

**From:** Sean Cracraft  
**Sent:** Wednesday, May 01, 2013 7:55 PM  
**To:** 'pzadmin@teton.id.us'  
**Cc:** 'Don Chery'  
**Subject:** River Rim Ranch

Friends,

First of all I would like to thank you for soliciting comments from your constituents related to the changes proposed to River Rim Ranch. I am hopeful that the vast majority of our friends and neighbors will agree that the changes to the project will be beneficial to the community as a whole.

I feel like my family and I have a unique perspective on the project, its history and its future. We are the only family that lives at the Ranch, works at the Ranch and owns real estate at the Ranch. I truly believe that my history with the project gives me a well balanced view of River Rim and what it can be going forward. That being said, I would like to contribute my input to the process, and I appreciate your taking my thoughts into consideration as you work through the process.

First and foremost, I truly believe that all of us must turn our attention to the future rather than getting wrapped up in the past. I don't have to tell you that what we have experienced in the valley with regards to real estate is not a local anomaly. I cannot think of anything positive that would come from the failure of River Rim for anyone in the county. With that being said, to me the most important question facing you as you deliberate the merits of the amendment is will it help position the project from a buyers perspective. In my opinion, I believe it would.

One of the biggest changes to the development agreement is with regards to the golf course. I was hired and my family moved here specifically to build and manage the club amenities, so no one is more passionate about the golf course than I am. I literally put in hundreds of hours in the dirt and dust on the course as we were creating it a few years ago. I am still confident that the course will come to fruition at some point because I truly believe that it will become one of the best, most photographed courses in the country. Even with this perspective, I believe that the proposal to remove the arbitrary construction time line and even making the course optional is the right thing to do at this point. There is no question that we are severely limiting our potential pool of buyers by making the course mandatory by 2016. On top of that, every property owner in River Rim is technically a "member" of the club, meaning their financial burden would increase significantly if we were operating a golf course at this point with such limited population base up here.

To me the other changes in the amendment make compete sense from a sales perspective. My family and I have the privilege of living in this beautiful development and get to talk to our owners and potential owners almost daily. Although they are more mundane and less obvious than the amenity package, I believe that to a savvy buyer the changes in the roads and homesite configurations would be seen as nothing but positive.

Once again, on behalf of myself and my family, and all the citizens of the county, thanks so much for the hard work you all do. No matter what happens with this project and all the other complex decisions you all take on, we really appreciate your service.

If you have any other questions that I can help with, please call me at any time. There is nothing I would like more than to provide any input that you think would be valuable.

Sean Cracraft, PGA GCSAA  
General Manager

Teton County, Idaho Planning & Building Department  
150 Courthouse Drive, Room 107; Driggs, ID 83422

April 23, 2013

**Re:** Notice of Public Hearing and Solicitation for Comments from property owners within 300 feet of a property that has an application for a land use permit

Dear Planning & Building Department:

Private Capital Group, Inc. represents the land owners of parcels: RP003260060050A; RP003260060010A; RP003260060020A; RP003260060030A; RP003260060040A, The purpose of this letter is to provide comments from the property owners regarding the application for a Plat and Master Plan Amendment in the River Rim PUD.

The property owners have no issue with reducing the total allowable residential units to 150 and increasing the agricultural open space by 588 acres. The property owners do not approve the proposed change to make the construction of the golf course optional. The value of the property owners lots would drastically change without the construction of the golf course. The golf course was one of the main selling points of the development and would decrease the value of the property owners land if it were removed from the development agreement.

If the economy in the River Rim Ranch market will not support a golf course at this time, then the property owners are in favor of altering the deadlines to complete the golf course so long as the golf course construction is still required as part of the development agreement.

Respectfully,



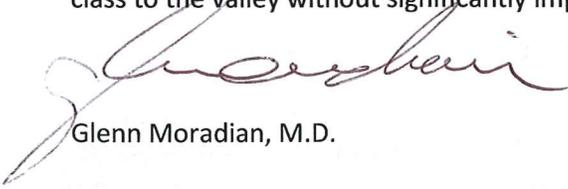
Jared Lucero, President of Private Capital Group, Inc., a Utah corporation

April 20, 2013

Teton County, ID P. & B. Dept.

Regarding River Rim, I believe that the project, from its inception, has been the lowest density, most well planned development in the valley. There are way too many 2.5 acre developments that are junk compared to River Rim and do nothing to elevate the appearance or preservation of this beautiful "working" valley. I believe that the county should allow the bank to proceed with its proposed amendment to the original plan so that a buyer can be attracted to ultimately complete, as closely as possible, the original master plan. The developers and subsequent bank owners have tried to preserve the special nature of the land that the development resides on. The deadlines imposed for staged development at the projects inception could never have conceived of the collapse of our economy, so adapt in a manner that prevents an abandonment of what the county originally permitted.

Thinking outside the box in this case should not be too difficult. The raping and pillaging of this valley was well on its way prior to River Rims development. River Rim certainly has not, nor will it contribute to the history of poor planning by the county (e.g. Ag 2.5 zoning). It has the potential to add a touch of class to the valley without significantly impeding the valleys agricultural roots.



Glenn Moradian, M.D.

TETON COUNTY  
PLANNING & ZONING  
APR 25 2013  
RECEIVED

Teton County Planning and Zoning Commission  
Driggs, ID 83422

May 2, 2013

Dear Commissioners,

TETON COUNTY  
PLANNING & ZONING

MAY 06 2013

RECEIVED

We are writing to you in reference to the replat application of the River Rim Development scheduled for a hearing before you on May 14<sup>th</sup>. We understand that Big Sky Western Bank is applying under the streamlined replatting ordinance and that they are under the impression that they are reducing the impact of the development and thus are able to move forward in an expedited fashion. **We disagree with their assumption of less impact.**

The whole application is confusing to say the least because of all the moving parts, but in simple terms they are reducing the number of lots in areas where those lots are virtually worthless and moving density into the South Rim area of the project which is the most important and sensitive natural resource area of the property. The 688 acres of the South Rim phase stretch along the Teton River and include valuable wildlife habitat. Biota Research and Consulting was hired to execute a wildlife habitat overlay and landscape management assessment of the property. We understand the very narrow scope of the work that Biota was asked to complete as per the ordinance, but common sense tells us that the report does not begin to tell the whole story of that piece of ground. Biota spent **one day** on April 12<sup>th</sup> surveying the property, hardly enough time to do the ground justice in terms of its habitat potential.

It is true that at the moment it is heavily farmed and cultivated so at first blush it looks uninviting to wildlife. At certain times of the year that may be true (such as early April), but as the fields grow their crops and as that crop is harvested, wildlife moves in. As abutters to that ground, we have observed elk and mule deer not only using the cultivated portion of the property, but also using the native vegetative area along the river. Those two species are of concern in the valley but they are the tip of the iceberg in terms of the critters that use the river corridor and the surrounding land. Canada geese, and greater Sandhill cranes use the

tilled ground after harvest. The river corridor is an important movement way for deer, elk, moose, river otters, bald eagles, osprey, waterfowl, trumpeter swans to name a few. There are nesting ground birds that would be affected as well.

*In our opinion, how can the increased density that is asked for not impact this important landscape?* Nine more houses and the additional people and their dogs certainly will have a negative impact on the area. Again we understand the narrow window that is open because of the wording of the ordinance, but let's not throw out the baby with the bathwater and ignore the bigger picture.

On another note: This re-plat request brings out how flawed the PUD ordinance was to begin with in terms of the density bonuses given. As you know a PUD is a unique contract between the developer and the county. In return for higher densities than would be normally allowed under the existing zoning, in this case 1 unit per 20 acres, the developer must show a community benefit. In most cases it is an increase in open space. The key is that the open space must be significant and be a real community benefit. In this re-plat of the South Canyon phase we do not believe that the open space is a community benefit for several reasons. Without a PUD designation that 688 acres would be allowed 34 lots. Under the original application they were given a 61% density bonus to 55 lots. Although that is water under the bridge it is important to see why that was a bad idea, too many lots in a sensitive riparian area. Now they want 9 more units which is an increase of 88% above the underlying zoning. In other terms they are requesting a 27% density increase in this re-plat application. How is the community benefit improved by this? It obviously is not. How can the increased density in a sensitive riparian corridor along the Teton River be a good result? One of the most important goals of the Comp Plan is to protect our rural character and protect our wildlife, one of the most important economic drivers in the county. As survey after survey has shown the existence of wildlife in a community is the number one reason that most folks come to an area. By degrading this important wildlife area how can that be a community benefit?

**If you as a commission feel that you haven't any wiggle room in**

**your decision there are some practical measures that can be put in place to minimize the impacts.**

1. Require a 1320ft buffer from the river rim to any building site. This will reduce the potential of conflict with moose, deer, and elk.
2. Require the planting of a native vegetation buffer along the rim as designed by a wildlife biologist familiar with the flushing distances of mule deer, elk and moose.
3. Close off access to the river from November through April. We ourselves respect the wildlife during those critical winter months.
4. Do not allow any perimeter fencing of parcels.
5. Require dogs to be confined and walked on a lease.
6. Require that they dedicate the open space so that it remains open in the future.

We believe that by putting in place the above mitigation measures this valuable river corridor will be protected for wildlife in to the future. Without these measures the habitat viability of the corridor is in danger and the value of the land is decreased.

Thank you for taking the time to review our concerns,

Sandy and Mary Mason  
Tetonia, Idaho



# Valley Advocates for Responsible Development

May 6, 2013

Mr. Robert Ablondi  
Rendezvous Engineering  
25 South Gros Ventre Street  
Jackson, Wyoming 83001

RE: Request for Endorsement of the May 14, 2013 River Rim Re-plat Proposal

Dear Mr. Ablondi:

Thank for you for the opportunity to meet and discuss VARD's evaluation of this 2013 re-plat proposal for River Rim Ranch. The Teton County re-platting Ordinance (Chapter 7) was originally adopted as a tool designed to help efficiently re-structure distressed subdivisions that were seeking to materially reduce the cost and impact of their approved uses consistent with current land use regulations. Application of Chapter 7 to a 5,400-acre resort development with over 500 residential lots, 30+ acres of commercial entitlements, dozens of property owners owning hundreds of lots (some of which are fully developed), and millions of dollars in incomplete infrastructure presents novel questions.

In VARD's view, the changes proposed by the applicant to each of the distinct and separately approved development phases must be evaluated separately under Chapter 7 to determine whether the proposed changes represent an "increase" or a "decrease" in use or impact under the County ordinance. We do not believe that the widely disparate sub-developments or phases within River Rim, subject to different levels of historical implementation and with distinct issues, can be lumped together. Evaluated separately, we conclude that the changes proposed to both the South Canyon and West Rim phases represent an increase in use or impact upon the affected residents, county, and local governments. **Below we recommend restrictions and commitments that, if part of the proposed re-plat amendments, could lead both the changes proposed for the West Rim and South Canyon phases to properly be viewed as a "decrease" in use or impact for purposes of Chapter 7 of the County zoning ordinance.**

To ensure that the application for amendments complies with the requirements of Chapter 7 and to qualify as a "decrease" in use and impact, VARD concludes that certain adjustments and implementing agreements need to be made to provide that **(a)** the golf course area which was razed and left barren since at least 2010 is addressed immediately in order to control the blight, weeds, and minimize erosion, **(b)** the open space originally promised as a condition to the already-received enhanced densities (the 200% housing bonus and 300% bonus of commercial uses which are normally prohibited in the Ag-20 zone) that were previously approved in Phase I of Division II will be now permanently preserved for the future through County-enforceable agreements, and **(c)** the South Canyon tract will be adjusted to restrict adverse impacts to wildlife and the Teton River corridor. It will also be phased in stages to mitigate the impact of the increased number of full-size lots that the applicant seeks.





# Valley Advocates for Responsible Development

**In the spirit of crafting a predictable and equitable solution to this challenging problem, we ask you to agree to all of the Planning Administrator's proposed conditions contained in the April 24, 2013 Preliminary Staff Report, *except* for the following 5 conditions we have proposed which differ slightly from the Planning Administrator's conditions:**

- 1. Farming or restoration of the proposed golf course:** Glacier Bank must bond for and fully complete either the golf course or the public parkway (grasses, trails, etc) by December 31, 2016. In addition, we would like to see Glacier immediately implement some form of interim land management plan in order to get control over the weeds and minimize erosion. We do not prefer one plan over the other - whether Glacier chooses to (a) farm the golf course, (b) rehab it with their 300K bond, or (c) implement the parkway plan with ponds and pathways is up to the applicant. However, we do ask that Glacier take action immediately and fully implement any one of these three plans before December 31, 2014. In addition, there must be ongoing weed management plan prepared by a certified weed consultant with money bonded for weed monitoring until December 31, 2016.
- 2. Permanent Commitment to Future Phases:** Glacier must record an Agreement commitment with the County, for the benefit of the public, that shall run with the land. The Agreement will incorporate by reference the prior Master Plan, as amended, and re-affirm those provisions by which the landowners of Phases II - VI of Division 2 expressly forgo any legal right to request or receive a housing development density that exceeds what is presented in the 2013 Revised Master Plan, and will further commit to permanently preserving, at a minimum, the open space acreage that is presented in the 2013 Revised Master Plan. This Agreement will be incorporated by reference on the face of the Master Plan.
- 3. Wildlife Protections in the South Canyon Phase:** This recorded Agreement commitment shall also specify that if the South Canyon Phase VI is someday developed according to the 2013 Revised Master Plan, it shall be phased with the lots closest to the Teton River being developed in the last phase. The phasing plan must require the developer to build and finish a portion of the project before moving on to another portion. In addition to the Agreement commitment, Glacier shall also record an easement dedicating (1) a corridor as right-of-way for wildlife ingress and egress along the northern end of the South Canyon Phase VI and also (2) a setback along the Teton River for wildlife movement along the Teton River. The expertise of Idaho Fish & Game should be enlisted to recommend an appropriate width for both this corridor and the river setback as this question of appropriate separation distances for wildlife was not addressed in the applicant's Wildlife Habitat Overlay and Landscape Management Assessment. This easement shall be incorporated by reference on the 2013 Master Plan and also the 2013 Amended Development Agreement. To further protect wildlife movement, prohibitions against perimeter lot fencing and unleashed dogs should be included in both the CCR's as well as the Agreement commitment.





## Valley Advocates for Responsible Development

4. **Roads:** County Road 9400W must be bonded for and improved to county gravel standards by Dec 31, 2014.
5. **Commercial Uses in Division II:** As described in the April 25, 2013 Preliminary Staff Report by Angie Rutherford, all commercial uses outside of those directly related to the River Rim development (ie: sales office, management office, equipment storage) must be conditioned upon the completion of the golf course or parkway with only listed exceptions.<sup>1</sup> The exceptions are: the existing sales office building along Highway 33 could be immediately converted to a hunting, recreation, or naturalist lodge (with dining hall and animal facilities) with no more than 10 units inside the existing building. The lodge would not be tied to the golf course, but any additional units for a lodge would need to be tied to the golf course or parkway.

If all the above conditions are agreed to in addition to the 13 conditions enumerated in Angie Rutherford's April 25, 2013 Preliminary Staff Report, VARD will endorse this proposed re-plat as consistent with the requirements of Chapter 7 and an acceptable solution to what is an incredibly complicated problem.

Sincerely,

Stacey Frisk  
Executive Director  
Valley Advocates for Responsible Development

CC/: Teton County Planning & Zoning Commission

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<sup>1</sup> We recognize that the April 25, 2013 staff report ties all incidental uses to the completion of the golf course. However, it is VARD's position that there may be appropriate incidental uses that could accommodate the public parkway, should the landowner opt to build that instead of the golf course.



**From:** Anne Callison  
**Sent:** Thursday, May 09, 2013 11:37 AM  
**To:** PZ  
**Subject:** comment on replats

To the P & Z:

It is my hope that you as a group will deny any further consideration or agreement on the Canyon Creek project. This project should never have gotten off the table in either county. Wildlife, access to services, light pollution, loss of ag land, complaints from new homeowners about agricultural production nearby - the list is long as reasons to say "no."

The replat of River Rim makes a lot of sense. When trying to help sell it to a consortium out of Colorado a couple of years ago, I dealt with the folks out there, and at Glacier Bank, and they want what's good for the county. River Rim is a distinct amenity for the county, it will only grow in stature with fewer lots and if they ever get the golf course done.

Anne W. Callison

Tetonia and Denver

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May 9, 2013

Dear Ms. Rutherford:

This letter is in regards to the amendment to the construction plan for River Rim Development as proposed by the bank that currently holds title to the development.

I am sending it to you because my wife Patty and me will be unable to attend the meeting in May concerning this issue in that I am recovering from knee replacement surgery at the Cleveland Clinic. We will however be returning to our home in River Rim the first of June and we plan to attend subsequent meetings.

To our dismay, the way in which the River Rim project has evolved and the way in which the bank is handling it is most disconcerting. This new amendment clearly demonstrates that the bank has no concern regarding the homeowners in Division I of the project and is only interested in their pocketbook. They fail to consider that Division I IS OUR HOME and that we are entitled to participate in the management and control of our development as the original documents promised.

We, the homeowners, understand the problems that the unpredictable turn in the economy has caused for the development, the previous developers, the bank and of course the homeowners. We must now make the best of it for all involved. We must keep in mind, however, that for the

bank this is merely an investment (one of thousands for them); for us, the homeowners, it is our own, individual and personal homes.

At this point in time I believe that if meaningful protection and guarantees cannot be given to the homeowners in Division I, then we in Division I should have the choice to sever our relationship with the bank.

My reason for this is threefold: 1. The developers and/or bank did not honor the agreement with homeowners by completing the development of Division I as stated in the original plans; 2. The developers and/or bank did not honor the agreement by creating a home owners association (HOA) when specific criteria were met in spite of the fact that these criteria were met years ago; 3. The developers and/or bank are making changes in the original plans with complete disregard of the desires of the current property owners (our input was never solicited). These changes will result in a devaluation of the homeowners' investments, not to mention that it is resulting in a development that is markedly different from the one that we bought in to.

Of equal importance is the fact that if we, as prospective homeowners, had thought that the developers/ bank would create a situation wherein an HOA would not be forthcoming; a situation wherein we would have no input or control over our development; and/or a situation wherein the developer/bank would have free rein to change the development as suited them and their pocketbook with no consideration given to the homeowners, I for one would have never bought in to the project and I am certain that such would be the case with others in Division I.

In the original plans there were to be bridle trails in Division I which were never built. There was also to be a golf course in subsequent phases and access via horseback to portions of the national forest in future phases. The proposed amendment, for all practical purposes, will preclude the development of both of these as well as other anticipated and planned amenities.

Furthermore, it is my understanding that the home building lots in Division I have been entirely sold out for some time now. In light of the fact that these are on average the more costly lots in the entire development, the funds received through their sales would likely have been more than adequate to pay for all of the development in Division I and some of the development across the highway that has also been completed.

As such, it would appear that Division I homeowners have more than paid their fair share of the development costs and in spite of that fact the bank is holding us hostage to their best interest and completely ignoring our investments or desires.

Additionally the actions of the bank to date, as well as the proposed amendment has depressed the value of property in Division I and is hampering the build out in Division I.

Last summer I met one of my neighbors (and his family) in River Rim who had yet to begin construction of his home but was visiting his lot. He indicated to me that he was most eager to

begin construction of his home but with all of the uncertainty revolving around the project he was hesitant to do so. You see, the bank has done little if anything to inform the current property owners of their plans for the development and they have given us no indication as to when an HOA will be formed. We (the current owners) have even attempted to obtain a means of contacting our fellow owners to canvas them regarding their thoughts and desires for the development but the bank has refused to give us their mailing addresses or email addresses. Had the HOA been in existence, as it should have been, we would have this information.

So you can see current property owners are holding back on their construction as long as the bank continues to keep us “out of the loop”. Needless to say, this depresses property values. If the uncertainty of the homeowners viz a viz the bank was resolved, there would be more building proceeding in Division I. This would give the appearance of a vibrant and evolving community that would encourage more building still.

Furthermore, the bank has not been helpful to current homeowners occupying their homes. Last summer, while attempting to re-seed my lot, I needed someplace to graze our horses. I asked for the contact information of the owners of the adjacent lots so that I could ask their permission to allow our horses to graze there. I was never given the information

So, as you can see the management of the development by the bank (more clearly described as “lack of any management”) has been deleterious to our development and has depressed its value.

Holding Division I hostage to the bank will continue this untenable situation for the property owners in Division I and the current homeowners that would like to see their neighborhood develop. We in Division I did not get what we bought into and with each new amendment less and less of what we did buy into is being developed. The newest proposed amendment will do away with the golf course in a community that was billed as both a golf and equestrian community.

This untenable situation must be resolved. If the bank wishes to change the development plan, then the members of Division I must be given home rule with a new HOA and then be given the opportunity to decide if they wish to sever their ties with the rest of the development. At such time, the bank could then make a proposal that would best meet their financial needs with regards to the rest of the development and Division I owners can best decide how they wish to proceed with their neighborhood.

The homeowners (taxpayers) of Division I and the Teton Community should not be held hostage by any bank or developer.

Thank you very much for taking the time to read this rather long letter.

Louis P. Caravella, MD

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Angie Rutherford  
150 Courthouse Drive, Room 107  
Driggs, ID 83422

Re: **Opposition to the River Rim Ranch Application for Amendment**

Ms. Rutherford:

We are property owners at River Rim Ranch. In fact, we own a home in Division 1 and a lot in Division 2. Because we own property in both Divisions, we believe our input to the proposed Amendment to change the Master Plan for River Rim Ranch is broadly based, not favoring one Division over the other.

After a review of the Amendment offered by Big Sky Western Bank (the “Bank”), we **adamantly oppose** it for the following reasons:

1. The Bank, as Applicant, provides an unrealistic view of the current status of River Rim Ranch (“RRR”) to put it in a favored light before the County for purposes of its Amendment.
  - a. Division 1 (“D1”, for short) is a mature development of homes north of Highway 33. However, the original developers and the Bank failed to build the promised amenities, except for the Overlook Lodge and the gravel trails by the river. First, the Overlook Lodge is not an amenity owned by the property owners or the HOA. It is 100% owned by the Bank and they may be actively trying to sell it. So holding the Lodge out as an amenity for the benefit of the owners of RRR may be a bit of a stretch. The only amenity that has been built and that will be retained by the property owners are the gravel trails along the river’s edge. However, the Bank, which controls the HOA, has failed to maintain these trails, resulting in trails that have crumbled, washed away, and become overgrown with weeds in several locations. There are no fishing platforms, barns, riding trails, or other amenities, nor is there any prospect for them at this time. The owners in D1 have lost significant value in their homes and lots because of the Bank’s lack of maintenance and their failure to proceed with the amenities that were promised.
  - b. Regarding D1, the Bank reported in the Introduction to its Amendment that “[t]his portion of the project has an active property owners association”. That’s just not true. There is no separate HOA for D1, as the Bank implied. The Bank completely controls the combined HOA that covers both D1 and D2. The combined HOA board consists of the Bank and certain persons who were the original developers. The Bank runs the HOA without any input from the property owners. In the seven years since we have owned property at River Rim Ranch, we don’t recall ever being notified of an annual HOA meeting, nor have we ever been asked or allowed to vote for the board or for officers for the HOA or on any other matters before the HOA. We have never received audited

financials for the HOA. How is that “an active property owners association” when only the Bank and its appointees attend the meetings and they make all the decisions without input from the property owners?

- c. Division 2 (“D2”), as you know, is a wasteland of graded land, with no finished roads, no sewage system, no significant infrastructure, no county club, and no golf course. No property owner could build there, even if they wanted to. Under the proposed Amendment, the Bank would be allowed to fail completely on its commitment to build and maintain finished roads and to complete the golf course. We also understand that the Bank intends to add another, yet unannounced, “change” to the Master Plan, which is to off-load onto the D2 property owners the cost to install the sewage system that is now the Bank’s financial responsibility. Also in the Introduction to the Amendment, the Bank stated that “the Bank has worked diligently with current lot owners...to move the project forward”. That’s new to us. They’ve never called any meeting with us, or asked for any input from the owners of D2 that we know of. Apparently, the Bank must see D2 as a group of property owners (along with D1 owners) who are willing to pay for the major infrastructure improvements that are now the Bank’s responsibility (that is, the finished roads, road maintenance, the sewage system), while at the same time giving up all of the promised amenities like the golf course, paved roads, and country club facilities, without protest. That’s a great deal for the Bank, if they can get it. Then, if the Bank gets this Amendment approved by the County, it will sell D2 to an outside buyer and recoup as much of its money as possible, without regard to the impact on the D2 owners. And who knows if the new buyer will perform any better than the Bank?

So why did we buy in D2 in the first place? We bought for the opportunity to build a house in a community that would look like D1, which was held out to us as the model, and to live on a gorgeous, world-class golf course. If the Amendment is allowed, what are the D2 owners left with? Unbuildable lots in a defunct community with promised, but unbuilt, gravel roads and a walking trail, that’s what. We have now lost our *entire* investment in the lot we purchased in 2006. Who will pay us back for the complete failure of D2?

2. The HOA should be split into two separate entities.

The Bank has refused to split the HOA into two separate entities, even though the original HOA agreement would have required that to happen by now. As part of any County approval for the Bank to proceed with its development, we believe the Bank should be required to segregate the HOAs for D1 and D2 to allow for each Division to operate independently, without the burden of the other.

- a. The two Divisions are physically separated and have nothing in common at this point, except a name.
- b. The Bank controls all decisions for D1 based on solely its majority ownership of D2. As you know, the Bank owns a small number of cabin lots in D1. Why

should the Bank's ownership of a majority of the failed D2 allow it continue to control the fate of D1, where it owns just a few cabin lots? Furthermore, we believe the Bank wants to control the entire development under one HOA in order to insure that all decisions are made for the greatest benefit of the Bank, without regard to, or input from, the property owners. It can only maintain that absolute control if the two Divisions are forced together into one HOA.

- c. As the acting HOA, the Bank has failed to fulfill its fiduciary duties to the property owners of both D1 and D2 by apparently failing to use the funds they've received to build out or maintain the project and its amenities, and by running the development without input from or benefit to the property owners.
- d. The Bank seems to have one overriding goal in mind, which is to improve its chances to sell off D2 and the South Canyon to an outside buyer, regardless of the impact on D1 or D2. It seems that the only reason the Bank wants D1 and D2 to be tied together at this point is to be able to sell its failed D2 project along with the only "amenity" they can offer, which is access to D1. In other words, D1 is the "bait" to hook a buyer to take the Banks' majority ownership of D2 off its hands and off its books.

And what do the owners of D1 get in return for serving as bait? They get (i) access to D2 (which has no roads, no golf course, no amenities, essentially nothing), (ii) the financial liability to pay for the improvements that the Bank is off-loading to all of the property owners, along with (iii) an increased number of new, approved lots in the South Canyon on the D1 side of the development.

- e. We request that the County require the immediate split of the HOA, with the further agreement that the D1 owners will have no further access to or financial responsibility for D2, and that D2 owners will have no further access to or financial responsibility for D1. There is no reason why this should not happen right away, regardless of the outcome of the proposed Amendment.

3. The development rights for D2 should be extinguished.

It's our understanding that the County has granted dispensation to the Bank and the developers of RRR on one or more occasions to allow them to miss certain required milestones under the development plan. We further understand that when development plan milestones are repeatedly missed, the rights to continue a development can be extinguished. While the Bank has failed to proceed with the development plan on a timely basis, the County has not extinguished the development rights.

Therefore, and as owners of D2, we believe it's time to extinguish the development rights for D2. How many years should the property owners and the community wait while the Bank holds the entire development in limbo, shirks its financial duties to the property owners, and leaves thousands of acres of view-shed land on the Valley's western edge in a blighted condition?

How could this be accomplished? We understand that there are relatively few owners in D2 who are not original developers or the Bank. Therefore, it may not take much effort to deal with those of us who are outside buyers in D2. We suggest that Bank be required to offer an exchange for any such outside buyer, allowing the swap of a D2 parcel for one of the Bank's cabin lots in D1 or a South Canyon lot. Frankly, we wonder how many owners in D2 have any appetite to remain at RRR. After those exchanges, if any, take place, D2 would be extinguished as a development. Those owners who did not elect an exchange for a cabin lot or a South Canyon lot would finally be able to declare their investments in D2 as a loss for tax purposes (finally, a benefit from owning a parcel in D2!), and the Bank could declare its investment as a loss as well. The County could require that D2 be reclaimed as large farming or grazing parcels, with no future subdivision rights, or D2 could be contributed to the Land Trust for public use.

In summary, we oppose the Bank's Amendment.

Respectfully,

Jerry Wirkus and Kate Ohlandt

**From:** Rick Katz

**Sent:** Saturday, May 11, 2013 9:37 AM

**To:** PZ

**Subject:** Public Hearing- River Rim

To the Planning and Zoning Commission, Teton County,

I am a lot owner at River Rim, and an interested party to these proceedings. My wife and I have been visiting the Teton Valley for the past several years. We have made many friends and much prefer the peace and tranquility of the Teton Valley to the hustle-bustle of Jackson Hole.

We, as most everyone else, have been hurt by the economy and bear witness to the effects at River Rim and to the economy in general. But negative effects don't have to be lasting as long as balance, common sense, and market reversion take their natural course.

I strongly support the efforts of Big Sky Western Bank in their effort to strike the right balance of obligation to the local community and the maintenance of their business. I have found Big Sky Western to be very open and generous with their time to explain and explore all viable options in order to achieve a fair and just approach to what has been a very difficult economic period.

The proposed amendments make sense to me in that they keep Big Sky Western engaged in the fulfillment of its obligations while at the same time not requiring onerous and arbitrary demands as appears to be the case currently.

While we all hope for a positive outcome which I believe is already beginning to appear, the Bank's approach is balanced and sets forth a plan that acts in accord with reasonable trigger events.

It is my hope that we can all act in harmony and find reasonable and non-overreaching solutions. The local community and citizens such as my wife and myself who have come to think of the valley as a "comfort zone" depend on the goodwill of the Bank and the local government.

Best regards,

**Rick Katz**

MEMBER OF D.C., IDAHO  
AND NEW YORK BARS

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May 10, 2013

Teton County Planning & Zoning Commission  
c/o Angie Rutherford, Planner [arutherford@co.teton.id.us](mailto:arutherford@co.teton.id.us)  
Teton County, Idaho  
Room 107  
150 Courthouse Drive  
Driggs, Idaho 83422

**Re: River Rim Ranch, Tetonia, Idaho**

**Opposition to March 11, 2013 Amendment**  
**Application of Big Sky Western Bank**

Commission Members:

I **oppose** the March 11, 2013 Amendment Application of Big Sky Western Bank which is to be considered by the Commission on May 14 and again on June 10, 2013. I respectfully urge the Commission to **deny** the Application.

I am a property and home owner in Division I at River Rim Ranch, 9885 Angler Point, Tetonia. I am a taxpayer to Teton County. I am an attorney and member of the bar of the State of Idaho. I support good works in the Valley.

### **Background**

The promises and representations made to the owners at Division I of RRR when purchasing a lot have been **materially breached**. There is no foreseeable expectation that those representations will be fulfilled. The losses, both realized and unrealized, by the RRR owners are in the tens of millions of dollars. Furthermore, the County's assessed value of each of the parcels in Division I is, in most cases, higher than a realistic market value.

In the aggregate the non-Bank owners' investment at RRR is at least \$75 million, and possibly as high as \$100 million. The Bank's remaining investment at RRR is a fraction of either of those amounts.

### **Statement in Support of Denial**

**The owners in Division I of RRR deserve every opportunity to protect their economic investment. They deserve the right to participate in the destiny of RRR, but have been denied democracy. As citizens of Teton County, those owners should not have their preservation efforts or legal rights impeded.**

**No Big Sky Western Bank proposal for RRR should be approved by the Commission when it (a) is not in the best interests of the citizens of Teton County and (b) jeopardizes the financial interests of the non-Bank owners of RRR.**

With the foregoing in mind, I respectfully **object** to the Amendment Application of the Bank, and urge its **denial** for, among other things, the following reasons:

1. Unless denied, the Amendment will serve the exclusive economic interest of the Bank. No one can reasonably argue that the Amendment Application has any purpose other than to accelerate the Bank's sale efforts and its desire to **quit** RRR. No aspect of the Amendment would **(a)** enhance Teton County, **(b)** advance RRR as a whole or **(c)** benefit the individual non-Bank owners of RRR.

The Bank is entitled to sell its interests at RRR. The Amendment Application is simply another step in the Bank's sale efforts. But it has no right to undertake sale efforts or to have its Amendment Application approved which cause uncertainty or economic harm to other RRR owners.

2. In order to induce the Commission's approval of the Amendment Application, the Bank offers modest concessions to the County and in return seeks significant financial relief from commitments. When the "concessions" are weighed against the "relief sought," there is **no balancing of the equities**. The

“concessions” to the County are not a material enhancement to its citizens, yet the “relief sought” enhances and hastens the Bank’s **escape** from its County citizenship and **injures** its RRR neighbors.

3. Unless denied, the Amendment would heighten the ongoing economic uncertainty for the non-Bank owners of RRR. The Bank states in its Amendment Application that, if approved, it will have no negative impact on Division I and its property owners. This is not a credible statement by the Bank.

a. The Amendment, unless denied, would be the **Commission assisting** freeing the Bank of financial responsibilities and saddling the remaining RRR owners with further economic depression.

b. The Amendment, unless denied, would be a step **by the Commission placing** Division I property owners at greater uncertainty of risk in terms of future costs and assessments to fund maintenance in Division I and/or Division II of RRR.

c. The Amendment, unless denied, would be **the Commission abandoning** its political responsibilities to the good citizens who are non-Bank RRR owners. The Bank has no plans to remain a citizen of Teton County. The non-Bank owners at RRR hope to be **citizens of the County for decades**.

d. The Amendment, unless denied, **would have the Commission imposing** a further blow to any hope that the promised amenities at RRR - - other than the Lodge - - would be completed. That, in and of itself, may further depress the RRR property values.

e. The Amendment, unless denied, would be a **message from the Commission** that the North end of the Teton Valley has little foreseeable prospect for further development.

4. Unless denied, the Amendment would be an award for the Bank’s bad faith. The Bank’s stewardship at RRR does not merit an unjustifiable reward.

First, the Bank was a creditor to the RRR developers, and thereby had certain legal duties. Second, the Bank became the largest land owner with legal

responsibility to the project and its neighbors, and chose to exercise its “muscle” by taking 100% control of RRR.

It is **unconscionable** that the Bank’s stewardship of the RRR Home Owners’ Association mandates the non-Bank owners to pay periodic HOA dues, but the Bank **(a)** exercises **unilateral** control of RRR decisions, **(b)** **forbids** other owners to have any vote in the HOA, and **(c)** **denies democratic participation**. Thereby, Big Sky Western Bank’s actions depress the non-Bank owner’s economic interests and cause uncertainty.

Yes, the Bank has a contract permitting its unilateral exercise of HOA power. But it is a **contract of adhesion**, namely, one where the terms and conditions of the contract are set by one of the parties, and the other party is placed in a “take it or leave it” position with no ability to negotiate terms more favorable to it.

The Planning & Zoning Commission and the Board of Commissioners may choose to ignore the terms of the HOA contract. However, when considering the Bank’s Amendment Application, the Commission and Board are **duty-bound** to consider whether the Bank has been a good citizen and acted in good faith. The unilateral exercise of power - - - when being materially outweighed in economic interest - - - illustrates the Bank’s bad faith. **And, there is no guarantee that the Bank might not follow another undesired path at RRR.**

Keep in mind the non-Bank owners have over \$75 million invested at RRR, and the Bank’s ownership interest is but a fraction thereof. Maybe, well just maybe, one or more of the 50 or so non-Bank owners may have had progressive ideas to submit for RRR limiting its depression. Quelling democracy has its consequences.

\* \* \* \* \*

**Conclusion**

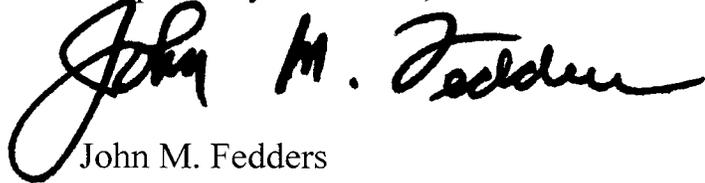
With the foregoing in mind, as well as the statements made by my fellow non-Bank owners at RRR, I respectfully request that the Commission **deny** the Big Sky Western Bank’s Amendment Application.

Teton County Planning & Zoning Commission  
May 10, 2013  
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I will be unable to attend the Commission meeting of May 14. I am available to answer any questions of the County Planner by telephone. I will attend the June 14 Commission meeting.

Thank you for taking the time to consider what I have said here.

Respectfully submitted,

A handwritten signature in black ink that reads "John M. Fedders". The signature is written in a cursive style with a large, looping initial "J".

John M. Fedders

cc: Donald Chery, Agent [dchery@glacierbancorp.com](mailto:dchery@glacierbancorp.com)  
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