



## **RENDEZVOUS ENGINEERING, P.C.**

Civil Engineers, Land Planners and Landscape Architects in Wyoming and Idaho

### MEMORANDUM

**DATE:** November 6, 2013

**TO:** Dawn Felchle, Assistant to the Teton County Board of Commissioners

**FROM:** Bob Ablondi, Project Engineer 

**RE:** River Rim Ranch PUD / Public Hearing Continuation / November 13, 2013

**CC:** Kathy Spitzer, Don Chery, Mike Potter, Dan Green, Jay Mazalewski (Items 4, 5 and 6)

Attached are six (6) copies of additional information responding to comments and questions that arose during the October 28, 2013 public hearing before the Teton County Board of Commissioners. Also attached is a DVD with all the additional information in PDF format. We would appreciate if you would distribute this information to the Board of County Commissioners. Copies of the engineering-related information are being submitted directly to Jay Mazalewski -- items 4, 5 and 6 below. A complete copy of all items (one of the six copies) is also being submitted to Kathy Spitzer.

The following is a summary of the information being provided:

**1) Planning Memorandum on the Purpose and Philosophy of River Rim Division**

**II.** In response to questions about the "focus" of the River Rim PUD, planning consultant Mike Potter has provided some factual background on the purpose and philosophy of the River Rim project from 2006. As noted in the background attachments, the West Rim Village was always intended to provide "general support services" for the project, including a bed and breakfast with 30 condominium units. Also the background information emphasizes the multi-faceted aspects of River Rim with much emphasis on open space, natural environment, preservation of agriculture and use of the local amenities to enhance the local lifestyle. Golf was always looked at as a possible amenity to be added but clearly not the purpose or focus of the project.

**2) 2006 Informational DVD about River Rim.** This DVD, which is less than 10 minutes, was prepared in 2006 and provides additional background on the River Rim project and its focus. Although designed from a sales perspective, the DVD provides an historic perspective for this PUD as it was initially conceived. The DVD highlights the many attributes of the River Rim area with much emphasis on fishing, mountain

biking and outdoor sports. Certainly golf is one of the key attributes but is clearly not the focus of this DVD nor was it the focus of River Rim from its inception. The DVD also highlights the many attributes of Teton Valley and provides additional information about the open space and life style values for this diverse area. A short one page description of the DVD is also provided by manager Sean Cracraft.

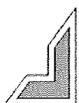
**3) Planning Memorandum on Incidental Uses.** Planning consultant Mike Potter describes the incidental uses anticipated in 2006 for the two applicable "non-residential" areas in the River Rim Development: 1) West Rim Village and 2) Golf Village. The Golf Village uses would only apply if a golf course was constructed as discussed in the past meetings. The West Rim Village uses were intended to support the project regardless of golf and provide a more diverse assortment of amenities. Through the planning and public review process, this list has now been refined and re-focused to the items listed in the memo as described on Page 3 under item A and as defined in the attached Development Agreement.

**4) Response Letter to Engineering Comments.** Most of the issues raised by County Engineer Jay Mazalewski were discussed at the last meeting. However, because we received Jay's comment letter just before the meeting, we were not able to formally respond. This letter addresses the dozen or so comments and concerns raised by Jay. Several comments, several of which resulted in minor changes to the Development Agreement which is also included with this package in redline format.

**5) Updated Development Agreement.** In response several questions raised by Jay Mazalewski, there were a few minor wording changes related to the handling of contingencies and letters of credit. These are shown in the attached redlined version of the DA as we wanted to make sure that the engineering comments were properly addressed.

**6) Engineering Memorandum Regarding Paving of the North Section of 9400 West.** We have taken the time to perform a more detailed analysis of the future projected traffic at River Rim. This memorandum projects traffic over time based upon assumptions of growth and traffic generation based upon engineering references. The basic conclusion is that ADT may never reach 200 trips per day on the north section of County Road 9400 West as derived from River Rim. Traffic in excess of 200 ADT is considered a reasonable standard for requiring a paved road. It is for this reason that we believe that scarce resources should go toward more urgent needs including the proper upgrade of County Road 9400 West to a sound gravel standard. The memo also suggests that future site specific trip counts should be considered along this north section as the development grows.

**7) Correspondence from Biota Regarding the April 2013 Wildlife Assessment and Follow-up Correspondence.** The attached letter, which was also sent to the County directly by Biota, discusses their April 2013 Wildlife Assessment Report that was prepared at the request of the county planning office. This report analyzed the impact caused by previously proposed changes to the South Canyon area, Phase VI. The most recent plan has actually eliminated all new impacts and actually reduced the development area and increased open space as discussed. It is our understanding



that copies of the original April 19, 2013 report, June 20, 2013 Game and Fish correspondence and June 27, 2013 Biota response to the Game and Fish have been provided to the Board of Commissioners.

**8) Updated Final Plat for Division II Phase I.** In response to several comments and discussion items, we have added three general notes to the plat on Sheet 8. These include two notes about the maintenance of the road and use of the road during emergencies. There is also a note about "split estates" as suggested by the Idaho Department of Lands. This plat will be submitted for technical review following action by the Board of Commissioners.

Please let us know if you or anyone in the County have questions about this information or any information submitted to date. The entire project team, including Don Chery, Mike Potter, Dan Green, Sean Cracraft, Hamilton Smith and me, plan to attend the upcoming November 13<sup>th</sup> hearing at 1:00 PM to answer any other questions that the Commissioners may have.







November 6, 2013

Teton County Board of Commissioners  
Attn: Dawn Felchle  
150 Courthouse Drive, Room 107  
Driggs, ID 83422

**RE: Record Information – Purpose, Focus and Philosophy for Division II  
PUD, River Rim Ranch**

Dear Board Members:

Please find attached the text narrative from the April, 2006 PUD – Final Plan Application (pages 1, 2, 3), which addresses the purpose and philosophy of the Division II Planned Unit Development. This is record information that is no doubt in the County archives, but for your convenience, we felt it appropriate to forward to you.

As you can see, the basis for the Division II PUD was preservation of the Teton River and River Canyon, creation of viable open space while accommodating clustered development and preservation of the agricultural legacy of the property. Division II was not touted as a golf course community, but rather an extension of the open space community initiated with Division I of River Rim Ranch. Both Division I and Division II have focused on outdoor recreational amenities associated with Teton River fly fishing and pond area fly fishing, open space trail system activities of walking, hiking, and mountain biking, as well as other outdoor recreational opportunities in Teton Valley. A training and practice fly fishing course has been created at the west entry area of Division II. Golf and other recreational facilities were also proposed amenities within Division II, but secondary to the open space theme, fly fishing opportunities, trail system, and other recreational amenities within Teton Valley.

Within Division II, there were two specific areas for “Incidental Commercial Uses” – one specific to amenities and one specific to services:

1. The Teton Rim Golf Village (Tract E) was specifically for the club recreational facilities such as the golf pro shop, club house, health club, etc.

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2. The West Rim Village (Block 1) was specifically for general shops and service facilities that would support the local needs of the entire River Rim Ranch project. West Rim Village also included 30 condominium units that would have been privately owned but also available as overnight accommodations with a friendly bed and breakfast operations theme.

We feel it is important for the Board to understand the background facts concerning the purpose, focus and philosophy of the Division II PUD Master Plan. The characterization that Division II was to be a “golf community” PUD simply is not accurate when looking at the facts and the record. This is an important distinction as the “Incidental Uses” are further discussed.

We appreciate your consideration of this information as you continue your deliberations and look forward to the November 13 meeting where we would be pleased to address your questions.

Best regards,

Michael E. Potter  
Landscape Architect

## INTRODUCTION

River Rim Ranch is a Rural Reserve Base Density-Planned Unit Development (“Base Density-PUD”) consisting of 4,910 (+,-) acres located in the scenic north end of Teton Valley, Idaho approximately eight miles from the City of Teton. This property has some of the most panoramic views in Teton Valley, with outstanding elevated vistas of the Teton, Big Hole, and Centennial mountain ranges. The property has a strong sense of place and is characterized by the solitude of the Teton Valley basin. Convenient access to this property is from State Highway 33. Due to the vastness of this land holding, the property ranges in its topographical features; from rolling hills to lush treed hollows and to the nearly untouched Teton River and its river canyon walls.

This land has been in the Hoopes family for five generations. Prior to its purchase it was Idaho State Land. The western acreage at the base of the Big Holes was originally purchased in 1915 by John C. Hoopes, grandfather to Roger and Brent Hoopes. Orville Boehlke, grandfather to Dana Hoopes, purchased the eastern properties that same year which included more than two miles of the spectacular Teton River. The Hoopes family’s farming legacy started by their grandfathers nearly 100 years ago is carried through in the vision of the River Rim Ranch Master Plan which carefully blends long term agricultural preservation with clustered residential uses.

The initial 900-acre +,- phase, Division I of River Rim Ranch, adhered to the restrictive regulations of the Agricultural Planned Unit Development criteria of Teton County, Idaho which required a 75% open space component with 25% developable area. The success of this initial phase is due to its conscientious accommodation of residential home sites and amenities, as well as the aesthetically pleasing and environmentally sensitive open space. In 2004, Teton County, Idaho replaced the Agriculture Planned Unit Development criteria with the current Base Density-PUD. The Base Density-PUD allows for density of 50 to 60 units per 100 acres with an open space component of 50%. In order to continue the philosophies established in Division I of River Rim Ranch, Division II will have more than 60% total open space, thereby exceeding the County’s regulations.

Following is the philosophy behind the Division II River Rim Ranch Concept Master Plan:

- Cluster residential home sites and amenities within the property in an aesthetically pleasing and environmentally sensitive manner.
- Protect, preserve and respect the natural habitat of the Teton River and river canyon.
- Preserve the agricultural legacy fostered by the Hoopes family with long term agricultural practices with the inclusion of Farm/Ranch Conservation units.
- Meet or exceed the open space requirement of 50% for a Base Density-PUD. The Division II Preliminary Master Plan achieves more than 60% open space.

- Manage overall density within the parameters of the entire project to one unit per 10 acres as a general guideline which is consistent with the more restrictive previous Agricultural PUD limitations.
- Manage and mitigate potential ridge line visual intrusions by establishing building envelopes with slopes of less than 20% and design roads with slopes of less than 8%. Additionally, employ sensitive site design and enforce strong architectural guidelines as in Division I.
- Maintain the State Highway 33 Scenic Corridor by preserving large open space tracts on either side to maintain the view corridors and continue the sense of rural agriculture.
- Provide an interpretative river park access point at the Teton River to accommodate demonstrated public interest.
- Design and construct a public trail system adjacent to County Road 940 West as a major north-south link for recreational purposes.

#### River Rim Ranch Preliminary Master Plan Overview

Several large Farm/Ranch conservation parcels are designed throughout the development. Each Farm/Ranch conservation parcel is intended for private ownership with a limited number of home sites within the parcel. The Farm/Ranch conservation parcels will sustain legitimate agriculture use of the property in perpetuity. Management guidelines will assure the continued compatibility of these parcels with the neighboring property owners. The Farm/Ranch conservation parcels also meets the open space requirements of the Base Density-PUD. The Division II Final Plat Master Plan and Final Subdivision Plat documents will restrict these parcels to agricultural use and as designated open space.

The Teton River canyon was set aside as open space in the original Division I River Rim Ranch Master Plan (900 acres) and the Master Plan expansion will continue this open space corridor and designation. Interconnecting trail systems and shelters enhancing the fishing and hiking experience in the river canyon will be constructed. An interpretative river park is also proposed. Essentially, except for the limited recreational use, the Teton River canyon will be preserved in its natural state.

The philosophies established in the initial Division I of River Rim Ranch will be carried through in the expansion of Division II, adhering to a total open space of 60%. Not only is the farming legacy continuing with the creation of the Farm/Ranch conservation parcels, all lots will have dedicated building envelopes thereby ensuring maximum view corridors and increasing the visual open space. The expanded development will exceed the County's regulations and maintain the sense of rural agricultural heritage that is so rich in this area.

APRIL 2006

The home sites and recreational amenities within Division II of River Rim Ranch are strategically located within the property thereby providing large open space corridors and optimum visual access to open space. The Division II River Rim Ranch Master Plan will include six residential areas, a golf course, and Teton Rim Golf Village golf support services, an interpretative river park, public and private trail systems, and the West Rim Village for general support services. The phasing and unit counts are summarized below:

**UNIT SUMMARY AND  
OPEN SPACE SUMMARY**

**- UNIT SUMMARY -**

- Phase I West Rim Area:
  - Sub-Phase IA (East side)
    - 8 West Rim Ranches
    - 22 West Rim Estate Lots
    - 40 West Rim Cabin Lots (50'x100')
    - 39 Golf Fairway Lots (East)
    - 24 Golf Cabin Lots (50'x100')
  - Subtotal 133 Lots/Units
  - Sub-Phase IB (West side)
    - 37 Big Hole Estate Lots
    - 14 Big Hole Chalet Lots (50'x100')
    - 4 Highland Ranch Lots
    - 45 Golf Fairway Lots (West)
    - 46 Golf Chalet Lots (50'x100')
    - 45 Golf Chalet Cluster Units
  - Subtotal 191 Lots/Units
  - Sub-Phase IC (Golf Village/O&M Area)
    - No residential units allocated at this time
  - Sub-Phase ID (West Rim Village)
    - 30 Bed and Breakfast/Residential Condominium Units
  - Sub-Phase IE (Farm/Ranch Conservation Units)
    - 4 Residential Lot - Ranch Compound
  - Subtotal 34
- Total Ph I 358 Lots/Units**

APRIL 2006





November 6, 2013

Teton County Board of Commissioners  
Attn: Dawn Felchle  
150 Courthouse Drive, Room 107  
Driggs, ID 83422

**RE: Record Information – Incidental Commercial Uses**

Dear Board Members:

Back in 2006 when the PUD Application for Division II of River Rim Ranch was reviewed by the County, there were two Incidental Use Areas:

- West Rim Village (Block 1 – 8 lots) – 20 ac
  - Support Commercial uses for the entire project with limitations:
    - Equestrian Area (6 ac)
      - Outdoor riding facilities
      - Indoor riding arena facilities
    - West Rim Village (14 ac)
      - Incidental Uses/Support Commercial Uses
        - General Store/Gas Pumps/Car Wash
        - Self Storage Units/Office - Storage Units
        - Café/Logo Shop
        - Bed and Breakfast with 30 Condominium Units
        - Multi-purpose Meeting/Conference Space
        - Real Estate Office
        - Property Management Office
        - Existing Agricultural Buildings
        - Existing Storage
        - Existing Brent Hoopes Residence
  - Limitations:
    - Other future support commercial uses “incidental uses” only as specifically approved by the Board of County Commissioners.
    - The General Store, Gas Pumps, Car Wash, Café, and Bed and Breakfast with 30 Condominium Units will not be allowed to be constructed and operated until 2010 or upon completion of the golf course, whichever is later.

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- All other above-listed support commercial uses, “incidental uses,” will be allowed to be constructed and operational upon recording of the Phase 1 Final Plat.
  - Landscape buffering along Highway 33 will be completed by the developer prior to the operation of the commercial support uses, incidental uses.
- Golf Village (Tract E) – 10 ac
    - Support Commercial Uses for the Golf Course and Club facilities
      - Golf Pro Shop/Lounge/Restaurant/Office
      - Cart Barn/Storage/Multipurpose/Office
      - Swimming Pool/Spa/Health Club/Tennis Facility
      - Nordic Skiing
      - Fishing Pond
      - Shops/Services/Office Space/Conference/Sales/Property Management
      - Farm and Golf Operations/Barn/Equipment
      - POA Operations/Barn/Equipment
      - General Storage/Multi-Purpose/Support Facilities

Attached is the PUD – Final Plan Application Text (pages 7, 8, 9) and the County Planning Office minutes from March 14, 2006 – P&Z Public Hearing, and continued Hearing on April 11, 2006. This is record information that is no doubt in the County archives, but for your convenience, we felt it appropriate to forward to you.

In 2006 the County Commission approved the PUD Master Plan, including the Golf Village and West Rim Village Incidental Uses with conditions. Please be patient with all of this factual background information, but it is important as you further deliberate this topic and the suggested amendment language proposed by the Applicant.

Essentially, the Applicant is seeking your consideration regarding two items:

A. Incidental Uses allowed with or without Golf Course completion within West Rim Village area (Block 1 – Lots 1-8):

- Real Estate Office
- Meeting conference space
- Property management office
- Self storage units/office storage units
- Existing agricultural buildings
- Existing storage
- Existing single family residential home
- Fire substation (request for 2 ac lot 1A)
- Lodge facility – Lots 6, 8:
  - Allow conversion of existing HQ building (Lot 8) to not more than 10 lodging units:
    - Allow support kitchen/dining limited to 10% of building size
    - Allow support retail to 10% of building size
  - Allow maximum of 16 total lodge units on Lots 6, 8 including HQ building conversion units
  - Lodge units are not to be sold as condominiums and limited to not more than 6 additional lodge structures within Lots 6 and 8
  - Lodge units are not to have standard kitchens, but compact refrigerators and microwaves are OK
  - Lodge units subject to Teton County standard site plan approvals, building permits
- Recreational facilities such as a swimming pool, health club, or tennis facility

B. 2% Limitation of developed land area for Incidental Uses:

- Reduced PUD developed land area – reduced area for “Incidental Uses” with PUD Plan Amendment:
  - 10.56 acres allowed currently
  - 21.33 acres allowed with completion of Phases II-VI
  - Platted lots within Block I shall be grandfathered based upon prior plat approvals
  - Incidental uses within either or both Block 1 and Tract E shall not exceed a total of 2% of developed land area

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Thank you for your consideration regarding this Incidental Use request. We have worked diligently with the staff and P&Z to come up with the proposed solution. River Rim Ranch (400+ lots) will in the long term have a growing need for these basic support or incidental uses. We look forward to answering any of your questions at the November 13 meeting.

Best regards,

Michael E. Potter  
Landscape Architect

- After extensive input and suggestions a revised strategy for the West Rim Village “Support Village” is now proposed:
  - The West Rim Village has been shifted northward and located in proximity to the Brent Hoopes farmstead which is immediately adjacent to the University Experiment Station. This inclusion of the Village into an existing complex of buildings and farm structures helps to preserve the Highway 33 open space corridor while enhancing the “hamlet” character of the Hoopes’ farm structures and University structures.
  - Rather than proceeding with a formal zone change and conditional use permit to allow for the Village, it is now proposed to accommodate the Village as an “incidental use” within the larger project to provide only support uses. Approximately 14 acres are proposed for a mix of support uses and services and 6 acres for an Equestrian Center to serve River Rim Ranch, and secondly, the immediate locale. We believe this revised strategy overcomes many of the previous concerns and actually creates a superior solution including:
    - The new location is on a low ridge above the valley floor and has outstanding views of the Teton Range and central to River Rim Ranch.
    - Existing access from all of River Rim is excellent and convenient.
    - The more prominent ridge location provides for a more viable pedestrian configuration with excellent sun exposure and park opportunity to the south below the ridge.
    - This location and configuration will nicely accommodate 30 residential condominium units to give the Village added life and vitality. These 30 proposed units would be in association with a bed and breakfast.
    - The blend of support shops and services with existing agricultural silos and barns will create a very pleasant Village environment.

APRIL 2006 - 1,899

Much dialogue surfaced within the ranks of the Planning and Zoning Commission regarding the definition of "Incidental Use" and in response we offer the following:

- The logic of reasonable support and centralized services for the future property owner base at River Rim such as a general store, storage units or an equestrian facility area are as logical as the general support uses "Incidental Uses" that were approved for the golf course such as the Club, Pro Shop and Cart Barn.
- In responses to some of the expressed concerns about art galleries or boutiques, we are willing to forego those types of uses. They were originally listed because they are normally found as support uses in many second home/resort communities.
- We remain committed to isolating and buffering the West Rim Village from Highway 33 so it is not perceived as a roadside commercial strip. This has been achieved in the Final Master Plan and Plat layout.
- The thought that C1-Commercial Zoning could be a more appropriate approach for the West Rim Village is severely problematic as C1 is only allowed within existing City or City Impact Areas. Therefore, C1 Zoning is an entirely unrealistic alternative. Support commercial uses at River Rim can only be achieved through the Incidental Use provisions.
- The River Rim Ranch application allows for up to 30.9 acres for "Incidental Uses." The proposed West Rim Village which is 14 acres and the Equestrian Center which is 6 acres fit comfortably within this allowed amount.
- In summary then, we remain committed to the position that reasonable support commercial uses will be needed at River Rim and require to be properly master planned now even though actual demands and actual creation of such support uses are something that will occur in the future. In the spirit of compromise we ask for consideration for the following basic Incidental Uses at the West Rim Village:
  - Equestrian Facility (6 ac)
  - Incidental Uses/Support Commercial Uses: (14 ac)
    - General store/gas pumps/car wash
    - Self storage units/office - storage units
    - Café/logo shop
    - Bed and Breakfast with 30 condominium units.
    - Multipurpose meeting/conference space
    - Real estate office
    - Property management office/property owners association office
    - Existing agricultural buildings
    - Existing storage
    - Existing Brent Hoopes residence

APEN 2006 - 7, 8, 9

- Limitations:
  - Other future support commercial uses “incidental uses” only as specifically approved by the Board of County Commission.
  - Support commercial uses “incidental uses” will not be allowed to be constructed and operated until the opening of the golf course which is forecasted for 2010.
  - Landscape buffering along Highway 33 will be completed by the developer prior to the operation of the commercial support uses, incidental uses.

APRIL 2006 - 7.8.9

**RIVER RIM RANCH, DIVISION II  
PLANNED UNIT DEVELOPMENT  
MASTER PLAN AND PHASE 1**

**March 14, 2006**

**Prior to the start of the public meeting, Ms. Nickell recused herself due to conflict of interest.**

**DEVELOPMENT OVERVIEW:**

River Rim Ranch Division II, Planned Unit Development (PUD) Master Plan and Preliminary Plat Phase 1 Application was presented to the Teton County Planning and Zoning Commission (Commission) by West Rim, LLC on March 14, 2006 in a public meeting. The Master Plan proposes 550 lots on 4490.3 acres. This PUD is located approximately eight (8) miles northwest of Teton City on State Highway 33. This development is proposing a golf course on 280 acres with associated incidental uses for golf amenities on 10 acres and an additional 20 acres of incidental uses, of which 6 acres are proposed for an equestrian facility and 14 acres are proposed for general support amenities for the entire development.

**APPLICANT PRESENTATION:**

At the public meeting on March 14, 2006, Mr. Mike Potter represented West Rim, LLC. He highlighted the project and gave an overview of the proposed infrastructure including the applicants willingness to upgrade the county roads serviced by the development and the proposed central water and sewer system in West Rim Area (Phase 1) and the cabin cluster areas within the entire Division II. He noted that county regulations allow for 2% of the developed acres in a PUD to be used for incidental uses and went on to explain that River Rim Ranch Division II would be allowed 30 acres of incidental uses based on that calculation. He briefly explained that the allowed incidental uses would be utilized in two specific areas of the development: The Teton Rim Golf area (10 acres) and the West Rim Village area (20 acres) of which 6 acres is devoted to an equestrian facility. The incidental use in the Teton Rim Golf area would be specific to golf operations, maintenance and recreational amenities and that the incidental uses in the West Rim Village area would be located centrally from all the River Rim Ranch phases and support the general needs for the entire development and include such uses as: a general store with fuel pumps, a bed and breakfast/condo, storage units, a multipurpose building, boutiques, a café, a brew pub and an equestrian facility. He noted that neighbors concerns have been addressed. Mr. Potter concluded his comments with a list of community considerations which include: County Road upgrades, donation of a Fire District future expansion site, a public trail, an interpretative river park, voluntary impact fee contributions, and the incorporation of the River Rim Ranch Foundation.

**PUBLIC COMMENT:**

The public was given the opportunity to comment on the application. Mr. Jeff Carter was the only person in the audience that spoke and was representing Valley Advocates for Responsible Development (VARD). VARD had no issue with the layout of the PUD, the open space configurations including the golf course, or the number of units proposed, however, Mr. Carter did express concern with the amount of land being proposed for incidental use, specifically in the West Rim Village area. He stated that Section 8-3-6 (E) of the Teton County Zoning Ordinance (TCZO), C-1 Retail Commercial District, should be used for approval or denial of the West Rim Village instead of Section 9-7-5 of the Teton County Subdivision Ordinance (TCSO), Incidental Land Uses. He noted that the reasoning for this argument was the specific wording in TCZO Section 8-3-6 (E-3), "Use of this zone should be *used only within cities and portion of the cities impact area adjacent* to the city unless extraordinary circumstances exist and where appropriate to accommodate the needs of residents in subdivisions or in multiple use planned developments." Mr. Carter also noted that if these uses were approved as incidental this would be setting a precedence in the County.

**COMMISSION DELIBERATION:**

The public meeting was closed and the Commission entered into thorough deliberation for nearly an hour.

Mr. Young noted his appreciation of the Fiscal Impact Study prepared by Thomas L. Clinton. He also expressed positive comment on the layout of the open space and the proposed central water and sewer system. He echoed Mr. Carter's concerns on the amount of land being proposed for incidental land use in the West Rim Village, the location of the West Rim Village and felt the applicant should be applying for a zoning district amendment to C-1, Retail Commercial District, instead of using the Incidental Land Use provisions allowed in the TCSO, but realized the possibility of the creation of a "spot zone" with the zoning district amendment application.

Ms. Steele commented that the incidental land uses were appropriate in the golf course area and agreed with Mr. Young's comments that incidental land uses were not appropriate for the West Rim Village and that the location of the West Rim Village should not be adjacent to Highway 33 but should be in the core of the development.

Mr. Bagley expressed his concern with some of the incidental uses being proposed in the West Rim Village area.

Mr. Thompson remarked that the incidental uses as noted in the application were appropriate with the exception of the theater and quoted the TCSO Section 9-7-5 Incidental Land Uses, "PUD's may contain incidental components which are inconsistent with the underlying land use zones as determined by the commission and approved by the board upon the following findings: (A). The uses permitted are incidental, necessary or desirable and appropriate with

respect the primary purpose of the PUD." He further complimented the developer on the proposed central water and sewer system in the West Rim area.

Mr. Richardson commented the incidental uses proposed were not an issue and noted that the highway frontage was buffered with landscaping.

Ms. Heilesen was concerned about the West Rim Village competing with other cities in Teton Valley with specific concern of the shops, fuel pumps and general store.

#### **COMMISSION RECOMMENDATION:**

On March 14, 2006 the Commission recommended approval of River Rim Ranch Division II, Master Plan Plat and Preliminary Plat Phase I Application based on the findings and reasoning provided in the application and the staff report with the exception of the incidental use issue on the 20 acres in the West Rim Village area. The incidental use issue on the 20 acres was continued to April 11, 2006 with instruction to the applicant to create a specific list of proposed uses and attach square footage to each proposed use. This motion passed unanimously.

**April 11, 2006**

#### **CONTINUED PUBLIC MEETING:**

**Prior to the start of the public meeting Ms. Nickell recused herself due to conflict of interest.**

Mr. Larry Boothe, Planning Administrator clarified for the Commission that the purpose of this continuation was to discuss the incidental uses in the West Rim Village. He ensured the applicant that the Preliminary Plat Master Plan and Phase I Preliminary Plat was recommended for approval and the Commission had no issue with the golf course incidental uses. He read the TCSO Section 9-7-5 Incidental Land Uses and noted that the applicant was within his right by ordinance to utilize this section of the ordinance for the uses proposed. He noted that the applicant had submitted a thorough report titled, "West Rim Village Clarification of Incidental Uses Report and Appendix I", which outlined the uses proposed on the 20 acres, square footage anticipated for each use and the report noted that vertical construction in the West Rim area would not begin until the golf course was in operation, which as estimated to be in year 2010.

#### **APPLICANT PRESENTATION:**

Mr. Mike Potter represented West Rim, LLC and presented to the Commission the River Rim Ranch Master Plan vision for three activity areas in the development, all of which are appropriate in a second home resort community: 1) Fishing, river access and amenities to support this use in Division 1, 2) Golf Course and Teton Rim Golf Village to support golf resort functions, 3) West Rim Village to support shops and services to meet the general needs of the

residents in a central convenient location. He went on to explain that in his review of the C-1 zoning district, he found it inconsistent in intent and therefore inappropriate in this area. He noted that the Incidental Uses proposed are appropriate, reasonable and desirable for the scale and need of the project and therefore the use of the Incidental Land Use section of the TCSO was the correct application approach. Mr. Potter further explained that the West Rim Village would not start construction of buildings until completion of golf course construction in 2010, or later depending on marketing and economic conditions. This would allow time for infrastructure completion of the West Rim Area and the Teton Rim Golf Village prior to implementing construction of buildings at West Rim Village which would only be phased in based on local River Rim Ranch demands.

Mr. Potter detailed the amenities that would be implemented in this area and noted that the amenities proposed were specific to a second-home resort community and small conference center as detailed in the report provided by PC Development to the Commission titled, "West Rim Village Clarification of Incidental Uses with Appendix I." He explained that there would be no health, safety or general welfare issues with the uses proposed. This area will contain a central water and sewer system. Upgrades as required by the Teton County Road Department and the Idaho Transportation Department shall be complied with and off site highway traffic would be reduced with limited core services available to the approximate 626 residential units of Divisions I and II of River Rim Ranch. The location of River Rim Ranch is 8 miles from Teton; this is the next logical sequential location for a desirable and appropriate convenience area in Teton Valley.

#### **PUBLIC COMMENT:**

The public was given the opportunity to comment specifically to the incidental uses proposed on the 20 acres known as West Rim Village. Seven audience members chose to speak:

Mr. Jeff Carter representing Valley Advocates for Responsible Development (VARD), stated River Rim Ranch was a model development. He read Section 9-3-2 (C) of the (TCSO), Consideration For Approval, and stated that the incidental uses proposed on the 20 acres was not in compliance with the Teton County Comprehensive Plan, Land Use Section, Policy #7. He further reiterated his argument from March 14, 2006 that a zoning district amendment application would be the proper procedure to follow as the uses proposed were not incidental to the development, because the location adjacent to State Highway 33 would be marketing to those outside of the development and not all revenues would be from the resort.

Mr. Reed Roger, representing Teton Valley Chamber of Commerce read from a report by Mr. Roger Brooks of Destination Development, who specializes in building destination resort communities. This report stated that economics in resort communities is based on tourism and there was a need in Teton Valley to jump start the economics. He went on to say that support services such as those proposed at River Rim Ranch are needed for a resort community to be successful. He did note, however, that a theater and a brew pub may not be appropriate within the West Rim Village area.

Mr. Count Webb commented that if incidental commercial uses were allowed in this location they would be approved elsewhere in the county.

Ms. Sharon Woolstenhulme noted that the Commission needed to be making the distinction between a standard subdivision and a resort community. That the uses proposed may not be appropriate in a standard subdivision but they were appropriate in a resort community such as River Rim Ranch.

Mr. Doug Self, Driggs City Planning Administrator, commented that pedestrian shopping needs to be in Driggs and square footage limits should be applied to the commercial uses.

Mr. John Kjos stated that in as much as possible traffic issues need to be kept on the property and the applicant is proposing turn lanes which will handle the safety issue on roads and highways. He noted that the incidental uses proposed are appropriate in this location.

Mr. Denny Arnold commented on the energy crisis facing the Nation and there is a need for support services once there are residents onsite which will keep traffic flows to a minimum on the State Highway. He further noted that destination resorts have all the amenities that are being proposed at River Rim Ranch.

#### **COMMISSION DELIBERATION:**

The public meeting was closed and the Commission entered into a thorough deliberation of nearly two hours.

Mr. Young stated the Commission needed to be concerned with a domino effect and that incidental uses were in the eye of the beholder. He went on to state that these uses should be applied for in a zoning district amendment application for C-1; as the uses proposed and the location presented are highway commercial with the square footage proposed for each use. Mr. Young noted his interpretation of the TCSO Section 9-7-5, Incidental Land Uses was for uses internal to a development.

Ms. Steele noted that the primary purpose of a PUD was for residential uses not primarily commercial uses and she felt the incidental uses moved this developments primary purpose from residential to commercial. She further noted that there were no zoning regulations for a resort, there were only regulations for commercial or residential development, therefore, the Commission needed to be looking at this development from a residential stand point. She stated that the West Rim Village was a commercial use and therefore a zoning district amendment application should be considered and if this were to be considered under the TCSO Section 9-7-5 the uses would have to be internal to the development.

Ms. Heilesen noted that a gas station was a commercial enterprise and not appropriate in this area; she did however feel that some of the uses proposed by the applicant were appropriate in the West Rim Village.

Mr. Bagley stated that his concerns were alleviated once he read the developers report (West Rim Village Clarification of Incidental Uses with Appendix I). He further reiterated that the TCSO Section 9-7-5 allowed for 2% of the developed land to be considered for incidental uses that were "appropriate or desirable". He remarked the uses proposed were a necessity in this resort community and that it was a long way to drive to Tetonia for a few convenience items that could be available in this location.

Mr. Thompson commented that the West Rim Village would not be competing with the Tetonia market and there was no one from Tetonia to speak against the application. He remarked that the overall proposed uses met the needs of the development; however, he felt the brew pub and art gallery should be eliminated. He did suggest that the developer buffer another 100' back from the highway.

Mr. Richardson stated that Section 9-7-5 of the TCSO was left general to allow the Commission flexibility as it looked at different types of development. He stated that most resorts have accessibility to main streets, that this development "smelled of resort" and that the uses proposed were pertinent. He would like to see more screening along State Highway 33.

#### **APPLICANT REBUTTAL:**

Mr. Potter stated that the letter of the law is met with the incidental uses proposed and the percentage of the area available with the 2% of incidental uses allowed by ordinance. He would be willing to pull back the West Rim Village 100' from State Highway 33, to create additional pasture screening buffer. He would also be willing to eliminate the access across from County Road 875 West but felt that the elimination would interrupt resident access from the North Plateau phase of the development. He suggested that the Commission review the uses proposed and he would be open to negotiating with the Commission the uses they felt were appropriate in this area.

#### **COMMISSION RECOMMENDATION:**

At the April 11, 2006 three motions were made:

1) The Commission recommended acceptance of the incidental uses proposed in River Rim Ranch PUD with the exception that the developer pull back 100' from State Highway 33 and provide more screening; and eliminate the 875 West County Road access thereby creating an incidental use area within the development.

This motion was discussed and the Commission felt that eliminating the 875 West access was not appropriate. The motion was not voted on and was amended as noted below.

2) Amended Motion: The Commission recommended acceptance of the incidental uses proposed in River Rim Ranch PUD with the exception that the developer pull back 100' from

State Highway 33 with screening and keep the 875 West access for convenient highway access.

This motion resulted in a tie vote with Commission members Young, Steel and Heileson opposed and Commission members Bagley, Richardson and Thompson in favor. This vote, therefore, does not recommend acceptance or denial of the incidental uses on the 20 acres known as West Rim Village within River Rim Ranch Division II.

3) The Commission moved to forward the Preliminary Plat Master Plan Application along with the incidental use components of the application to the Board of County Commissioners to schedule the Final Plat Master Plan and Phase 1 Final Plat public hearing.

This motion passed with a majority vote with Commissioners Steel and Heileson opposed.

#### STAFF SUMMARY:

1) River Rim Ranch Division II and Golf Course Amenities with Golf Course Incidental Uses:

The Planning and Zoning Commission has no issue with the River Rim Ranch Division II open space, density or layout. There was also no issue with the golf course and the amenities and incidental uses proposed in what is being called the Teton Rim Golf Village. At the public meeting on March 14, 2006 the Commission unanimously recommended approval for the Preliminary Plat Master Plan Application based on the findings and reasoning in the staff report. As noted in the staff report, the application complies with the Teton County Comprehensive Plan, the requirements of the Teton County Subdivision Ordinance and all the requirements from the checklist were met.

2) West Rim Village with General Support Incidental Uses:

The Planning and Zoning Commission continued their discussion of the incidental land uses on April 11, 2006. As clarified by the Planning Administrator prior to beginning the meeting, the purpose of this continuation was to discuss the proposed incidental land uses in the West Rim Village. He stated that the applicant was within his right by ordinance to implement Section 9-7-5 of the Teton County Subdivision Ordinance for the uses proposed as they were clearly incidental and necessary for a resort community.

The Commission debated the relevance of two sections of the ordinances:

1. Teton County Subdivision Ordinance, Section 9-7-5 Incidental Land Uses states, "PUD's may contain incidental components which are inconsistent with the underlying land use zones as determined by the commission and approved by the board upon the following findings:
  - A. The uses permitted are incidental, necessary or desirable and appropriate with respect to the primary purpose of the PUD."

B. No more than two percent (2%) of the developed acreage within the PUD (not including land set aside as open space) is devoted to uses permitted by the exception.

2. Teton County Zoning Ordinance, Section 8-3-6 (E) C-1 Retail Commercial District. "Use of this zone should be used only within cities and portion of the cities impact area adjacent to the city unless extraordinary circumstances exist and where appropriate to accommodate the needs of residents in subdivisions or in multiple use planned developments."

The Commission literally split down the middle while debating these two regulations. Three members of the Commission insisted that the applicant was well within his right to utilize 2% of the developed area within the Planned Unit Development for the uses specified by the applicant in the "West Rim Village Clarification of Incidental Uses Report and Appendix I". The other three members of the Commission insisted that the applicant should be applying for a C-1 zoning district amendment as the uses were not incidental to the Planned Unit Development. Therefore, the motion was tied and as outlined above was recommended to the Board of County Commissioners for final resolution and decision.

#### **STAFF RECOMMENDATIONS:**

Based on the series of motions made by the Planning and Zoning Commission and the recommendations of those motions, the staff recommends that the Board of County Commissioners consider this application in two separate actions and motions.

**Recommended Action 1:** Review and consider the River Rim Ranch Division II Master Plan and Final Plat Phase 1 Planned Unit Development Application with the incidental uses proposed in the Teton Rim Golf Village area in a public hearing.

**Recommended Action 2:** During the Board's public hearing consider the incidental uses proposed in the West Rim Village.

The Commission recommendation for approval of the River Rim Ranch Division II, Master Plan and Final Plat Phase 1 Planned Unit Development Application with the incidental uses proposed in the Teton Rim Golf Village area was a clear cut recommendation (Recommended Action 1). Since the Commission was not able to make a definitive recommendation of proposed uses in the West Rim Village part of the PUD to the Board (Recommended Action 2), The staff recommends that this issue be handled in a separate action and motion after deliberation by the Board. That the Board review the list of specific uses provided by the applicant in accordance with TCSO 9-7-5 and determine which uses are allowable and set a time line for construction of the approved uses in accordance with the estimated time line for build out and completion of the PUD.

The staff has further researched the ordinances and land use law, and based on this research, it is the opinion of the staff, that the uses proposed in the West Rim Village are uses allowed under Teton County Subdivision Ordinance, Section 9-7-5 – Incidental

Land Uses. Further, it would not be inappropriate for the applicant to apply for a zoning district amendment to the C-1 Retail Commercial District, as discussed by some members of the Commission. This opinion is based on the following:

The Teton County Zoning Ordinance, Section 8-3-6 (E), C-1 Retail Commercial District. "Use of this zone should be used only within cities and portion of the cities impact area adjacent to the city unless extraordinary circumstances exist and where appropriate to accommodate the needs of residents in subdivisions or in multiple use planned developments." This section of the ordinance was written to allow certain commercial uses in cities and the areas of impact, but as stated, an applicant must prove extraordinary circumstances if using this regulation to accommodate the needs of the residents in subdivision or in multiple use planned developments. The PUD in this application is neither extraordinary or a multiple use planned development. It is a standard residential PUD in accordance with the definitions in the Subdivision Ordinance as quoted below:

**Planned Unit Development:** A development of land consisting of separate residential lots of record where conventional setbacks, lot sizes, or density may be varied with adjacent land held in common, usually as open space, where said common land is [under] private management, or a homeowner's association. Three (3) types of PUDs are available under this title.

**PUD Density Based:** A form of planned residential development that concentrates building and part of the site to allow the remaining land to be used for recreation, open space or preservation of environmentally sensitive areas. The open space may be held or managed common by all project residents, or may be platted as one of more large privately held lot(s) with a building envelope.

The Small PUD and RCI PUD do not apply to this application.

#### **OTHER FACTORS FOR CONSIDERATION BY THE BORAD:**

- 1) This development is not within a city or an impact area.
- 2) This development is not a subdivision; it is a PUD. PUD's are allowed 2% of the developed area to be used for incidental uses; subdivisions are not allowed incidental uses; TCSO 9-7-5. This is an issue that was discussed during the Comprehensive Plan drafting process by the Commission and they consider the current ordinance language acceptable. This section incidentally was drafted in 2000 when the original chapter on PUD's was written. It is boiler plate language that was recommended in the original draft language presented by Givens and Pursely who assisted in the drafting of the PUD ordinance.
- 3) County Regulations recognize three types of PUD's: A Small PUD, A Density Based PUD, and An (RCI- PUD) Residential, Commercial, Industrial PUD or as referred to in this regulation as a "multiple use planned development". A Small PUD does not apply to this application, as a Small PUD is available to subdivide no more than five lots and RCI PUD's are only allowed in areas with R-1, R-2, C or M zoning districts. This development is Density Based

PUD and therefore it cannot be considered a multiple use planned development.

4) The fact that Section 9-7-5, Incidental Land Uses, exists in the PUD section of the Subdivision Ordinance and allows for uses inconsistent with the underlying land uses in the zone, which are incidental to support the PUD, removes the need for a zone change. The Ordinance requires the developer to provide a list of uses and the Commission and/or the Board are to review the list and determine the uses allowed based on their reasoning and findings. This section of the Ordinance allows for inconsistent uses, in the incidental use area. Therefore, there is no reason for a change of zone to be done, nor could a zone change to C-1 or any other zone change be considered "extraordinary" as required by the present ordinance.

Based on the above, this development does not have the option of applying for a Commercial Zoning district whether it be C-1, C-2 or C-3. The only option available for uses other than residential, which is the appropriate and regulated option under the Teton County Ordinances, is the Incidental Land Uses, section of the Subdivision Ordinance, Section 9-7-5. The applicant has met the criteria of incidental components which are inconsistent with the underlying land use zone of Agriculture 20, the uses proposed are incidental, necessary or desirable and appropriate with respect the primary purpose of the PUD, which is residential resort community, and the applicant is not using more than two percent (2%) of the developed acreage within the PUD for the incidental land uses proposed. The applicant provided a list of specific uses and square footage for the incidental land uses in the Development Agreement with the County. Therefore the staff can find no reason why the applicant has not met all the requirements and criteria for approval of the West Rim Village as an incidental land use.

The applicant has met all the requirements of the Teton County Subdivision Ordinance and Teton County Zoning Ordinance for the Final Plat Master Plan and Phase 1 Final Plat. There are no outstanding issues. The applicant is well within their right by ordinance to use the Teton County Subdivision Ordinance, Section 9-7-5 Incidental Land Uses for the land uses proposed in the Teton Rim Golf Village and the West Rim Village which are both within the boundaries of this PUD and are clearly necessary as support services for the development as a whole.





# RENDEZVOUS ENGINEERING, P.C.

Civil Engineers and Planners in Wyoming and Idaho

Rendezvous Project No: 05-003

November 6, 2013

Mr. Jay Mazalewski, P.E.  
Teton County Engineer  
150 Courthouse Drive  
Driggs, Idaho 83422

RE: River Rim Division II / Significant Change - Reduced Impact Amendment  
Response to Engineering Comments Dated October 28, 2013

Jay:

The following responses are submitted on behalf of Big Sky Western Bank (Glacier Bancorp) based upon comments provided in your memo updated on October 28, 2013. Your comments are shown in blue and purple font. A separate engineering memorandum discussing traffic impacts for River Rim is provided separately.

## DEVELOPMENT AGREEMENT:

**9. (9) A one year warranty period will begin once the entire infrastructure for each phase is complete.** This is per the 2011 revised development agreement and should remain. (*NOT ADDRESSED--THIS WAS CHANGED FROM THE 2011 AGREEMENT*)

The following additional language (red font) is suggested for section 2 (i) of the most recent development agreement to clarify concerns about the handling of the release of the letter of credit:

“The County shall retain for draw on the letter of credit twenty-five percent (25%) of the amount of the original line item until **acceptance of the entire phase associated with a specific infrastructure line item and** the one year warranty period **for the entire phase** has expired, at which time said amount will be released from any letter of credit to the Owner.”

**13. (Exhibit B) Engineering Estimate.** (*The estimates appear low based on the current pricing for asphalt and the previous estimate submitted as part of the 2011 agreement*)

The unit price for asphalt was based upon bids received in 2013 for a project in Driggs Idaho., which was \$80.00 per ton for only about 1,200 tons involving special site preparations. Therefore the unit price of \$80.00 per ton was used for River Rim given that the paving work for this project will involve larger quantities (~11,000 tons) which typically result in lower unit prices. In addition, the River Rim paving will involve long straight sections, allowing the contractor greater efficiencies and cost savings.

**15. (Exhibit C) Additional Notes.** *(The current proposal has the N9400W improvements by 12/31/2014 and the south connector road by 12/31/2016)*

The south connector is no longer a critical link for access and has been scheduled to be constructed with the placement of gravel on the River Rim internal road system in 2016. It was previously proposed for construction in 2014 when an option to route the County Road through River Rim was proposed but has since been dropped.

**MASTER PLAN AMENDMENT**

**ii. Idaho Transportation Department approval is needed for the new proposed access from Highway 33 (secondary access road) prior to approval of this amendment.** *(No additional information provided.)*

As mentioned during previous Planning Commission Meetings, Rendezvous Engineering was contacted by Ben Burke of ITD, District Traffic Engineer, on August 9, 2013 by phone in response to the access permit application submitted for the South Canyon Area. ITD has reviewed the application and made a field visit to the site with representatives from Rendezvous Engineering. They have determined that based upon the number of units proposed (64 at the time, now reduced to 55) that a Traffic Impact Study would be required to determine the need for turning lanes. As an alternative, River Rim can also elect to construct turning lanes without the study. Ben Burke indicated that the application would remain on hold until a decision was made. Ben also implied that ITD was okay with the proposed access site so long as the study or turning lanes were completed. A final decision by River Rim about the access will depend upon completion of the master plan amendment and timing for development of this future phase.

**ADDITIONAL COMMENTS:**

*Concerns have been raised regarding the viability of the relocated N9400 W, specifically during the winter snow and spring runoff through the Milk Creek Canyon section. I recommend that the road through River Rim (South Connector Rd. west side of West Rim loop Rd) remain a dedicated public right-of-way and may serve as a seasonal access for the public in the event that N99400W is not passable. This will provide an alternative route for the properties to the south and west of River Rim. Not addressed, at a minimum, no gates shall be erected to prevent the public from using the loop road as a by-pass for N9400W*

A note will be added to the final plat for Division II Phase I indicating that public use of the River Rim internal roads will be permitted during emergency conditions if County Road 9400 West is unavailable for normal use. The roads within River Rim will still remain private. The Teton County Sheriff will be responsible for declaring the emergency. The plat will also note that maintenance of 9400 West will be the responsibility of Teton County.

*Additional comments as of 1012812013:*

*1) Glacier Bankcorp Letter (9/24/13), Item 6: This is not an accelerated plan for the infrastructure. The 2014 road relocation is the same as the previous agreement.*

The accelerated timeframe refers mostly to the revegetation of the golf course open space which in previous proposals not planned to be completed until 2016 rather than 2014.



***Development Agreement:***

*1.2 (f) The agreement should read that 9400W shall be improved to the "local" road standard per the Teton County Highway Design Guidelines. Additionally the northern section should be built to "minor collector" standards.*

See suggested language in red font to address the local road standard. See separate memo regarding the north section of County Road 9400 West as the applicant has provided traffic projections for this section of road and does not believe that north section needs to be upgraded to a "minor collector".

1) County Road 9400 West. The relocation and widening of the County Road 9400 West to a 22 foot surface (**local road standard as defined by the Teton County Highway Design Guidelines**) shall be completed from Highway 33 to the southwest corner of Division II Phase I to Teton County crushed gravel standard by December 31, 2014. All lots in Phase 1A plus Block 6 Lots 1-28; Block 7 Lots 1-16; Block 8 Lots 8-12; and Block 9 Lots 1-25 shall be eligible for sale following construction and County acceptance of the County Road.

*2.2(i): The development agreement should state the warranty period begins at the completion of the phase not at the line item acceptance of the improvement, per the original agreement.*

This item was previously addressed.

*3.9: The guarantee of improvements shall start once the Phase is complete, NOT the improvement complete.*

This item was previously addressed.

*4.11f2 Is the developer building/grooming a snowmobile trail? If not, how is this a public benefit?*

The most recent proposal involves the construction of a separate gravel road built to county standards. This road will have proper drainage, have a proper structural section, be constructed to a 22 foot surface width and have a recorded easement -- unlike the current road. Given the limited use anticipated for the present and future, this road will be able to serve vehicular traffic and recreational uses including snowmobiles as a multi-use road and trail. In addition, River Rim has provided a dedicated 100 foot wide easement along the entire length of 9400 West in the event that a separate trail is desired. The new road and easement represent public improvements that are appropriate for the type of road needed in this area.

*5. Exhibit B: In general the cost estimates appear low for the road and utility infrastructure. Many items shown in the 2011 estimate for the road relocation are no included in the current estimate. A revised final estimate based on the construction drawings should be submitted and used as the basis for the letter of credit.*

As previously noted, we have used actual bid cost for most of the unit prices in the engineering estimate. Much of the work at River Rim does not involve the many conflicts with existing utilities landscaping and private owners that are often involved in other projects. Also many of the insurance and bonding requirements that are a part of public projects can be simplified or eliminated on this private development.



Also, in this latest round of estimates (as compared to the 2011 estimates) we have determined quantities for the road construction (the majority of the infrastructure being built) based upon the design plans currently of record with Teton County, both for County Road 9400 West and the roads within River Rim.

*6. Exhibit C: Note 2 references note 7 which does not apply. The paving of the north section of 9400W should be done at the same time as the paving of the interior loop road, 30 building permits or an ADT of 200.*

See memorandum related to traffic generation and paving of the north section of County Road 9400 West.

Sincerely,



Robert T. Ablondi, P.E.

Cc: Don Chery  
Mike Potter  
Dan Green



**AMENDED AND RESTATED DEVELOPMENT AGREEMENT  
FOR RIVER RIM RANCH DIVISION II- PLANNED UNIT DEVELOPMENT**

This Amended and Restated Development Agreement for River Rim Ranch Division II Planned Unit Development (this "Agreement") is made this \_\_\_ day of \_\_\_\_\_, 2013, by and between Teton County (the "County") and Big Sky Western Bank (the "Owner" which term shall include any successors and assigns of the Owner to the ownership of River Rim Ranch PUD) (collectively referred to herein as the "Parties").

STIPULATION OF FACTS

- A. This Agreement pertains to Division II of the River Rim Ranch Planned Unit Development ("River Rim") which was approved by the County and recognized as a master planned unit development.
- B. On July 27, 2006, a Development Agreement for Division II was made between West Rim LLC ("West Rim") as developer and the County. The Development Agreement was recorded on August 7, 2006, as Teton County Recorder's Instrument No. 179247.
- C. On or about June 30, 2009, the Owner acquired River Rim Ranch property (the "Project") from West Rim pursuant to a non-merger Warranty Deed in Lieu of Foreclosure recorded on July 14, 2009, as Teton County Recorder's Instrument No. 205788.
- D. The 2006 Development Agreement was amended by: (i) that certain Amendment to Recorded Development Agreement for the River Rim Ranch - Division II Planned Unit Development, dated November 18, 2011, recorded on December 13, 2011, as Teton County Recorder's Instrument No. 220042 (the "2011 Amendment"); (ii) that certain Administrative Amendment to Development Agreement for River Rim Ranch Division II Planned Unit Development, dated May 14, 2012, recorded on May 17, 2012, as Teton County Recorder's Instrument No. 222136 (the "Administrative Amendment"); and by (iii) that certain Administrative Amendment to Development Agreement for River Rim Ranch Division II Planned Unit Development, dated November 13, 2012, recorded December 14, 2012, as Teton County Recorder's Instrument No. 225471 (the "Second Administrative Amendment"). Unless specifically indicated otherwise, the 2006 Development Agreement as amended by the 2011 Amendment, the Administrative Amendment, and the Second Administrative Amendment are collectively referred to herein as the "Prior Development Agreements."
- E. The Owner and the County hereby amend and restate the Prior Development Agreements into this Agreement. This Agreement shall supersede and replace the Prior Development Agreements. Provisions contained in the Prior Development Agreements that are no longer applicable are not included in this Agreement.

## AMENDED AND RESTATED DEVELOPMENT AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties hereby stipulate and agree as follows:

1. **Subdivision Description.** This Development Agreement pertains to and includes that property which is designated and identified as River Rim Ranch Division II (Div. II), which includes Phase I (consisting of Phases 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H and 1I, 1J, 1K, and 1L,) and Phases II, III, IV, V and VI, as described in the Illustrative Master Plan attached as **Exhibit A** and incorporated herein by reference.
2. **Division II Phase I.** The Division II Phase I phases are amended and restated as more specifically described below and in the Exhibits attached hereto and incorporated herein by reference.
  - (a). **Lot/Unit Reduction/Redistribution.**
    - (1) The number of units in Division II Phase I shall be reduced by 37 units from 360 units originally approved to 33 units.<sup>1</sup>
    - (2) The Lots/Units are restated as follows:
      - (A) **Tract A.** The 20 lots for cluster cabins will be converted to lots for eight single family residential units.<sup>2</sup>
      - (B) **Tract B.** The lots for 24 cluster cabins will be converted into lots for ten single family residential units.
      - (C) **Tract E.** (Teton Rim Golf Village). This tract will be converted into 12 residential lots.
      - (D) **Tract G.** The Operation and Maintenance lot (“O&M lot”) will be converted into 3 single family residential lots.
      - (E) **Lot 1B/Block 5 (North).** Addition of one lot from current open space.
      - (F) **Block 6 (South).** Addition of 6 lots converted from a portion of the current proposed driving range.

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<sup>1</sup> Of the 360 units originally approved, 155 units have been sold.

<sup>2</sup> The Prior Development Agreements and Master Plan Amendments authorized a total of 40 cluster cabins. Pursuant to the Administrative Amendments, the number of cluster cabin lots was reduced by 20 cabin lots. The remaining 20 lots will be converted from cluster cabin lots to single family residential units resulting in a total reduction of 32 cluster cabin lots and an increase of open space by about 17.39 acres.

(G) West Rim Village (Block 1).

(i) Incidental Uses are:

(I) Fire Substation: Lot No. 1 (6 acres). Two of the six acres in the Southwest corner of Lot 1, Block 1 will be platted (Lot 1A) as an additional lot and reserved for a possible Teton County Fire District Substation. If no fire substation is constructed by December 31, 2026, the reservation shall be withdrawn and the lot returned to the then current owner of Lot 1.

(II) Block 1 Lots 6 and 8.

- Lodge Facility: Lodge Facility is defined as any commercial operations related to the recreational, sports, cultural or entertainment focus of River Rim (for example, hunting and fishing related facilities).
- Lot 8 headquarters building can be converted into a Lodge Facility with a maximum of 10 lodging units and kitchen/dining facilities and support retail shop. The square footage of any support retail shop shall not exceed 10% of the total square footage of the current headquarters building. The square footage of any kitchen/dining facility shall not exceed an additional 10% of the total square footage of the current headquarters building.
- Lots 6 and 8. A maximum of 16 total lodge units are allowed including the lodge units within the converted Lot 8 headquarters building.<sup>3</sup>
- The lodge units detached from the headquarters building on Lot 6 and 8 are

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<sup>3</sup> The original development agreement and master plan (the "Original Agreement") for River Rim authorized a total of 30 condominium units to be constructed as an incidental use within Block 1 of Phase I of Division II. The condominium units along with several other commercial uses were, according to the Original Agreement, not allowed to be constructed and operated until 2010 or upon completion of the golf course, whichever occurred later. This Agreement will require these to be lodge units, as defined in the Agreement, and restrict the number to a maximum of 16 with or without the construction of a golf course.

subject to the building and design guidelines administered by the River Rim Ranch Owner's Association and review requirements.

- In addition to the headquarters building, there shall not be more than 6 additional structures created to accommodate the lodge units. Said structures shall not contain any traditional kitchen facilities, but may contain a dorm refrigerator and microwave oven.
- The lodge units are not to be sold as individual condominiums.
- The lodge units are subject to Teton County standard site plan approvals and building permits.

(III) Other allowed incidental uses:

- Self-Storage Units/Office Storage Units;
- Meeting Conference Space;
- Real Estate Office;
- Property Management Office;
- Existing Agricultural Buildings;
- Existing Storage;
- Existing Brent Hoopes Residence;
- All of the above incidental uses will be allowed to be constructed and operational upon recording of the Division II Phase I Final Plat.

(IV) Incidental Use Calculations:

- Up to a maximum of 2% of the Development Land Area (final platted) is the basis for allowable Incidental Use Area within:
  - West Rim Village (Block 1) – Lots 1-8

- Golf Village (Tract E)

- For the purpose of this Agreement, “Development Land Area” shall include all platted and developed lots eligible to apply for building permits within Division II of the River Rim Ranch Master Plan PUD associated with the construction of single family residential units as well as all platted lots that allow incidental commercial uses; but shall not include open space lots or utility lots.
- As of the date of this Agreement the existing (platted) and future Development Land Areas are calculated in the following table for the River Rim Master Plan:

		<b>Maximum Allowable 2% Incidental Use Area, Acres</b>		
<b>Division-Phase</b>	<b>Development Acres</b>	<b>Existing (Platted)</b>	<b>Future Phase</b>	<b>TOTAL</b>
II-1	528.41	10.57		10.57
II-2	189.46		3.79	3.79
II-3	55.66		1.11	1.11
II-4	63.80		1.28	1.28
II-5	59.53		1.19	1.19
II-6	169.79		3.40	3.40

which calculation allows a maximum of 10.56 acres of incidental use area currently and up to a maximum of 21.33 acres of incidental use area in the future.

- Incidental uses within either or both Block 1 and Tract E shall not exceed a total of 2% of the Developed Land Area with the provision that existing platted lots within Block 1 shall be grandfathered based upon prior approvals.

- (b) **Tract I** shall be used as an ongoing farm and farming operation (i.e. crops, barns, potato cellars, etc.). There may be only one residential unit on Tract I.
- (c) **Utility Stubs and Extensions.** Utility stubs and extensions from existing infrastructure to Tract A (8 single family lots), Tract B (10 single family lots), Tract E (12 lots), Tract G (3 lots), Lot 1B/Block 5 (north) (1 lot), and Block 6 (south [6 lots]) shall be completed in any order on or before the earliest of: (i) completion of road paving in Phase I; (ii) issuance of building permits for any of these lots or tracts; or (iii) December 31, 2016.
- (d) **Block 10 Lots 1-4.** A fire suppression and hydrant(s) for Lots 1-4 in Block 10 shall be completed on or before the earliest of: (i) December 31, 2016; or (ii) issuance of building permits for any lot. No building permits will be issued until all the fire suppression systems are approved and accepted by the Teton County Fire Marshall.
- (e) **Reclamation of Golf Course area (Tract J).** The golf course area which is open space Tract J (about 270 Acres) of Phase I, shall be reclaimed to agricultural land and native grasses along with the construction of an internal trail system, and water features (the “Reclamation”). The Reclamation shall be completed on a phased plan as follows:

Description	Date
Weed eradication	Summer 2013 (ongoing program)
Site grading/top soiling	Fall 2014
Agricultural practices	Spring 2015 (continued in future years)
Native grass seeding	Fall 2014
Trail system	Fall 2016
Water features/ponds	Fall 2016

- (i) **Option to construct golf course.** The Owner, or Property Owner’s Association (“POA”), if applicable, shall retain the option to construct a golf course until December 31, 2026.
- (ii) **Golf Area Landscape Restriction Plan, Maintenance/Weed Management Plan.** The 270-acre golf course interim open space area (Tract J) integrates a return to the agricultural context from which the golf course was originally developed, along with additional amenities for River Rim residents. The long-term concept is to maintain approximately 50% of the open space area in native grasses, and allow for establishment of the native shrub community, similar to the processes observed on neighboring CRP

fallow croplands. The native grass/shrub community is a landscape detail that is borrowed from the final landscape design of the golf course. Native cover will be maintained throughout the golf course, with the ultimate goal of cutting tees, greens and bunkers out of the native grass/shrub areas, while preserving the outlying native plant communities in perpetuity. For this reason a native grass seed mix has already been developed by a specialist, derived from the seed-basis of native plants in proximity to the River Rim PUD project area (Table 1). Areas will be seeded with this mix, fertilized as needed, and areas reseeded as necessary to achieve a continuous native grass coverage.

Table 1. Native grass seed mix for the River Rim Division II, Phase I West Rim Area.

<b>Variety</b>	<b>Percent Stand</b>
Goldar Bluebunch Wheatgrass	35
Joseph Idaho Fescue	20
Sodar Streambank Wheatgrass	15
Magnar Basin Wildrye	10
Prairie Junegrass	10
Sherman Big Bluegrass	5
Sandburg Bluegrass	5

The remaining area of approximately 40% of the upland area that constitutes fairways, roughs, and golf course perimeter have been earmarked for agricultural uses. The ultimate cultivated crop will be determined by the lessee; however, either dryland wheat or barley can be anticipated. Other portions of River Rim Open Space are currently managed in this way, with lessees maintaining open space as developed agricultural plots yielding crops. From the standpoint of noxious weed eradication, either application will provide a means to curb the invasive species that have taken hold in areas of the golf course. The best long-term control technique for reducing exotic plant invasions is to establish diverse and continuous native vegetative cover. However, spot herbicide spraying of weeds will be necessary for several years prior to establishment of native plant communities. A planted cover crop, either native or grain, with concurrent applied weed control in the form of target spraying (which is ongoing throughout River Rim at present) uses competition from preferred species to control expansion of invasive plants. All details with regards to open space

management, weed treatment, and agricultural leasing shall be the responsibility of the Owner.

(f) **Road Improvements.**

- 1) County Road 9400 West. The relocation and widening of the County Road 9400 West to a 22 foot surface (local road standard as defined by the Teton County Highway Design Guidelines) shall be completed from Highway 33 to the southwest corner of Division II Phase I to Teton County crushed gravel standard by December 31, 2014. All lots in Division II Phase I shall be eligible for sale following construction and County acceptance of the County Road.
- 2) West Rim Loop Road. The West Rim Loop Road and the roads in Block 1 shall be completed to Teton County crushed gravel standards on or before December 31, 2016, or prior to the issuance of any building permits.

(3) **Road Paving.**

- 1) Loop Road. Asphalt paving of the Loop Road shall be completed by December 31, 2026, or when 30 residential building permits are issued within River Rim, whichever is sooner.
- 2) Turning Lanes. Asphalt paving for the turning lanes on State Highway 33 (main entrance) shall be completed by either December 31, 2026; mandate of the Idaho Transportation Department; the issuance of 30 building permits in Division II Phase I; or when the Average Daily Traffic (ADT) exceeds 200 ADT, whichever is sooner. The North and West entrance turning lanes will not be required prior to additional commercial development to West Rim Village area after the date of this Agreement.

- (g) **Future Wastewater Modules.** As of October 2010, River Rim Ranch completed the first 30,000 gallons per day capacity module of a wastewater pre-treatment system which includes primary and backup leachfields with a total combined capacity of 60,000 gpd. The wastewater pre-treatment system is designed to be enlarged to 120,000 gallons per day with a total of four (4) 30,000 gallon per day pre-treatment modules, which units are designed to reduce the overall nitrogen concentrations in the effluent discharged to the leachfields. Construction of an additional module will be determined from an analysis, to be reviewed and approved by the Idaho DEQ and Teton County, of the actual maximum daily flow in comparison with the number of units constructed and occupied, when the

flow reaches 50 percent of the designed capacity, or about 15,000 gpd for the first phase. From this analysis, a determination will be made of the number of units using the system that would result in a maximum day flow of not more than 80 percent or 24,000 gpd of design capacity. The Owner (or POA) shall be required to commence construction of the next treatment module once the projected number of units that would consume 80 percent of design capacity exist. The Owner shall provide annual reports of the measured flow entering the waste water facility no later than February 1<sup>st</sup> of the year to both the DEQ and Teton County.

Payment for an additional wastewater module will be paid by purchasers of building units on a pay for use fee basis assessed at the time applications for building and occupancy permits are filed for new building units and these payments will be deposited into an escrow account for construction of a new module (the "Wastewater Escrow Account"). County approval must be obtained by Owner (or POA) before any funds can be withdrawn from the Wastewater Escrow Account. The future wastewater module construction shall be based upon measured flow and not associated with a specific development phase. Failure to complete the next module of the pre-treatment system in accordance with this requirement shall result in the withholding of any new building or occupancy permits by Teton County until the additional module is in operation. The County shall retain the right to withhold building permits or occupancy permits if there is substantial reason to believe that the capacity of the treatment facility will be exceeded or negatively impacted by excessive flows.

Due to the likelihood that a new wastewater treatment module will not be required for ten years or longer, in lieu of a letter of credit, the Bank agrees to establish and maintain an escrow account whereby tap fees collected at the time a building permit is issued will be set aside for use in the construction of the next module. The escrow account will be managed by the Owner or by an existing POA. An initial tap fee amount of \$7,500 per residential unit, or the equivalent flow, shall be required, which fee shall be adjusted from time to time to insure adequate funds for the construction of the next module in accordance with this section of the agreement.

- (h) **Letter of Credit.** The Owner will provide to the County an updated Letter of Credit in an amount equal to one hundred twenty-five percent (125%) of the engineers estimated costs for construction of each of the improvement/infrastructure items described in this Agreement. The estimated costs, on a line item basis, and a description of the items excepted from coverage under the letter of credit, is attached hereto as **Exhibit B and incorporated herein by reference.** The letter of credit shall be provided at or before the recordation of the final plat.

- (i) **County Acceptance of Completed Infrastructure.** The Owner may submit a request to the County for approval of completed infrastructure on a line-item basis as completions are accomplished. The Owner shall also provide documentation from an Idaho Registered Engineer certifying that the improvements have been completed in general compliance with the design. Upon the County's acceptance of the infrastructure, the County shall provide written acceptance of the completed infrastructure and release any letter of credit, or portion thereof, for that specific infrastructure/line-item. The County shall retain for draw on the letter of credit twenty-five percent (25%) of the amount of the original line item until acceptance of the entire phase associated with a specific infrastructure line item and the one year warranty period for the entire phase until the one year warranty period has expired, at which time said amount will be released from any letter of credit to the Owner.
- (j) **Phasing Plan.** A proposed phasing plan for the completion of infrastructure within Division II Phase I as described in the preceding paragraphs is attached hereto as **Exhibit C, and incorporated herein by reference.**
3. **Division II Phase II (Norman Ranch/Western Highlands).** Division II Phase II will be reduced by 25 lots (about 215.23 acres of development area) (See **Exhibit A**). On or about November 1, 2012, the Owner sold the Norman Ranch/Western Highlands to Teton River Farms, LLC, a Colorado limited liability company. The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Fourth Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of November 1, 2012, and recorded on November 1, 2012, as Teton County Recorder's Instrument No. 224816 (the "Fourth Supplement to the CC&Rs"). Under the PSA and the Fourth Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community and from the Master Association for assessments, the Norman Ranch/Western Highlands is subject to this Agreement, the CC&Rs and the design/properly use restrictions contained in the CC&Rs.
4. **Division II Phase III (Central Plateau).** Division II Phase III will be reduced by 11 lots (about 56.84 acres of development area) (See **Exhibit A**). On or about June 5, 2012, the Owner sold the Central Plateau to Teton River Farms, LLC, a Colorado limited liability company. The sale is evidenced by a Purchase and Sale Agreement ("PSA") and by that certain Third Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of June 5, 2012 and recorded on June 7, 2012, as Teton County Recorder's Instrument No. 222479 ("Third Supplement to the CC&Rs"). Under the PSA and Third Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community and the

design/property use restrictions contained in the CC&Rs, the Central Plateau is subject to this Agreement and the CC&Rs.

5. **Division II Phase IV (West Plateau).** Division II Phase IV will be reduced by 17 lots (about 132.91 acres of development area) (See **Exhibit A**). On or about January 4, 2012, the Owner sold the West Plateau to John Clint (Jack) Hoopes and Lorna Hoopes, husband and wife (“Hoopes”). The sale is evidenced by a Purchase and Sale Agreement (“PSA”) and by that certain Second Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of January 4, 2012 and recorded on January 6, 2012, as Teton County Recorder’s Instrument No. 220365 (“Second Supplement to the CC&Rs”). Under the PSA and the Second Supplement to the CC&Rs, and notwithstanding said sale, except for being excluded from the Common Interest Community, the Master Association assessments, and the design/property use restrictions described in the CC&Rs, the West Plateau is subject to this Agreement and the CC&Rs.
6. **Division II Phase V (North Plateau).** Division II Phase V will be reduced by 18 lots (about 119.19 acres of development area) (See **Exhibit A**). On or about September 28, 2010, the Owner sold the North Plateau to Mark R. Ricks, Chris P. Ricks, Nick Ricks and Sylvia Ricks (“Ricks”). The sale is evidenced by a Purchase and Sale Agreement (“PSA”) and by that certain Amended and Restated Supplement to Fourth Amendment to Master Declaration of Covenants, Conditions and Restrictions for River Rim Ranch made effective as of September 29, 2010, and recorded on November 29, 2010, as Teton County Recorder’s Instrument No. 214487 (the “Amended Supplement”). Under the PSA and the Amended Supplement, and notwithstanding said sale, except for being excluded from the Common Interest Community, the Master Association assessments and the design/property use restrictions described in the CC&Rs, the North Plateau is subject to this Agreement and the CC&Rs.
7. **Division II Phase VI (South Canyon).** Division II Phase VI will remain at 55 units which is the number of units originally approved in 2006. The open space will be increased from the currently approved 512.7 acres to 522.6 acres resulting in an increase of approximately 10 acres. The width of the wildlife migration corridor will also be increased to a minimum of 1150 feet between building envelopes.(See **Exhibit A**).
8. **Platting and Improvements for Divisions II, III, IV, V and VI.** Division II Phases II-VI improvements shall be completed by December 31, 2026. Division II Phases II-VI are eligible for final platting in accordance with the attached master plan (See **Exhibit A**) so long as this Agreement has not been breached. Failure to plat and complete any improvement in accordance with the timelines in

this Agreement shall result in a breach of this Agreement and may result in the vacation or partial vacation of the Master Plan. All applicable subdivision and zoning regulations in effect at the time shall govern the future use of the land. The Owner may apply to amend the latest approved Master Plan and subsequent amendments thereto at any time prior their vacation. All final plats must be approved by the Teton County Board of County Commissioners.

9. **Guarantee of Improvements.** The Owner warrants that each completed improvement will operate in accordance with its intended use for one year from the date that improvement is accepted by the County.
10. **Building and Occupancy Permits.** Building permits and certificates of occupancy shall be issued by Teton County in accordance with the Phasing Plan (Exhibit C).
11. **Public Benefits.** The following public benefits shall be provided:
  - (a) Acreage adjacent to the Teton River shall be used as an interpretive river park. This park will be located and constructed by the Owner and maintained at the expense of the POA and shall be made available to the public on a reservation basis administered by the POA. A temporary interpretive river park was completed as part of Division I. The permanent interpretive river park will be finished upon completion of the South Canyon Development (Phase VI) described in paragraph 7 above, or December 31, 2026, whichever occurs first.
  - (b) Snowmobile access along County Road 9400West.
  - (c) Owner shall provide a cash sum of \$1,000 per lot at the time of final plat recording of each phase of Division II which will be paid to Teton County, Idaho, for use by Teton County, Idaho, as determined by the Board of County Commissioners.
12. **Order of Completion.** Development of Division II Phases II-VI may be commenced in any order or simultaneously as determined by the Owner once the roads in Division II Phase I are completed to Teton County crushed gravel standards and all lots are eligible for certificates of occupancy. The infrastructure for Phases II-VI of Division II must be complete before lots in those phases can be sold. Before work is commenced on Division II, Phases II-VI, the Reclamation of Tract J (Golf Course area) must be completed as described in paragraph 2(e) of this Agreement.

13. **Density.** The modifications to density by phase are amended as more specifically described in **Exhibit D** attached hereto.
14. **Voluntary Impact Fee Commitment.** The Owner agrees to provide \$1,000.00 per lot to the County at the time of final plat recording of each phase of Division II.
15. **Inspection.** Representatives authorized by the County shall have the right to enter upon the property at any reasonable time to inspect and determine whether the Owner is in compliance with this Agreement. The Owner shall permit the County and its representatives to enter upon and inspect the property at any reasonable time.
16. **Final Inspection and Approval of Improvements.** The Owner shall notify the County when it believes any improvements have been fully and properly completed and shall request final inspection, approval, and acceptance of the improvements by the County. Upon approval the County shall give its written acceptance of the improvements.
17. **Default.** If the Owner defaults in or fails to fully perform any of its obligations in accordance with this Agreement, or fails or refuses to correct any defect or deficiency in the improvements required by the provisions of this Agreement and such default or failure shall continue for a period of thirty (30) days after written notice specifying the default is deposited in the United States mail addressed to the Owner, without being completely remedied, satisfied and discharged, the County shall have, and the Owner hereby grants to the County, in addition to all other rights afforded to the County in this Agreement and by law, the right, at the County's option, to complete the construction of the improvements or to correct such defect or deficiency. The County may draw on the letter of credit pursuant to the terms of the Letter of Credit and this Agreement, that amount required to complete the improvements on a line-item basis. The County must commence the work within 365 days of drawing the funds from the Letter of Credit. Notwithstanding any provisions in the Letter of Credit or this Agreement, the Letter of Credit shall be automatically extended, renewed and remain binding on owner until such time as the improvements are completed and accepted by Teton County. The County may enforce any other remedy provided by law. These remedies are cumulative in nature. In addition, if the Owner is in breach of this Agreement, that is uncured after any applicable cure period, the most recently approved Master Plan may be vacated for all unplatted phases of the project (Phases II-VI) and all applicable subdivision and zoning regulations in effect at the time shall govern the future use of this land. Prior to the expiration of the time limitations above, and without causing a breach of this Agreement, the Owner

may apply to vacate all or a portion of any platted phase or amend the design of the platted lots in accordance with applicable subdivision and zoning regulations.

18. **Liability and Indemnity of County.**

(a) **No Liability for County Approval.** The Owner acknowledges and agrees (1) that the County is not, and shall not be, in any way liable for any damages or injuries that may be sustained as the result of the County's issuance of any approvals or acceptances of the improvements or use of any portion of the improvements, and (2) that the County's issuance of any approvals or acceptances does not, and shall not, in any way be deemed to insure the Owner, or any of its successors, assigns, tenants, or licensees, or any third party, against damage or injury of any kind at any time.

(b) **Indemnification.** The Owner agrees to, and does hereby, hold harmless and indemnify the County, and all of its elected and appointed officials, officers, employees, agents, representatives, engineers, and attorneys from any and all claims, costs and liability of every kind and nature that may be asserted at any time against any such parties for injury or damage received or sustained by any person or entity in connection with (1) the development, construction, maintenance or use of any portion of the improvements and, (2) the performance by the Owner of its obligations under this Agreement and all related Agreements. The Owner further agrees to aid and defend the County in the event that the County is named as a defendant in an action concerning the improvements provided by this Agreement except where such suit is brought by the Owner. The Owner is not an agent or employee of the County. This indemnification does not extend to claims, costs and liability asserted by the Owner or any third person in the event the County fails in its duties and obligations to Owner or any third person as set forth in this Agreement or by law.

19. **No Waiver of Rights.** No waiver of any provision of this Agreement will be deemed to constitute a waiver of any other provision nor will it be deemed to constitute a continued waiver unless expressly provided for; nor will the waiver of any such default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The County's failure to perform any obligation under this Agreement will not constitute the approval of any wrongful act by the Owner or the acceptance of any improvement.

20. **Assignment.** It is expressly agreed that the Owner may assign this Agreement, in whole or in part, to any third party, without prior written consent of the County.

21. **Notices.** All notices in connection with this Agreement shall be in writing and shall be deemed delivered to the addressee thereof (1) when delivered in person on a business day at the address set forth below or (2) on the third day after being deposited in the United States mail, for delivery by properly addressed, postage prepaid, certified or registered mail, return receipt requested, at the address set forth below.

Unless notified otherwise, notices to the County shall be addressed to, and delivered at, the following address:

Teton County Commissioners  
Attn: Planning Administrator  
Teton County Courthouse  
150 Courthouse Drive  
Driggs, Idaho 83422

Unless notified otherwise, notices to the Owner shall be addressed to, and delivered at, the following address:

Don Chery  
Executive Vice President and Chief Administrative Officer  
Glacier Bancorp, Inc.  
49 Commons Loop  
Kallispel, Montana 59901

22. **Enforcement.** The parties hereto may, in law or in equity, by suit, action, mandamus, or any other proceeding, including without limitation specific performance, enforce or compel the performance of this Agreement.
23. **Other Requirements.**
- (a) **Conveyance of Individual Lots.** The Owner shall convey no individual lots to individual buyers until the applicable infrastructure is complete, approved by the County and the Phased Final Subdivision Plats in which the individual lots are located have been recorded.
  - (b) **Certificate of Occupancy.** Except as otherwise provided herein, building permits shall be issued in accordance with the Phasing Plan (**Exhibit C**). However, Certificates of Occupancy for residential units will not be issued by the County, until the applicable infrastructure is complete for each phase, or other

arrangements have been made and agreed to in writing by the Owner and the County.

- (c) **Common Water and Wastewater System.** Operation and Maintenance of Common Water and Wastewater Systems, and irrigation water/fire suppression systems (hydrants) will be the responsibility of the Owner, its successors or assigns.
  - (d) **Roadway/Path Maintenance.** The Owner will maintain all internal roadways.
  - (e) **Acknowledgment of Other Permitting Requirements.** The Owner acknowledges the requirement for approvals and permitting from the State Department of Environmental Quality (“DEQ”) for sewer and water improvements, District 7 for septic systems, Corp. of Engineers for Wetlands permitting, Idaho Department of Transportation for Route 33 intersection upgrades; Idaho Department of Water Resources for wells and irrigation and other State or Federal requirements. DEQ approval is required prior to sewer and water improvements. Construction activities subject to these permitting requirements will not commence until permits are received and permit copies provided to the County Planning Office.
  - (f) **Right to Farm Provision.** The Owner acknowledges the Right to Farm Act contained in Idaho Code Chapter 45, Sections 22-4501 through 22-4504 or as may be amended.
24. **Common Areas.** The common areas for River Rim Ranch Divisions II, Phases I through VI are shown on **Exhibit A** and will be managed by the Property Owners Association, subassociations, club operations or the private owners to whom title to such area is conveyed.
25. **On-Site Security.** The Owner will provide on-site security presence with trained personnel in cooperation with the Sheriff’s Office and the Fire Marshall’s Office. The on-site security is secondary and subservient to the Sheriff and Fire Marshall but will provide the on-site presence for:
- General information and directions
  - Routine patrolling
  - Local help with minor problems such as lost pets, missing keys, stuck vehicles, minor injuries, etc.
  - Reporting of bigger problems to Sheriff or Fire Marshall offices.

26. **Teton Pipeline Association.** The Project falls within the jurisdiction of Teton Pipeline Association, Inc. (TPA), for surface irrigation water and the Owner will abide by the Bylaws, Operating Agreements, pro rata cost sharing provisions, and other mutual agreements within TPA jurisdiction. Shares of TPA stock or water rights pertaining to the River Rim Ranch property will be held as follows. The Property Owners Association or subassociations may hold TPA stock in common for lots and common areas that are subject to phased Final Subdivision Plats. The Property Owners Association, subassociations, or private property owners may hold TPA stock for open areas and farm/ranch areas and for areas that are not yet subject to a phased Final Subdivision Plat. Notwithstanding the foregoing, it is understood that, with respect to open areas and farm/ranch areas that are subject to a Final Subdivision Plat, the private owner of such parcel(s) may continue to hold TPA stock and exercise all rights associated therewith. A single "Water Master" for River Rim Ranch will be appointed to work with the Board of Directors of TPA.
27. **Public Improvements Provision.** The Owner shall be responsible for public improvements and shall not transfer initial construction obligations and the responsibility for completion of public improvements to the lot owners. Improvement District assessments, Owner's Association assessments, sewer and water company or district assessments, etc., are not encumbered by this provision.
28. **Open Space Provisions.** The Owner will maintain all open space free of noxious weeds, free of fire hazards or other nuisances under the administration of the POA. The Master Declaration of Protective Covenants, Conditions and Restrictions for River Rim Ranch and the amendments and supplements thereto set forth these provisions.
29. **Adjacent Neighbor Provisions.** Owner agrees to maintain a 200' separation from all building envelopes to adjacent property in Phases II-VI.
30. **Sharing of Development Costs.** The County has approved a Letter of Notification to the County, regarding Sharing of Development Costs (Teton County Subdivision Regulation Section 9-4-2 (G) as revised on May 12, 2011) submitted to the County which entitles the Owner to collect a pro-rata share of compensation for a portion of the costs of the public improvements required by the Teton County Subdivision Ordinance from adjacent property owners.
31. **Filing.** The Owner may record this Agreement in the office of the Teton County Clerk and Recorder.

32. **Binding on Successors.** This Agreement shall be binding, inure to the benefit of, and be enforceable by the parties hereto, their respective successors and assigns and runs with the land.
33. **Entire Agreement.** This Agreement constitutes the entire understanding among the Parties hereto in connection with the subject matter, and except as otherwise provided herein, supersedes and replaces all prior negotiations, agreements, understandings, or representations whether oral or written. The terms of this Agreement may be modified only in writing, by the authorized signature of all of the Parties.
34. **Time is of the Essence.** Time is of the essence in the performance of all terms and provisions in this Agreement.
35. **Waiver of Claims.** Each of the Parties hereby waives and releases any and all claims or causes of action they have or may have against the other, and their respective officers, directors, employees, agents and attorneys, resulting from any claims or causes of action occurring prior to the execution of this Agreement.
36. **Statement of Fact.** The statements set forth in the Stipulation of Facts above are facts upon which the parties agree and are not to be construed as mere recitals. Said statements of fact are incorporated into this Agreement by reference as if set forth fully.
37. **Amendments.** All amendments to this Agreement shall be in writing and shall be approved by the Owner and the County.
38. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
39. **Authority to Execute.** The Parties hereby warrant and represent each to the other, without any limitation or qualification that (i) they are duly authorized and empowered to enter into and sign this Agreement; (ii) the persons executing this Agreement on behalf of the Parties are authorized to do so; and (iii) this Agreement is valid, binding and enforceable on the Parties in accordance with its terms.
40. **Governing Law.** This Agreement shall be governed by and construed under the laws of the State of Idaho and jurisdiction and venue for any litigation of this Agreement shall be in the state or federal courts of the State of Idaho.

41. **Attorney Fees.** Should any litigation be commenced between the Parties concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a court of competent jurisdiction.

IN WITNESS WHEREOF the Parties have hereunto set their hands on the date first above written.

BIG SKY WESTERN BANK

By: \_\_\_\_\_  
Don Chery  
Executive Vice President and  
Chief Administrative Officer of  
Glacier Bancorp, Inc., owner of  
Big Sky Western Bank

STATE OF IDAHO )

County of \_\_\_\_\_ ) :ss.

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared Don Chery, known to me to be the person whose name is subscribed to the within instrument as the authorized representative of Glacier Bancorp, Inc., and acknowledged to me that he subscribed his name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, IDAHO

By: \_\_\_\_\_  
Kelly Park, Chairman

STATE OF IDAHO            )  
  :ss.  
County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared Kelly Park, known to me to be the person whose name is subscribed to the within instrument as the Chairman of the Teton County Board of Commissioners, and acknowledged to me that she subscribed her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission expires: \_\_\_\_\_

PHASE OWNER CONSENT

The undersigned, each an owner of one or more phases in River Rim Ranch – Division II, execute this amendment for the sole purpose of evidencing their consent thereto, including but not limited to their consent to the removal of lot development rights from their respective phases as described in this amendment. By executing this consent, the undersigned do not assume any of the obligations of Developer under the Development Agreement, as amended, other than (i) the obligation to comply with the provisions of the Development Agreement regarding lot development in the event that the undersigned elect to develop one or more lots allocated to their respective phases and (ii) the obligation to preserve open space as described in the Development Agreement, as amended.

\_\_\_\_\_  
JOHN CLINT (JACK) HOOPES

STATE OF IDAHO            )  
                                  :ss.

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

\_\_\_\_\_  
LORNA HOOPES

STATE OF IDAHO )

:ss.

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

CIRCLE DOT LAND, LLC

By: \_\_\_\_\_  
Mark Ricks, Manager

STATE OF IDAHO )

:ss.

County of \_\_\_\_\_)

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of Circle Dot Land, LLC, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

By: \_\_\_\_\_  
Nick Ricks, Manager

STATE OF IDAHO \_\_\_\_\_ )  
:ss.

County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of Circle Dot Land, LLC, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

TETON RIVER FARMS, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF IDAHO \_\_\_\_\_ )  
:ss.

County of \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, 2013, before me, a Notary Public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the within instrument as the \_\_\_\_\_ of \_\_\_\_\_, and acknowledged to me that he/she subscribed his/her name thereto as such.

(SEAL)

\_\_\_\_\_  
Notary Public for IDAHO  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

EXHIBIT A: Illustrative Master Plan dated April 1, 2013, prepared by PC Development

EXHIBIT B: Engineer's Estimate for Letter of Credit

EXHIBIT C: Tentative Infrastructure Phasing Plan for Division II Phase I

EXHIBIT D: Table of Revised Density and Unit Allotments by Phase

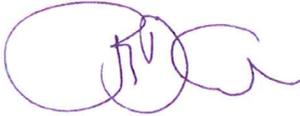


## **RENDEZVOUS ENGINEERING, P.C.**

Civil Engineers, Land Planners and Landscape Architects in Wyoming and Idaho

### MEMORANDUM

**DATE:** November 6, 2013

**TO:** Jay Mazalewski, P.E. 

**FROM:** Bob Ablondi, Idaho P.E. 5994

**RE:** River Rim / Traffic Projections and Need for Paving North Section of County Road 9400 West

**CC:** Teton County Board of Commissioners

Future use of the north section of County Road 9400 West (See attached Exhibit 1) by homeowners in the River Rim development is expected to be limited. A number of key factors contribute to this expectation as described below:

- 1) Availability of a shorter, paved road to access Highway 33 along River Rim Ranch Road.
- 2) Superior access with good site distance and turning lanes at the River Rim Ranch Road - Highway 33 intersection.
- 3) Primary destinations of Tetonia, Driggs, Victor and other principal attractions for residents of River Rim located to the south.
- 4) Reluctance by most drivers to select a gravel road that requires a slower speed and longer distance to access Highway 33.

Although it is difficult to specifically quantify how the above factors will affect actual use, there is a strong rationale to assign only a limited proportion of the traffic from River Rim to the north section of the county road. This also includes traffic from the south section of County Road 9400 West which is also more likely to access Highway 33 along River Rim Ranch Road

For purposes of this analysis we have assigned 5% of the total projected trips from lots that are located along the West Rim Place Loop Road (East and West) to the north county road section. These lots will access the paved roads within River Rim and will link directly with River Rim Ranch Road and Highway 33. We have assigned a smaller 2% of total traffic to the properties within the West Rim Commercial Village area (Block 1) given their close proximity to Highway 33 and presence of two access points to the state highway. In addition, access along the north County Road to any destination from the West Rim commercial area would be longer and less convenient. We have assigned a higher percentage of the traffic from the 18 future lots in the Norman Ranch (Phase II) and four

Block 10 lots because these properties access directly onto County Road 9400 West and are less connected to the internal roads within River Rim. The majority of traffic from these lots is still expected to turn off the County Road onto River Rim Ranch Road rather than the north section of County Road 9400 West for the same reasons mentioned above.

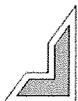
Future traffic for River Rim Division II Phase I is projected in Table 1 based upon the updated units proposed for the most current amendment (Amendment No. 5 currently under consideration by the Board of County Commissioners). This includes all development areas except Block 3 and Tract I which do not impact County Road 9400 West and instead access directly on to Poleline Road. The projections were based upon a 9.5 trip per day per unit, which represents the standard Institute of Transportation Engineers (ITE) trip generation factor for a conventional single family detached dwelling<sup>1</sup>. This same factor was used for all unit types including the bed and breakfast units associated with the West Rim commercial area. An additional 100 ADT was also included for the miscellaneous uses associated with this area. The overall results project that at full build-out, a total of 3,292 trips would occur in Phase I with a total of 167 trips or about 5.1% projected to use the north section of County 9400 West. This is based upon a total buildout of 336 units as summarized in Table 1.

Equally important to the analysis of road impacts is the timing of the traffic and anticipated long term buildout period for River Rim. Although there are many variables affecting future growth, attached Figure 1 projects traffic on the basis of adding an average of five (5) units per year over the next twenty years. At this sustained rate, total trips are projected to reach 980 in twenty years (2014-2033). Trips on the north section of County Road 9400 West from River Rim development are projected to reach 50. Although the use percentages, trip generation rates and growth rates are all variables in this analysis, the projections show that it will be many years -- if ever -- before average daily traffic on the north section of 9400 West approaches the 200 ADT minimum threshold recommended for asphalt pavement. Bonding for such a long time period creates a financial hardship and significantly impacts the ability to sell the overall project to new owners.

Given that the difficulties in projecting traffic patterns in a new development, lack of existing data and the uncertainties with future growth patterns, we would recommend that actual trip counts be performed in the future to determine if paving will be required. Attached Exhibit 1 shows the proposed location of where the trips should be measured. Only when ADT reaches the 200 total trips per day, should there be consideration of paving the north section of the county road. Similarly, this entire road section should be considered a "local" road.

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<sup>1</sup> Note: Trip generation, ADT, for "Recreational Homes" per ITE standards (Trip Generation) is only 3.2 per dwelling unit. This is due in part to having fewer school age children and typically fewer residents per unit which would apply to a significant portion of the River Rim units.



**TABLE 1. RIVER RIM RANCH - FUTURE TRAFFIC PROJECTIONS - COUNTY ROAD 9400 WEST**

DESCRIPTION	PROPOSED USE	PROPOSED NO. UNITS	ESTIMATED ADT PER UNIT <sup>3</sup>	TOTAL ADT	PER CENT TRAFFIC ASSIGNED TO 9400 WEST, NORTH SECTION	TOTAL ESTIMATED ADT - 9400 WEST NORTH SECTION
BLOCK 1 (West Rim Commercial) <sup>1</sup>	Lodge, Bed and Breakfast	16	9.5	152	2%	3
	Miscellaneous			100	2%	2
BLOCK 2	Single Family Residential	8	9.5	76	5%	4
BLOCK 4	Single Family Residential	22	9.5	209	5%	10
BLOCK 5	Single Family Residential	40	9.5	380	5%	19
BLOCK 5, LOT 1B	Single Family Residential	1	9.5	9.5	5%	0
BLOCK 6	Single Family Residential	28	9.5	266	5%	13
BLOCK 6 (South End) <sup>2</sup>	Single Family Residential	6	9.5	57	5%	3
BLOCK 7	Single Family Residential	16	9.5	152	5%	8
BLOCK 8	Single Family Residential	12	9.5	114	5%	6
BLOCK 9	Single Family Residential	25	9.5	238	5%	12
BLOCK 10	Single Family Residential	4	9.5	38	10%	4
TRACT A	Single Family Residential	8	9.5	76	5%	4
TRACT B	Single Family Residential	10	9.5	95	5%	5
TRACT C	Cluster Cabins	62	9.5	589	5%	29
TRACT D	Cluster Cabins	45	9.5	428	5%	21
TRACT E <sup>2</sup>	Single Family Residential	12	9.5	114	5%	6
TRACT G <sup>2</sup>	Single Family Residential	3	9.5	29	5%	1
NORMAN RANCH (PHASE II)	Single Family Residential	18	9.5	171	10%	17
<b>TOTALS</b>		<b>336</b>		<b>3,292</b>	<b>5.1%</b>	<b>167</b>

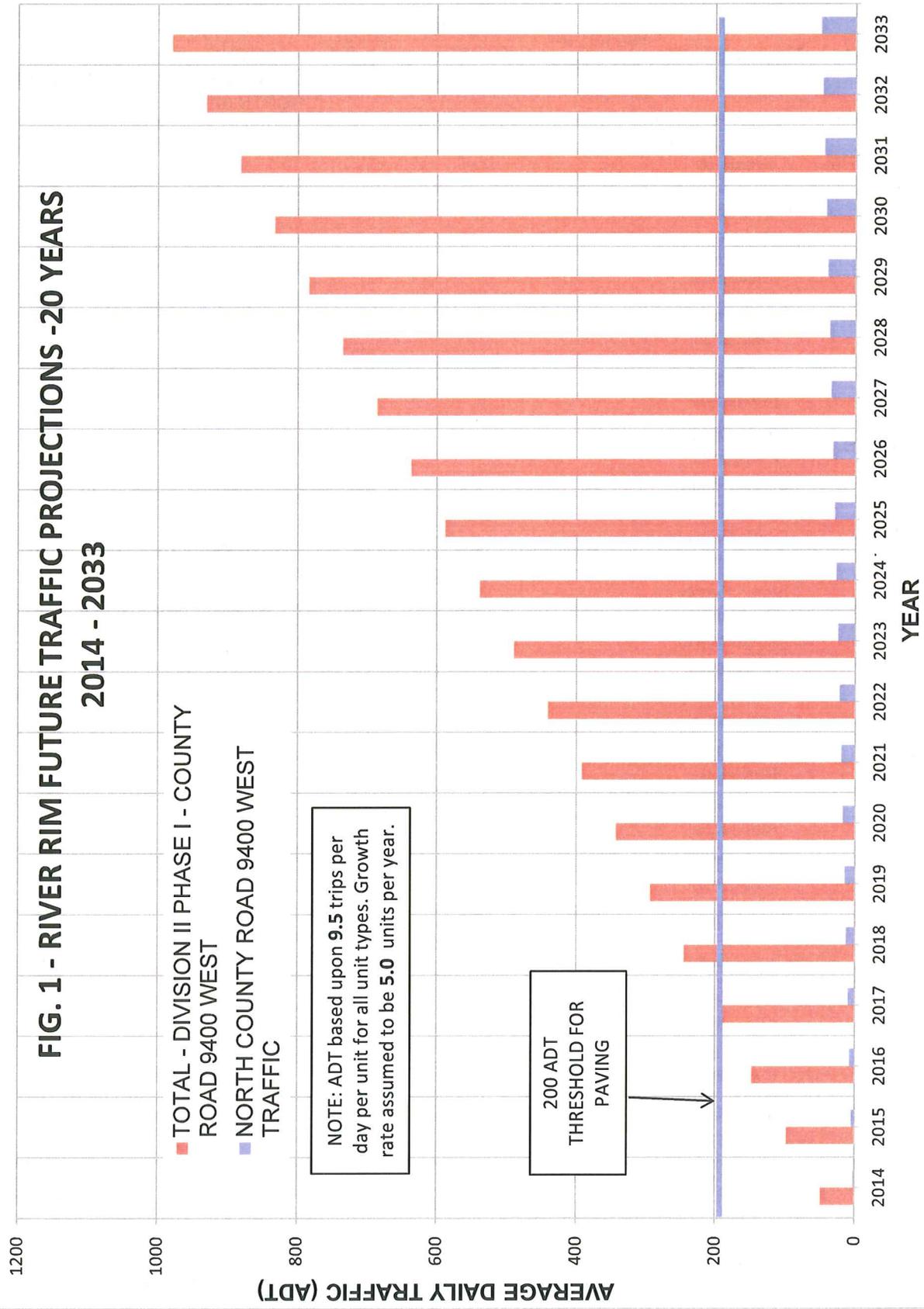
Notes:

1) Miscellaneous uses limited by development agreement

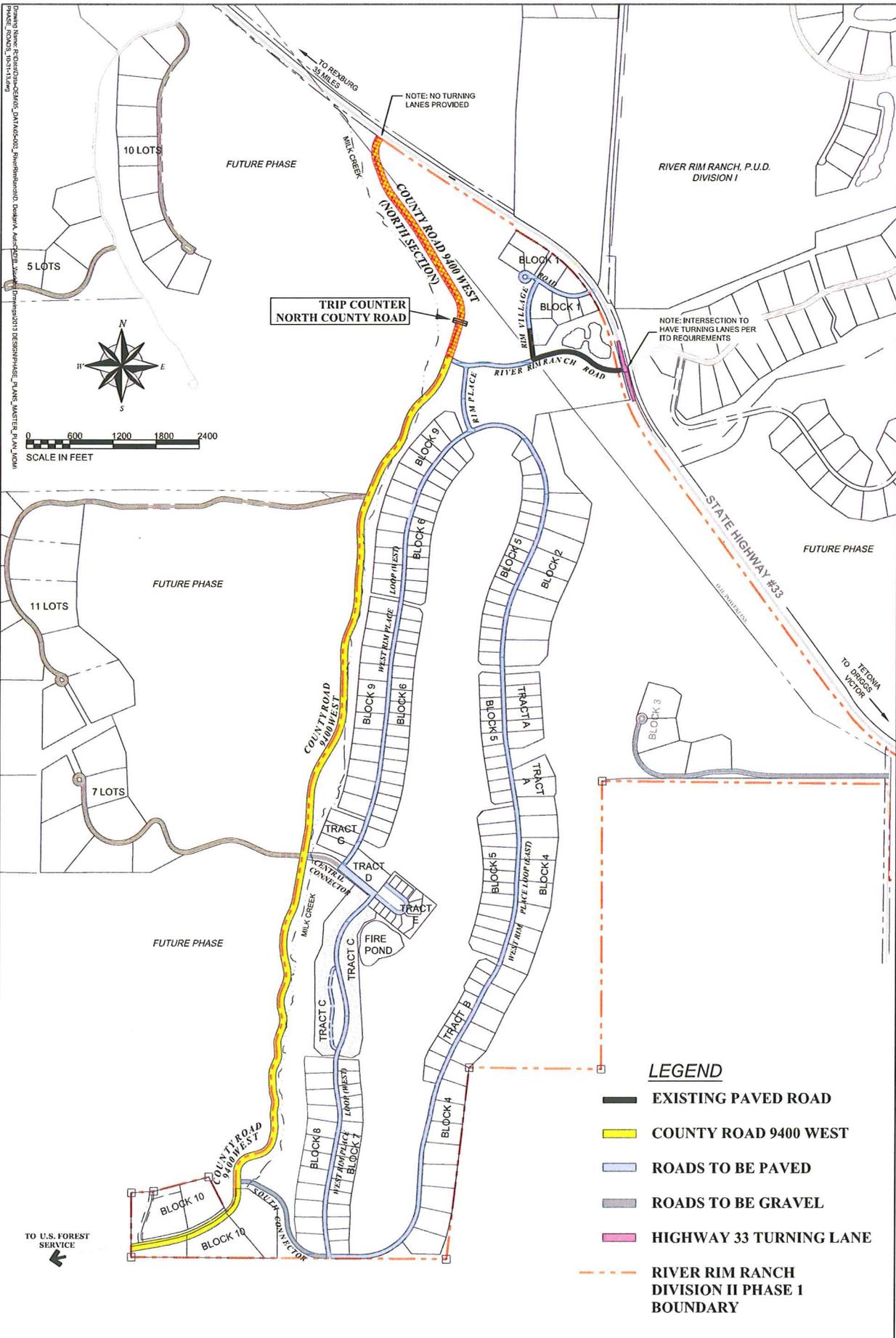
2) The proposed lots in Block 6, Tract E and Tract G, total of 21 units, would be converted to cluster units located on Tract E if the golf course is constructed.

3) Standard detached residential factor of 9.5 ADT per unit per ITE Trip Generation data. Recreational homes factor is 3.2 ADT per unit.

**FIG. 1 - RIVER RIM FUTURE TRAFFIC PROJECTIONS -20 YEARS  
2014 - 2033**



Note: Traffic increase assumes average of five new units per year. See Table 1 for trip generation data at build-out.



Drawing Name: RIVER RIM RANCH DIVISION II PHASE I TETON COUNTY, IDAHO  
 Project Number: 05-003  
 Drawing Number: EXB 1  
 Date: 9/24/13  
 Prepared By: jdc  
 Date: 9/24/13  
 Rev. Date:





P. O. Box 8578, 140 E. Broadway, Suite 23, Jackson, Wyoming 83002; voice: (307) 733-4216 • fax: (307) 733-1245

November 6, 2013

Board of County Commissioners  
150 Courthouse Drive  
Driggs, ID 83422

Dear Members of the Board:

Biota Research and Consulting, Inc. of Jackson, Wyoming was retained in April by the River Rim development team, at the behest of Ms. Angie Rutherford, staff planner of Teton County, Idaho. On April 5, 2013 I met with Ms. Rutherford and representatives of the applicant at the County Courthouse to discuss the proposed amendment to the River Rim Ranch PUD Master Plan and Final Plat for Division II. At this time Ms. Rutherford informed the applicant team that the amendment would be reviewed under the definition established in Title 9, Chapter 7: Substantial Changes/Vacations – Decrease Scale, Impact. However, staff requested confirmation that the proposed amendment met the findings for the “Decrease Scale, Impact” definition, from a qualified professional biologist. Therefore, Biota performed a Wildlife Habitat Overlay (WHO) Assessment at that time, to evaluate the revisions to the Division II Master Plan in the context of what was initially approved, and whether the amended Plan constitutes a decrease in scale and impact to protected natural resources as identified by the WHO. The only other extenuating question outside of the revised footprint in Phase 6 addressed in our assessment was whether the proposed treatment of the golf course, Division II, Phase I, would sufficiently address the proliferation of noxious weeds.

As of April 5<sup>th</sup>, 2013 the amended Final Plan included an increase of proposed acreage within the WHO in Phase 6 of Division II. The Biota analysis included an evaluation of the existing landscape, the available wildlife habitat, specifically wildlife habitat indicator vegetation, wildlife sign and evidence of current usage within Phase 6, the South Canyon Area. It was fully understood and so stated by County staff that Phases 1 through 5 of Division II were not to be included in the WHO assessment, as the reductions of density, development rights, and associated infrastructure throughout Phases 1-5 of Division II irrefutably represented changes of decreased scale and impact.

The findings of the Biota WHO assessment in April were based on incremental expansion into the overlay (6 acres) and a preserved big game movement corridor of 800-1,000 feet. Through the revision process and several meetings with the Planning and Zoning commission, as well as input from public entities including Valley Advocates for Responsible Development (VARD), the applicant has subsequently reduced the overall footprint of Phase 6 development, maintained the original number of

approved lots, removed all additional impacts to the WHO, and increased proposed open space. The proposed amendment as of November 2013, specifically the layout of Phase 6, would not have triggered the assessment that Ms. Rutherford called for in April.

I am presenting this cover letter as an introduction to a packet that includes the Biota Assessment prepared in April of 2013, the subsequent review comments by Idaho Department of Fish and Game (IDFG, June 20, 2013) and the Biota response to IDFG comments (June 27, 2013). These materials were based on the Final Development Plan prior to iterative revision process that has taken place over the past 6 months. The changes to the Division II Master Plan over the intervening 6 months in my appraisal have further reduced potential future impacts to wildlife, wildlife habitat, and the existing movement corridor that lies along the north boundary of Phase 6 of Division II. Our assessment of April 2013 remains applicable to the current Master Plan design, though I would like to highlight the increase of the wildlife movement corridor width from a minimum of 530 feet as of 2006, to a currently protected minimum width of 1,150 feet. I support the review of the amended Division II Master Plan under definitions provided in Chapter 7, for substantial changes, with decreased scale, impact.

Sincerely,



Hamilton Smith  
Senior Ecologist/Certified Professional Wildlife Biologist

[hamilton@biotaresearch.com](mailto:hamilton@biotaresearch.com)