



STAFF REPORT

PROPOSED AMENDMENT TO COUNTY ZONING MAP AND VICTOR AREA OF IMPACT MAP:

Prepared July 23 for the August 11, 2014
Teton County Board of County Commissioners Public Hearing

PROPERTY

OWNERS: Canyon Springs LLC, Arnold Woolstenhulme, Victory Ranches LLC, and Ryan Kearsley

APPLICANT: Teton County Planning Department

REQUESTS: The City of Victor has de-annexed six parcels from the City Boundary. The Teton County Planning Commission has recommended approval of adding these parcels to the Victor Area of Impact and re-zone them A-20 and A-2.5 in the Teton County Zoning map.

This proposal would amend the Victor Area of Impact Map, referenced as Exhibit A in the Area of Impact Agreement (Teton County Title 7), and amend the Zoning Map referenced in the Teton County Zoning Ordinance 8-3-1.

CODES: Teton County Zoning Ordinance Section 8-3-1: Zoning Maps, Teton County Area of Impact Agreements Title 7-3-2: Boundary Definitions, and Idaho State Statute: 67-6526: Areas of City Impact- Negotiation Procedure, and 67-6511: Zoning Ordinance

LEGAL DESCRIPTION:

TRACT #1: (Victory Ranch West) S1/2NE1/4, SE1/4NW1/4, NE1/4SE1/4; that part of the NW1/4SE1/4 East of Trail Creek, being further described as:

Commencing at the S ¼ corner of Section 3, N 89°40'18"W, 2609.47 feet along the south line of said Section 3 to a point; thence N 00°01'44"E, 1319.10 feet to a point; thence N 89°16'37"W, 49.67 feet to the south 1/16th corner common to Section 3 and 4; thence N 89°42'10", 1320.19 feet along the south line of then ½ of the SE ¼ of Section 4 to a point; thence N 00°36'43"W, 76.16 feet to a point on the east bank of Trail Creek; thence N 68°20'00"W, 569.75 feet along the east bank of Trail Creek to a point; thence S 50°00'00"W, 25.00 feet along the east bank of Trail Creek to a point; thence N 30°00'00"W, 315.00 feet along the east bank of Trail Creek to a point; thence N 33°00'00"W, 324.00 feet along the east bank of Trail Creek to a point; thence N 13°00'00"W, 150.00 feet along the east bank of Trail Creek to a point; thence N 53°00'00"W, 230.00 feet along the east bank of Trail Creek to a point; thence N 46°40'00"W, 204.00 feet along the east bank of Trail Creek to a point; thence N 09°00'00"W, 87.00 feet along the east bank of Trail Creek to a point; thence N 89°42'53"W, 69.51 feet along the south line of the S ½ of NE ¼ to the C ¼ corner of Section 4; thence N 89°43'02"W, 1326.94 to the southwest corner of the SE ¼ NW 1/4 ; thence N 00°26'35"W, 1313.85 feet to the northwest corner of the SE ¼ NW 1/4; thence S 89°34'12"E, 1325.04 feet to the northeast corner of the SE ¼ NW 1/4 ; thence S 89°33'19"E, 2641.26 feet to the northeast corner of the SE ¼ SE1/4; thence S 00°19'37", 1303.06 feet to the E ¼ corner of said Section 4; thence S 89°40'12"E, 2649.19 feet to the C ¼ corner of said Section 3; thence S 00°32'56"E, 2639.09 feet to the SW ¼ of Section 3, thus being the point of beginning;

all in Section 4, Township 3 North, Range 45 E.B.M., Teton County, Idaho.
(RPB3N45E040599)

TRACT #2: (Victory Ranch East) SW1/4, Section 3, Township 3 North, Range 45 E.B.M.,
Teton County, Idaho. (RPB3N45E034801 & RP03N45E033386)

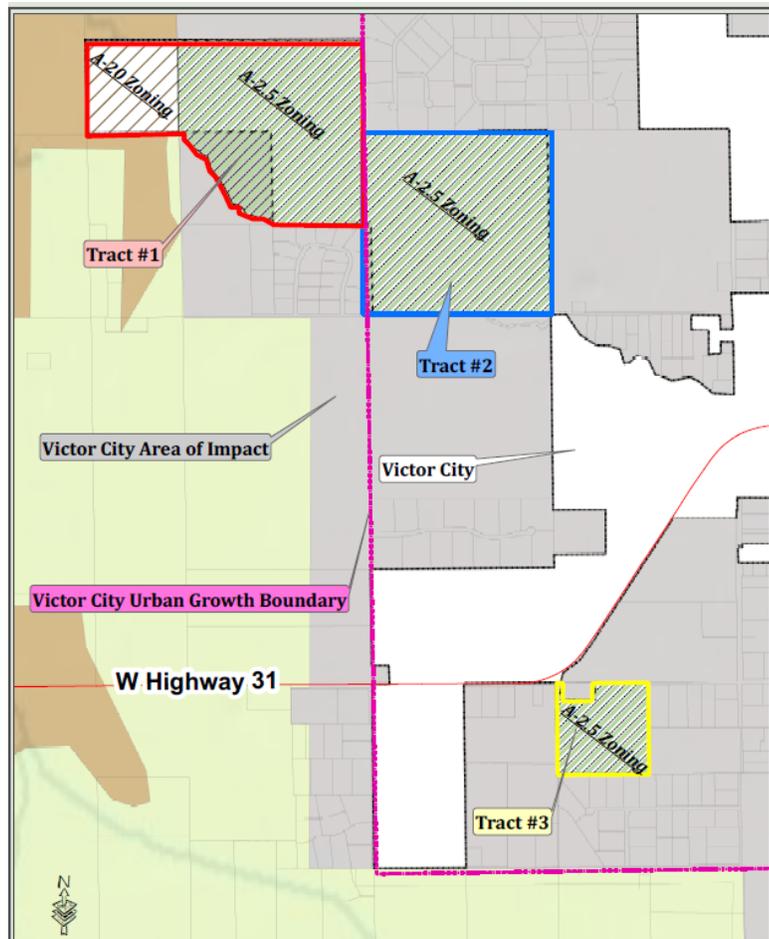
TRACT #3: NW1/4NE1/4 LESS #3952 & #3963 SEC 15, Township 3 North, Range 45 E.B.M.,
Teton County, Idaho. (RPB3N45E150602 & RP03N45E152420)

LOCATION: Southwest Victor: At the intersection of HWY 31 and 9000 South.
Northwest Victor: North of 8000 South and north west of Brookside Hollow
subdivision.
The proposed parcels have been removed from the Victor City Boundary and it is
proposed to add them to the Area of Impact, in County jurisdiction.

PROPERTY SIZE:
Tract #1- approximately 183 acres
Tract #2- approximately 160 acres
Tract #3- approximately 37.57 acres

ZONING: The area is currently zoned Victor Zoning R1 and R2. The amendment proposes to
re-zone the majority of these properties to A-2.5, with the exception of the western
most 40 acres of Tract #1 (zoning it A-20), adding the parcels to the Area of Impact
and add Tract #2 & Tract #3 to the Victor City Urban Growth Boundary.

VICINITY MAP



BACKGROUND INFORMATION

The City of Victor de-annexed three tracts in the City Boundary. These three tracts are, at present, zoned R1 & R2 City of Victor Zoning. The Tract #1 & #2 were originally annexed into the City in 2007. I was unable to determine when Tract #3 was annexed. No development ever happened on these parcels. To reduce potential maintenance costs if these parcels were ever to be developed, and “clean up” the Victor City boundary and provide a more orderly pattern of growth, Victor has de-annexed these properties.

Once removed from the jurisdiction of the City, these parcels became part of the County jurisdiction. It is logical to add them to the Area of Impact. To be consistent with surrounding areas, staff recommends assigning A-2.5 zoning to the parcels, except for the western 40 acres of Tract #1, which would be zoned A-20. This area would then be adjudicated by the County Comprehensive Plan and County Zoning Ordinances, but is subject to review by the City of Victor for road standards and design standards per the Area of Impact Agreement with Victor.

There are no text amendments to this application. The changes will occur on maps that are referenced by text in two places: the Area of Impact Agreement with Victor (Title 7-3-2), and the Teton County Zoning Map (Title 8-3-1).

STAFF ANALYSIS

CONSISTENCY WITH THE APPLICABLE POLICIES OF 2012-2030 TETON COUNTY COMPREHENSIVE PLAN

1. Tract #1 & #2 The Teton County Comprehensive Plan framework map identifies the areas surrounding the subject properties as “Rural Neighborhood.” Per the 2012-2030 Comprehensive Plan, *“Rural Neighborhoods are located north of Driggs and Victor along Highway 33. These areas currently include a mix of developed residential subdivisions, undeveloped residential lots, and some commercial and light industrial development. There is limited road connectivity within these areas and most vehicle traffic is directed to the highway. Very little pedestrian and bicycle infrastructure is in place. The unincorporated town of Felt is also considered a Rural Neighborhood area. In general, further development and densification of Felt is not supported by its residents; however, the desire for a small public park and decreased speed limits were voiced by many. Desired future character and land uses for the Rural Neighborhoods include:*
 - *A transitional character in between that of Town Neighborhoods and Rural Areas*
 - *Medium density single family neighborhoods with large open spaces and provisions for clustering*
 - *Amenity-based neighborhoods*
 - *Safe and convenient street and pathway connections within these areas and, when practical, to Towns*
 - *Well-defined open space areas that connect to provide corridors*
 - *A clear distinction between residential development and open space/agricultural areas”*
2. Tract #3 The Teton County Comprehensive Plan framework map identifies the areas surrounding the subject properties as “Town Neighborhood.” Per the 2012-2030 Comprehensive Plan, *“Town Neighborhoods are located within the area of impact, immediately adjacent to the cities of Victor, Driggs and Teton. These areas are in close proximity to electric, phone and other dry utilities as well as public water and sewer services; although that does not imply that these services would be available as a public utility. Town Neighborhoods*

currently include a mix of developed and undeveloped property and have easy access via automobile, bicycle or pedestrian access to town services and amenities. The intent of this plan is to encourage growth in existing population centers such as our cities; residential uses near the cities would be more desirable than in the far reaches of the County. In the Areas of Impact, applicable plans and ordinances must be mutually agreed upon by the city and the county and thus will be negotiated further with each city. While the applicable land use plan for the Areas of Impact must be negotiated with each city, the desired future character and land uses for Town Neighborhoods include:

- *Single-family, detached housing in low densities consistent with non-municipal services*
- *Parks, greenways, and neighborhood amenities*
- *Safe and convenient street and pathway connections to towns*
- *Pedestrian amenities and complete streets.”*

3. A-2.5 Rural Residential Zoning. By state statute, all zoning must comply with the Comprehensive Plan. The Plan supports infill development in the Cities and more rural development outside of the cities. The de-annexed properties are far enough outside of the core of Victor (>1 mile from the light in Victor to the near edge of the property), that more dense, R1 development is not appropriate for the area until the city itself gains residents. Per the City of Victor development code (Chapter 9), the minimum lot size in this zone is 16,000 square feet with 10-foot side yard setbacks and 25-foot front and back yard setbacks. These regulations allow for a more urban type of development than what is appropriate in the area at this time. A-2.5 zoning requires larger lots and larger setbacks providing a more rural setting for residential development in the area.

The west 40 acres of Tract #1 was placed in a conservation easement, restricting all development on the property. A-20 zoning would be more appropriate on this parcel.

4. Finances. The County will incur maintenance costs of any roads within the area of impact unless otherwise agreed upon, per the Area of Impact Agreement with Victor. West 8000 South and West 9000 South will fall under County jurisdiction and additional cost of maintenance will be incurred as a result of the de-annexation (see letter from Jay Mazalewski, County Engineer). The question before the Board, however, is the proposed zoning of these parcels, not the de-annexation. When development does occur on the parcels, the impact to the roads will increase causing higher maintenance costs. However, until there is development on the pieces of property, the maintenance costs will be consistent with what they are now.

The proposed amendment is consistent with this goals and policies articulated in the Comprehensive Plan. It is important to note that the question of de-annexation is not up for debate, but rather, what zone to assign the newly-de-annexed land.

CONSISTENCY WITH THE APPLICABLE TETON COUNTY ZONING CODE

Teton County Title 8, the Zoning Ordinance, requires a zoning map that determines the boundaries of all zoning districts (8-3-1). Title 8 also states that, “all land in the county shall be designated within one of the ... base zoning districts” (8-3-5). This amendment will add land within the County’s jurisdiction to a base zone that otherwise is not assigned.

CONSISTENCY WITH THE APPLICABLE STATE OF IDAHO CODE

Idaho 67-6511 Subdivision Ordinance, requires all communities to adopt a zoning map with one or more zones. Standards are to be established that regulate land within each zone. All standards shall be uniform throughout each district. This amendment will apply a zone to an area that is void of zoning after it was removed from the City Boundary.

AGENCY & DEPARTMENTAL TECHNICAL COMMENTS

The City of Victor is in agreement of this proposal and will put the amendment to the Area of Impact Map, Exhibit A, in front of their elected officials after the County hears the application.

Comments from Jay Mazalewski, County Engineer:

Road Maintenance:

- These sections of road are not on the ITD pay map for Teton County, therefore Teton County will not receive maintenance funds for these sections of roads in the 2014 fiscal year. These sections will be added to the pay map during the next revision period.
- The county will need to assume maintenance, including plowing, for these sections of road.
- This will affect the land value of Victor and the County and may change future levy percentages.

Solid Waste:

- The assessor will need to evaluate the affected properties for any changes to the solid waste user fees.

PUBLIC NOTICE:

1. Legal ads were made to the Teton Valley News in accordance with local and state requirements.
2. A development notification was mailed to landowners within 300 feet and to those who own land within subdivisions within 300 feet of the subject property.
3. A development notice was posted onsite in accordance with all code requirements.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC

No additional comments have been received at the time of this reports writing. I have attached comments received for the PZC hearing.

PROPOSED MOTION:

Having found that the proposed zone change is consistent with the Teton County Comprehensive Plan, Teton County Zoning Ordinances and the Victor Area of Impact Agreement, and having found that a public hearing was properly noticed and conducted according to Idaho State Statute, I move to approve the proposed amendment that would:

- 1) assign the A-2.5 zoning district to the newly de-annexed parcels with the exception of the west 40 acres of tract one which would be assigned as A-20;
- 2) include Tracts #2 and #3 in the City of Victor Urban Growth Boundary;
- 3) add all three Tracts into the Victor Area of Impact, by amending the Victor City Area of Impact Agreement Exhibit A; and
- 4) forward these changes to the City of Victor for their approval of the changes of the Victor City Area of Impact Agreement Exhibit A;

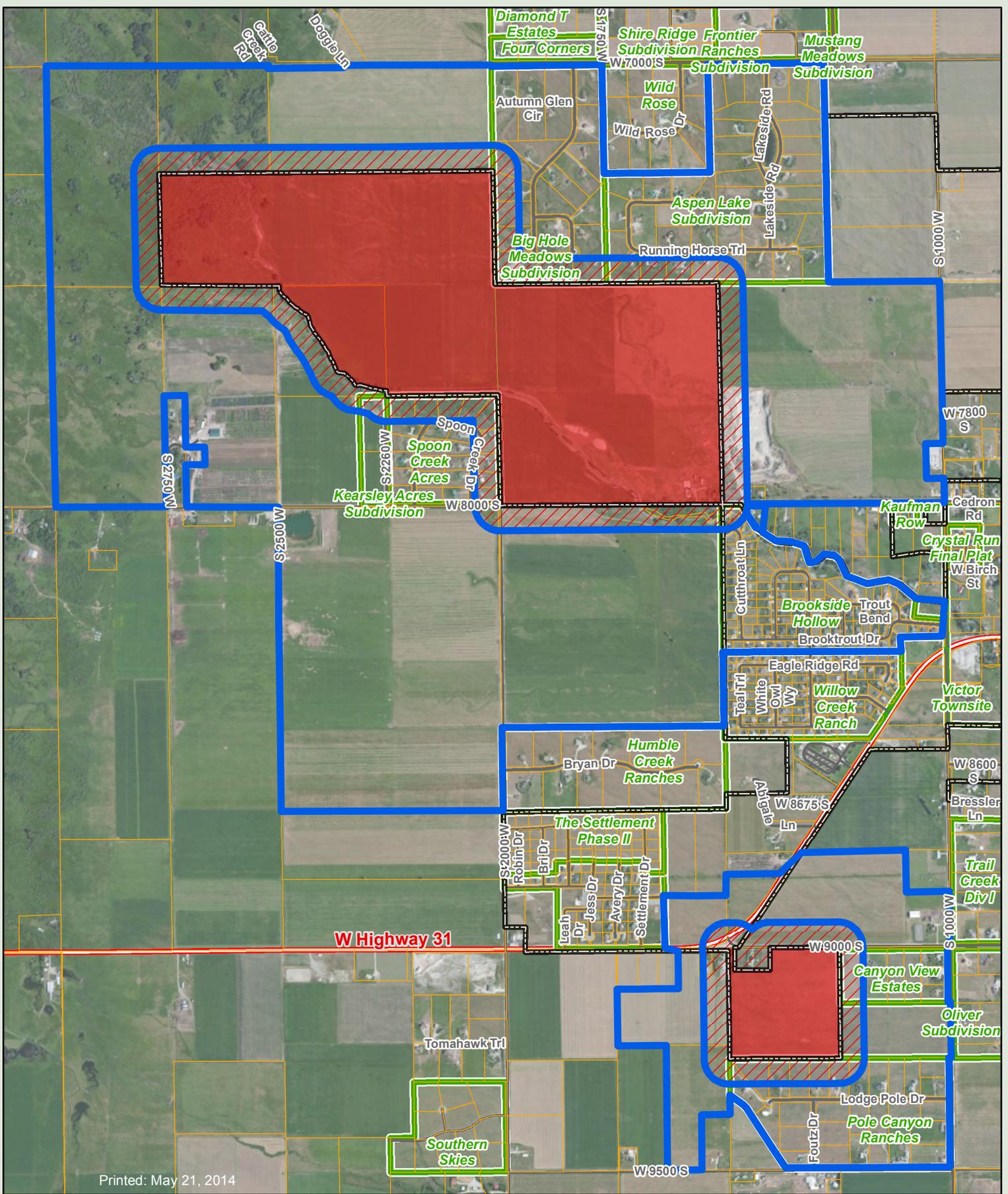
as presented in the application materials [with the following changes].

Prepared by Jason Boal

Attachments:

- Application
 - Map of noticed properties
 - 6/10/14 PZC Draft Minutes
 - PZC Public Comment
 - Portion of conservation easement describing the allowed uses on the western 40 acres of Tract #1

End of Staff Report



Printed: May 21, 2014



- Legend**
- De-annexation Parcels
 - 300 ft buffer
 - Notification Area
 - Victor City Boundary
 - Parcels
 - Subdivisions

**CITY OF VICTOR
2014 DE-ANNEXATION**

Printed July 10, 2014



TETON COUNTY PLANNING AND ZONING COMMISSION
Meeting Minutes from May 13, 2014
County Commissioners Meeting Room, Driggs, ID

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Bruce Arnold, Mr. Ryan Colyer, Mr. Chris Larson, Mr. Cleve Booker, Mr. Pete Moyer, and Mr. David Breckenridge.

COUNTY STAFF PRESENT: Mr. Jason Boal, Planning Administrator

The meeting was called to order at 5:02 PM.

Approval of Minutes:

Motion: Mr. Arnold moved to approve the Minutes from April 8, 2014. Mr. Moyer seconded the motion.

Vote: The motion passed unanimously.

Chairman Business:

There was no Chairman's business.

Administrative Business:

There was no Administrative business.

PUBLIC HEARING: Side yard setback variance for C.J. Pitman Limited Partnership Ltd.: A variance request by Roy Moulton for Mr. Pitman, pursuant to the Teton County Code Section 8-4-4 (Height, Setback and Lot Size). The Teton County Code specifies a side yard setback of 30-feet. The application proposes side yard setbacks of 24-feet and 26-feet.

Mr. Moyer recused himself due to being involved with the applicant.

Mr. Boal explained the applicant owns Lot 1 and Lot 11 of Teton Valley Lodge Sites. He is seeking to move the home that is on Lot 1 to Lot 11. The existing house will not fit within the required side setbacks of 30'. Mr. Boal read the variance requirements for consideration and for approving a variance. He stated the application had complied with the existing ordinances.

Mr. Roy Moulton, representing the applicant, stated that Mr. Pitman wanted to move his house from Lot 1, an interior lot, to Lot 11, which was a river front lot, both of which he owned. He felt there was no net effect as far as homes that comply with the ordinances. He commented the main justification for side yard setbacks had been addressed because the subdivision, when platted, provided for off-lot septic sites and has a community well. He also commented that the encroachment on the side yard setbacks was minimal.

Mr. Breckenridge asked if the applicant had received an OK from the lot the home would technically be too close to. Mr. Moulton stated they had and they also had an OK for the

vehicles to encroach during the moving process. Ms. Robson asked if the sewer system was existing for the new lot. Mr. Moulton commented the new lot would still require septic installation, and that the subdivision was designed with off-site septic lots due to proximity to the river. Mr. Larson asked if the rationale for approving the variance was based on the difference in the previous plat setback requirements versus the new regulations currently in place. Mr. Moulton commented that was the basis for the application.

Public Comment:

There was no public comment.

Commission Deliberation:

Mr. Larson suggested adding wording to the motion that referred to the platted approved setbacks being less restrictive than the current county setbacks as the basis for the variance approval. Mr. Boal commented that would be appropriate, and that was covered in the first bullet point in the motion.

Motion: Mr. Larson moved that after evaluation of State Statute, County Code as well as the application materials, staff report, and presentations to the Planning & Zoning Commission, I concluded that the Criteria for Approval of a Variance found in Title 8-8-1 can be satisfied with the inclusion of the recommended conditions of approval,

- and having found that based on the site and the setbacks approved on the underlying plat were less restrictive than the existing county setbacks, granting the Variance to Mr. Moulton for Mr. Pitman can be justified,
- and having found that the proposal is not a detriment to the public's or neighbor's health, safety and welfare,
- I APPROVE the Variance applied for by Mr. Moulton for a reduced side setback of 24'4" on the north property line and 26' 2" on the south property line, and as described in the application materials submitted March 28, 2014.

Mr. Arnold seconded the motion.

Vote: After a roll call vote, the motion was unanimously approved.

Land Use Code Discussion:

Mr. Boal brought the Commission up to date on the discussions he had with Code Studios since the last meeting. He commented he had developed a Scope of Work and emailed it to Code Studios, and that it was returned with some modifications after some conference call discussions. He stated that Code Studios are going to have the downtown portions of the code to Driggs and Victor by the end of the month. He believed they would be working more in a draft code format rather than a model code format so he felt it was key for the Commission to continue in their process so that there was information ready for Code Studios to work with when they transitioned to working with the County.

Mr. Boal explained the basis involved in defining the proposed zones and the resulting descriptions for the Commission to review. He started with the Foothills Zone (F), identified as a place where services may not be readily available as they are in the cities. He read the description of the mountain zone from the proposed draft.

Mr. Breckenridge commented that he did not agree that houses that were more spread out would cost more for required services. Mr. Boal commented that the closer the houses the lower the cost would be to connect to existing public services, versus having to be installed across large parcels or steep terrain. He wanted the description to reflect the rural nature of developing in the outlying areas of the county that would not have the benefit of a nearby fire station or police station. Mr. Larson suggested defining the essential services so it would be clear what may be available out in the outlying county areas. Mr. Breckenridge was also concerned with the road considerations. Mr. Boal explained that the proposed zones are designed to be an overview of considerations in each area, and more specific criteria would be discussed in the development requirements section. Mr. Booker wanted to add the words “surface water” to the sentence that encouraged protection of wildlife, plant life and ground water because there are so many small creeks flowing through the outlying areas.

Next Mr. Boal read the description of the Agricultural/Rural Neighborhood (ARN) zone. He explained that the intent was to incorporate existing uses in the proposed zones, not eliminate those uses in the proposed zone. Mr. Breckenridge thought it would be difficult to quantify how many farm animals constituted "reasonable numbers". Mr. Larson felt the intent was to allow some agricultural and animal use in the zone given some reasonable checks and balances. Mr. Booker felt that there needs to be some specific numbers established in the appropriate places. Mr. Breckenridge suggested it shouldn't identify a specific number but rather that they were appropriately cared for. Mr. Larson commented some words that were qualifiers could be used appropriately to sets the expectations. Mr. Booker also suggested adding words in this proposed zone and the Foothills zone encouraging community well systems because he was concerned with the impact to the ground water quality. Mr. Boal commented that the he was concerned encouraging community well systems would also be encouraging higher densities

Mr. Boal next discussed the Agricultural/Wetland (AW) zone and read the proposed definition. Mr. Booker suggested adding “jurisdictional” in the first sentence before the word “wetland” so it would be a defined boundary, not a perception determination. The Commission did not have any objection with that addition. Mr. Breckenridge was concerned that the language sounded like if the additional services required for development were going to cost the county, you couldn't develop. He felt it should be written to say that if you put in a development, the development will bear the costs not the county. Mr. Boal felt it was expressed that if someone wants to request residential development, it is up to the developer to provide the services. Mr. Breckenridge was also concerned about the statement “Prevent the necessity of having to pay excessive taxes on grazing lands.” He commented the state determines the taxing of property in Teton county so the words didn't mean a lot. The Commission discussed the taxing of land in the county and concluded the determination was in the hands of the County Assessor and was not something that would be determined by zoning designation descriptions.

The Rural Agricultural (RA) zone was discussed next. Mr. Boal read the definition which he summarized as designed to preserve the agricultural land in the county. Mr. Arnold asked about the bullet points and if those were limited or encouraged uses. Mr. Boal commented they were general encouraged uses. Mr. Larson suggested the term “high physical constraints” should be better defined. Mr. Boal commented he would adjust that to be better defined and felt as written it might be more appropriate in the Foothills zone. Mr. Breckenridge was concerned with the words “preserve rural wildlife habitat”. He did not want to see wildlife encouraged in ag land because wildlife are detrimental to agricultural uses. Mr. Boal commented he would change “rural wildlife habitat” to “natural habitat”. Mr. Breckenridge was more concerned with the word “preserve” and was more in favor of “encourage”. Mr. Larson suggested the word “protect” rather than “preserve”. It would not change the fact that rural agriculture is the primary focus of the land.

Rural Neighborhood (RN) zone was discussed next. Mr. Boal read the proposed definition. Mr. Booker asked about “dwellings served by an approved sewer system”. Mr. Boal pointed out that in that area there are more available utilities to hook up to. Mr. Larson wanted to see the “reasonable number of farm animals” better defined as suggested in the Foothills zone.

The last zone discussed was the Neighborhood Transition (NT) (Area of Impact) zone. Mr. Moyer asked if the cities have a similar definition in their areas of impact regulations. Mr. Boal commented they would be working towards that in the future. Mr. Hensel quoted from the Comp Plan definition that states: “Applicable plans and ordinances must be mutually agreed upon by the cities and the county.” and suggested adding in that language. Mr. Boal agreed that was appropriate.

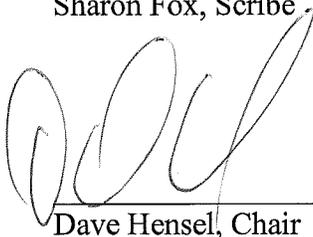
Mr. Hensel asked what the next step would be for the June meeting. Mr. Boal explained he would make some edits to the proposed zoning classifications document and then he suggested focusing on one zone at a time and approval criteria and uses in that specific zone.

Motion: Mr. Anold moved to adjourn the meeting. Mr. Moyer seconded the motion.

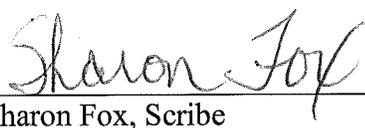
Vote: The motion was unanimously approved.

The meeting adjourned at 6:55 PM.

Respectfully Submitted,
Sharon Fox, Scribe



Dave Hensel, Chair



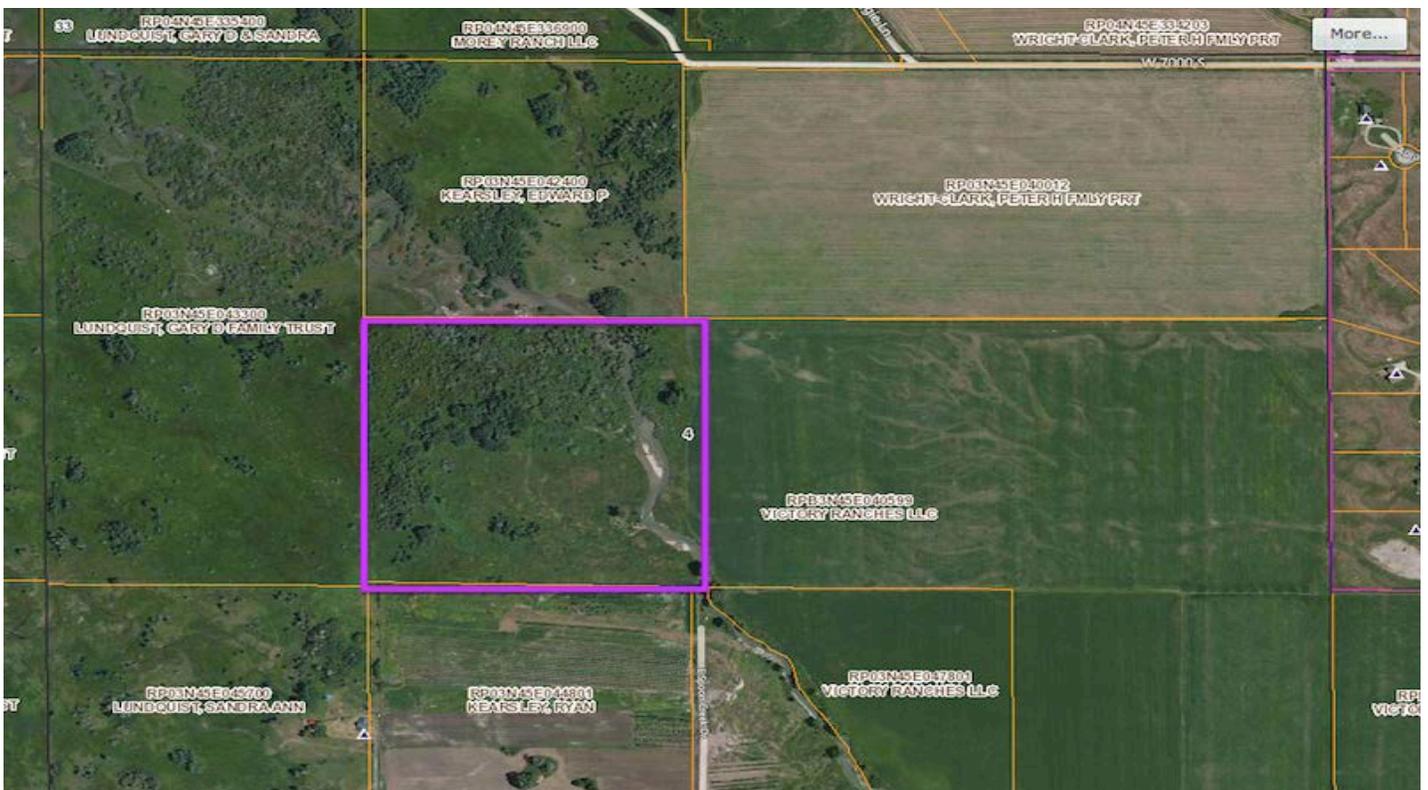
Sharon Fox, Scribe

From: Anna Trentadue
Sent: Tuesday, June 03, 2014 5:29 PM
To: Brittany Skelton; Jason Boal
Cc: Stacey Frisk; Chet Work; Kathy Spitzer
Subject: Comment on the Victory Ranches zoning designation.

Dear Planners:

Now that the documents are available online, I wanted to submit the following comment regarding the re-zoning of the Victory Ranches property that is scheduled to be de-annexed by the City of Victor this month. It is not often that communities get a "do over" like this. We support Victor's efforts to actively re-shape its development patterns by de-annexing these properties in order to focus growth and city services in town. We support this effort to undo expensive and hasty planning decisions of the past, with a new focus on existing infill.

However, I have one suggestion: The western-most 40-acres along the "L" shaped piece of the Victory Ranches property is currently under a conservation easement with the Teton Regional Land Trust. **(Approximate boundary is shown below in purple.)** Attached to this email is TRLT's description of the easement from their website.



(Easement boundary is depicted in purple)

The Teton County staff report recommends zoning the entire property Ag 2.5. This is a vast improvement over the higher-density R1 zoning designated by Victor, which probably should never have been approved all the way up to the easement boundary in the first place. I can vividly recall the R1 zoning hearings for this property in 2007 as being very contentious precisely because of the community's concerns over high density zoning being permitted in this sensitive wetland area with Trail Creek traversing the property. The community also expressed concern for allowing such high density so far away from the core of Victor - over 1.75 miles from the stop light in town.

Since de-annexing the Victory Ranches property is a "curative" step meant to address prior land-use decisions that are presently deemed to conflict with the interests of Victor and the greater community, you now have an opportunity to establish zoning more in keeping with the area. **What about zoning the entire "L" shaped property as an Ag20 buffer to the easement, or at least zoning the 40-acres immediately East of the easement as an Ag20 buffer?**

The aerial photos clearly show water and soils are still draining down-gradient towards the wet end of the property, which is under easement and ultimately connects to the nearby Teton River and appurtenant wetlands. This "L" shaped property is also very remote from Victor (over 1.75 miles away) and in an area almost entirely in agricultural use, which would be more in keeping with the Ag20 designation. Zoning all *or at least the conservation easement and the abutting 40-acres* of the "L" shaped property as Ag-20 will focus growth in town. It will also reflect the natural attributes and land uses in the immediate area.

Thank you for considering this comment.

Cheers!

Anna Trentadue, Program Director and Staff Attorney
Valley Advocates for Responsible Development (VARD)



TETON REGIONAL LAND TRUST
P.O. BOX 247 DRUGGS, ID 83422 (208) 544-8957 www.tetonlandtrust.org

[map](#) [contact](#) [about](#)

Teton Basin - T29

This Conservation Easement property consists of approximately 40-acres of willow riparian communities, aspen stands, cottonwoods, wet meadows and upland grasslands. The property was placed under a conservation easement to ensure the current and future agricultural uses and provide for continued fish and wildlife habitats. Trail Creek passes through the entire length of the eastern portion of the Property. Several different plant communities on the property provide dense cover, forage, nesting and security for a variety of wildlife.

Plant communities found on the Johnson Trail Creek Property include: willow-riparian, aspen, cottonwood, wet meadow and upland grassland.

The Trail Creek itself along with several areas of open water and dense willow vegetation that benefit the following targeted shorebirds: Wilson's Phalarope, willet, killdeer, spotted sandpiper and Wilson's snipe. The property also supports several Idaho Partners in Flight priority breeding species, these include sandhill crane, calliope hummingbird, short-eared owl, cinnamon teal, willow flycatcher, red-naped sapsucker, veery and yellow warbler.

[View Map of Protected Lands in the Vicinity](#)



©Teton Regional Land Trust

3. Permitted Uses and Practices. Grantors reserve to themselves, and to their personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement and will not result in significant injury to or the destruction of a significant conservation value. Without limiting the generality of the foregoing, the following rights are expressly reserved by Grantors:

3.1. To pasture, graze, feed, water, and care for livestock in compliance with the standards and specifications of a grazing plan to be prepared by the United States Department of Agriculture, Natural Resources Conservation Service or other competent authority, for the purpose of improving local range and protecting the natural and wildlife resources of the Property, the terms and conditions of which grazing plan shall, upon completion, be subject to the approval of Grantors, which approval shall not be unreasonably withheld, and upon such approval, shall be attached hereto and by this reference made a part hereof as Exhibit E (Grazing Plan).

3.1.1. To construct or develop on the Property improvements related to normal livestock grazing operations, including corrals, catch pens, and watering facilities, provided that construction and use of such improvements shall be in compliance with the intent of this Conservation Easement.

3.1.2. Commercial game ranching with confined, native wildlife shall not be permitted. Specifically, domestic cervidae farming, as defined in Title 25, IDAPA 02.04.03.365, Idaho Code, is not permitted.

3.2. To construct, maintain, and repair: (1) Fences along the property boundaries; (2) and those additional fences as may be necessary or appropriate within the intent of this Conservation Easement; provided, however, that all fences shall comply with the following requirements, except by prior written permission of the Trust which permission shall not be unreasonably denied:

3.2.1. Where a fence must cross a major animal migration route, it shall be designed to minimize obstruction of migration routes.

3.3. To construct or develop on the Property wildlife habitat improvements, provided that any such construction or development shall be in compliance with the intent of this Conservation Easement, which is to conserve the diversity of wildlife species native to the Upper Snake River Watershed and found on the Property.

3.3.1. Grantors agree to develop a general plan for enhancement of wildlife habitats in consultation with Idaho Department of Fish and Game or other recognized wildlife experts and Grantee. Once Grantors and Grantee agree to the terms of this Enhancement Plan, actions taken to implement this plan will not then require subsequent consultation with wildlife agencies or Grantee except where required by law.

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3.4. To reintroduce, plant, and maintain native plant and wildlife species, meaning those species whose natural distributions include the Upper Snake River Watershed, which have been reduced or extirpated from their former range or exist below normal densities, and whose reintroduction is intended to protect, preserve and enhance the natural, aesthetic, scenic, and wildlife habitat values of the Property.

3.5. To conduct studies on resident wildlife species, including those which involve capturing and marking of individual animals, provided that all such studies are to be conducted by competent wildlife researchers with all necessary permits as required by law to conduct such studies.

3.6. To remove trees, bushes, grasses and other vegetation from the Property only if the removal constitutes an action that is compatible with the purpose of this Conservation Easement.

3.6.1. Actions which are not compatible with the purpose of this Conservation Easement, unless specifically permitted by the prior written consent of Grantee, include, but are not limited to major land altering activities such as: clearcutting of native vegetation, wide-scale removal of vegetation or soil, grading, and similar activities.

3.6.2. Grantors reserve the right to restore willows on the Property to benefit forage for cattle and habitat for wildlife within the guidelines of a vegetation restoration plan to be developed jointly by Grantors and Grantee.

3.7. To use the Property for walking, hiking, horseback riding, skiing, fishing, hunting and other recreational uses consistent with the purpose of this Conservation Easement and all applicable governmental regulations in regard to taking of fish and wildlife.

3.8. To introduce and maintain non-native vegetation and animal species on the Property to protect, preserve and enhance the wildlife habitat values of the Property, but only with the prior written consent of Grantee which consent may be refused or limited in Grantee's discretion.

3.9. To eradicate, abate, and control toxic or noxious weeds or animals.

3.10. Grantors specifically retain all rights, title and interest in and to all tributary and non-tributary water, water rights, and related interests, in, on, under or appurtenant to the Property.

3.10.1. Grantors reserve the right to maintain the channel of Trail Creek through the Property identified to prevent flooding of the Property.

 4. Prohibited Uses and Practices. Any activity on or use of the Property inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

4.1. Division, subdivision or defacto subdivision through sales, leases or otherwise, except as necessary for uses permitted by a subparagraph of Paragraph 3 above.

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4.2. Any residential, commercial or industrial buildings, structures of any kind, or associated developments or utilities, except as necessary for uses permitted by a subparagraph of Paragraph 3 above.

4.3. Drilling, filling, excavating, dredging, mining or removal of topsoil, sand, gravel, rock, minerals, hydrocarbons, or other materials on or below the surface of the Property, or other significant changing of the topography of the Property, except as necessary to maintain the channel of Trail Creek as permitted by Subparagraph 3.10.1.

4.4. Dumping or storing of ashes, trash, garbage, junk or other unsightly or offensive materials, except that Grantee recognizes that Grantors are not responsible for trash that might be carried into the Property during high flow from upstream properties outside the control of Grantors.

4.5. Manipulation or alteration of natural watercourses, except as necessary for uses permitted by subparagraph 3.10.1 above.

4.6. Manipulation or alteration of vegetation, except as necessary for uses permitted by subparagraphs of Paragraph 3.6 above.

4.7. Outdoor burning of any materials except where the burning is in conformity with applicable governmental controls and regulations and, in the case of vegetation, where the burning is also beneficial to wildlife, and as necessary for uses permitted by subparagraphs of Paragraph 3.6 above.

4.8. Off-road use of vehicles, except as necessary for uses permitted by a subparagraph of Paragraph 3 above.

4.9. Establishment or maintenance of any livestock feedlots or game farms, except that Grantors reserve the right to pasture the Property and feed cattle on the Property during winter.

4.10. Commercial timbering of any kind.

4.11. Construction of any road, except as necessary for uses permitted by a subparagraph of Paragraph 3 above.

4.12. Any industrial use.

4.13. Operation of a Guest Ranch, Dude Ranch, or Bed and Breakfast;

4.14. Intentional harassment of wildlife by any person or domestic animal is prohibited.

4.15. Use of the Property for commercial uses is prohibited, except as necessary for livestock grazing.

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