capital improvements plan as defined in the Idaho Code.*

Planning Staff Analysis: Policy 2 refers to Grand Targhee which would benefit because the heli-skiers sometimes use the cat-skiing operation for powder-skiing when the helicopter is grounded. Policy 3 emphasizes outdoor recreational opportunities and many business owners suggested that this operation would benefit their business. Several letters suggested that their jobs are related to or depend upon the heli-ski operation. Policy 4 about employment opportunities suggests that proposals that create a variety of jobs are to be supported if the quality of life is not unacceptably sacrificed.

Chapter 9 Land Use:

Policy 7: *Foster the economic viability of the cities by encouraging development of most types of commercial enterprises in or near the cities or their impact areas. However, a limited amount of commercial development is appropriate and necessary within the county because it is not suited for cities or their impact areas.*

Planning Staff Analysis: Policy 7 suggests that the Teton Springs location may be somewhat acceptable from an economic and locational point of view because there are nearby restaurants and stores that are close enough that the heli-skiing guests would travel to nearby Victor. Teton Springs is within the Area of City Impact for the City of Victor, and the City's letter alluded to the possibility of increased business activity. Several Victor businesses support the application stating that the heli-skiers have brought them some much needed off-season business.

Chapter 10 Natural Resources:

Policy 4: *Conserve and protect esthetic values including scenic open spaces, quiet neighborhoods, dark night skies, clean air, safe communities, and accessible public lands.*

Planning Staff Analysis: Policy 4 mentions quiet neighborhoods and an increase in helicopter traffic would affect this. Teton Springs is an unusual neighborhood in that it is zoned as a planned resort and a lot for a helicopter-landing pad has been part of the master plan for over a decade. Some responses from neighborhood residents were opposed and some in support of the heli-ski use. Given the mixed reactions, it is not universally accepted that this neighborhood regards the helicopter noise as unacceptable or acceptable.

Chapter 11 Hazardous Areas:

Planning Staff Analysis: Staff did not find the three policy goals in this chapter to be relevant to the Teton Springs application.

Chapter 12 Public Services & Utilities:

Planning Staff Analysis: Staff did not find the six policy goals in this chapter to be relevant to the Teton Springs application.

CONSIDERATIONS FOR THE APPROVAL OF A PUD –MASTER PLAN AND DEVELOPMENT AGREEMENT CHANGE PER SECTION 9-7-1-B

The Subdivision Ordinance was amended in August 2011 to clarify the types of applications and process-considerations for amending a PUD and the related approval documents. The code states the following:

- b. **Substantial Changes – Increase Scale, Impact**
 - i. The master plan and plat for a subdivision or Planned Unit Development, including the proposed changes, shall comply with all applicable criteria and standards of the current county regulations.
 - ii. Any proposed changes to a recorded plat or master plan that increase direct or indirect impacts may require additional mitigation pursuant to the criteria and standards of county regulations.
-

While this application was found to technically be an amendment to the specific language in the Teton Springs PUD Master Plan, it nevertheless is the type of application that would be considered a conditional use permit in other zones in the County. Given this, it is appropriate to at least consider the legal findings that must be made if a Conditional Use is being recommended for approval. If this type of application were being recommended for denial, the Commission would likewise specify the reasons for the denial based on the items listed below.

1. Location is compatible to other uses in the general neighborhood.

The application materials, flight plan map, narrative, and responses of landowners and the public, and this staff report provide considerations about compatibility for making determinations about this proposal. There is a mixed response from landowners in Teton Springs. The reactions are somewhat polarized but the people living in the neighborhood closest to the helipad should be given extra consideration. At the writing of this report, there was almost the same number of property owners in favor of the PUD amendment as the number who opposed it. The president of the HOA supported the application. Staff believes this is the most debate-worthy criterion for approving or denying this application.

2. Use will not place undue burden on existing public services and facilities in the vicinity. The expansion of the helipad uses on Lot 8C to allow a commercial heli-ski operation does not place discernable burdens on the public facilities or services if appropriate emergency plans are put in place by HMH. Staff believes this criterion has been met.

3. Site is large enough to accommodate the proposed use and other features of this ordinance. Websites about helicopter landing zones usually specify an area of about 100 feet by 100 feet (10,000 square feet) to be sufficient for a landing pad. Lot 8C is .26 of an acre or about 11325

square feet and there are adjacent golf course surfaces nearby as a buffer. Staff believes this standard has been met.

4. *Proposed use is in compliance with and supports the goals, policies and objectives of the Comprehensive Plan.*

This staff report and the application narrative discussed the goals enumerated in the comprehensive plan. While the goals are not always specific enough to address each development project, generally the 2004 Comp Plan supported economic development and the benefits of small businesses that bring in jobs or augment the existing businesses. Given the limited scope of employment in the area, the development of recreational opportunities for tourist is encouraged. From the public responses the County received, jobs may be lost or less work available if the HMH heli-pad is not based at Teton Springs.

Other parts of the Comp Plan emphasize that quiet neighborhoods should not be subject to highly disruptive commercial intrusions. The economic benefits to many local businesses and workers must be weighed against the negative impacts to the quality of the life in closest proximity to the landing area.

PLANNING & ZONING COMMISSION'S RECOMMENDED CONDITIONS OF APPROVAL

Notations in italic indicate that the condition was either amended or accepted as written by the Planning Staff.

1. Unless specifically provided otherwise herein or by law, each condition of these Conditions of Approval shall be restated in an Amended Development Agreement and completed to the satisfaction of the County. Failure to comply with this provision may be used as grounds for revocation of this permit. *(as written by staff)*
2. The approval to amend the Teton Springs Master Plan shall be effectuated within a period of twelve months from the approval date and if not effectuated shall expire on December 31, 2012. Prior to said expiration date, the applicant may apply for an extension of time, provided that the approval shall be extended for no more than ninety days. *(As written by staff.)*
3. This project is approved as shown in the Application materials dated August 5 and September 16, 2011 and as supplemented with the flight path aerial pictures and description, the Sean Moulton email of September 30 specifying flight restrictions, and as conditioned or modified below. This PUD Amendment authorizes Teton Springs Golf & Casting Club to allow High Mountain Heli-Skiing to utilize Lot 8C, and Lot 8C only, during the ski season which is here delineated as December 25th to no later than April 1st. No other expansion of uses are authorized or permitted by the permit. Specifically, no scenic flights are authorized; only High Mountain Heli Skiing flights are authorized for the purpose of delivering skiers to and from the USFS special use permit area. Skiers may be transported from Wyoming to Teton Springs on the day of their paid heli-ski activity. Flights for refueling, mechanical problems, or medical emergencies are also counted as part of the High Mountain Skiing commercial helicopter flights coming to or departing the Teton Springs heliopad. *(modified by P & Z)*

4. As a condition of approval, the Owner or an agent of Owner acceptable to the County shall defend, indemnify, and hold harmless the County and its agents, officers, and employees from any claim, action, or proceeding, against the County or its agents, officers, and employees; including all costs, attorneys' fees, expenses, and liabilities incurred in the defense of such claim, action, or proceeding to attack, set aside, void or annul an approval by the County, the Planning and Building Department, or other County advisory agency, appeal board, or legislative body concerning the PUD amendment. County shall promptly notify owner of any such claim, action, or proceeding and shall cooperate fully in the defense of said claim, action, or proceeding. *(As written by staff).*
5. Owner(s), Owner's agent(s) or Applicant shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including the requirements of Title 8 of the Teton County Zoning Ordinance, as amended August 11, 2011 and subsequent amendments. ***Prior to scheduling the BOCC review hearing, the applicant shall submit a letter from the authorized representatives of the Teton Springs Homeowners Associations prior to the planning administrator's evaluation. The County Attorney will further refine the requirements of those letters.*** *(Last bold sentence added by P & Z- County Attorney acknowledged the court judgment regarding ownership of lot 8C)*
6. After May 1, 2012 and following the Planning Administrator's general review of an acceptable 2011-2012 heli-ski season, the Teton Springs PUD Master Plan Development Agreement ***may*** be amended to include the commercial use of wintertime heli-skiing operations. The Development Agreement shall state that the authorization expires in 5 years, however it may be renewed. The Development Agreement shall also state that the operation may be revoked if conditions of approval are found to be violated. *("may" changed from shall. P & Z minutes seem to reflect no changes or omission of this condition- possibly because conditions 6 and 7 start with the same few words)*
7. A fuel spill containment plan and fuel storage plan shall be submitted to and approved by the County Engineer prior to the Board of County Commission public hearing being scheduled for this application. Any standards required by Idaho DEQ shall be adhered to. *(As written by staff.)*
8. Teton Springs shall provide evidence to the County Engineer that there is sufficient parking to accommodate the new use at the Teton Lodge facility. *(As written by staff.)*
9. High Mountain Helicopter shall provide evidence to the County Engineer that its operation from Teton Springs is acceptable to, or not regulated by, the Federal Aviation Administration. *(As written by staff.)*
10. The Teton Springs heli-skiing helipad authorization specified in the Teton Springs amended Development Agreement shall expire five years after the approval and may be renewed.

Future conditions in Teton Springs, such as an increase in the number of lots built upon, may change the circumstances of this authorization. The review and renewal of this operation shall take place at a public meeting before the Board of County Commissioners between April 2016 and November 2016. *(Unchanged and as written by staff, but was not correctly attributed as condition # 11 within the Planning & Zoning meeting minutes)*

11. In order to minimize adverse noise impacts to valley citizens, the commercial flight path of the departing and incoming helicopter flights shall be from the National Forest lands directly south of Teton Springs. Commercial flights north of Teton Springs PUD are not authorized and flights north of Teton Springs may be made only for extenuating atmospheric or emergency reasons. Flights from Teton Springs to pick up skiers to the north of Teton Springs and / or the Driggs Airport are prohibited. *(As modified by P & Z.)*
12. No more than 14 one-way flights are allowed in a single day with a maximum of 40 days of flying per season. Hours of operation shall be restricted to 9:00 AM to 10:30 AM and from 2:30 PM to 4:30 PM with one refueling flight in between 10:30 PM and 2:30 PM and emergency flights as needed. *(as modified by P & Z- see HMM owner Jon Schick's supplemental letter dated December 7th about the difficulty of flying a helicopter on a schedule like this because of weather-related variables)*
13. Transfer of record ownership of Lot 8C must occur prior to the 2011 BOCC hearing. *(this ownership transfer did take place- see District 7 judgment)*
14. The vendor shall ensure that a flight log is kept and turned into the Planning Department on a monthly basis, and that reasons for deviation from the time restrictions are noted in the logs. *(condition was formulated by P & Z Commissioners)*
15. Loading and unloading of gear and clients onto the helicopter shall occur only on the helipad on lot 8C. *(condition was formulated by P & Z Commissioners)*

BOARD OF COUNTY COMMISSION ACTION:

- A. Approve the Amendment to the Teton Springs Master Plan and Development Agreement, with the recommended conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve application with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. Deny the application request and provide the reasons and justifications for the denial.
- D. Continue to a future Public Hearing with reasons given as to the continuation or need for additional information.

The following motion could state a finding of fact and conclusion of law if a Board member wanted to accept the Planning & Zoning Commission's recommendation:

Having concluded that all the Criteria for Approval of a Conditional Use found in Title 8-6-1-B (7) and can be satisfied with the inclusion of the recommended conditions of approval,

- *and having found that the considerations for amending the Teton Springs PUD Master Plan and Development Agreement can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission and to this Board,*
- *and having found that the proposal is generally consistent with the goals and policies of the 2004 Teton County Comprehensive Plan,*
- *I recommend APPROVAL of the Teton Springs Heli-pad for winter time use by High Mountain Helicopter as described in the application materials submitted August 5, 2011 and as supplemented with additional applicant information attached to this staff report.*

Attachments:

- PUD Amendment Application with narrative
 - Jon Schick letter of Flight Paths submitted 8/31/11
 - Jon Schick email of 12/07/11 about flight time constraints
 - Seventh Judicial District Court judgment about quiet title to Teton Springs Golf & Casting
 - SPCC Plan about fuel spill containment
 - Teton Springs Winter 2011 Parking Plan
 - Response letter from County Engineer Mazalewski dated 12/07/11
 - Letters of Agency review:
 - Teton County Fire Protection District
 - City of Victor- Planning Administrator Bill Knight
 - USFS – Jay Pence – Teton Basin District Ranger email
 - Driggs Airport Board- Lou Christensen emails
 - Numerous letters from adjoining landowners, business owners, employees, and the public
- (All public letters were posted on the Teton County Idaho Website at this link:
http://www.tetoncountyidaho.gov/pdf/additionalInfo/Teton_Springs_CUP_public_comments.pdf)

End of reportWritten by Planner Curt Moore