

TETON COUNTY PLANNING AND ZONING COMMISSION
Meeting Minutes from May 17, 2016
Main Courtroom (3rd floor), Driggs, ID

COMMISSIONERS PRESENT: Mr. Cleve Booker, Mr. Bruce Arnold, Mr. Chris Larson, Ms. Marlene Robson, Mr. Jack Haddox, Mr. Pete Moyer, Ms. Sarah Johnston, and Mr. David Breckenridge.

ELECTED OFFICIALS PRESENT: Ms. Kathy Spitzer.

COUNTY STAFF PRESENT: Mr. Jason Boal, Planning Administrator, and Ms. Kristin Rader, Planner.

The meeting was called to order at 5:09 PM.

Approval of Minutes:

Ms. Robson asked that “It is important to remember private property rights during the code process.” be added as a comment from the Commission during the Work Session.

Ms. Johnston asked that condition #3 of the Fin and Feather Zoning Map Amendment motion be updated to add “and restricting any subdivision under the R-1 zone.”

Ms. Johnston asked that the discussion of the River Rim Subdivision Amendment be updated so it is clear that the hospitality units are called out as “two key” hospitality units instead of referring to the number of bedrooms.

MOTION: Mr. Arnold moved to approve the minutes of May 10, 2016, as amended. Ms. Johnston seconded the motion.

VOTE: The motion was unanimously approved.

Chairman Business:

Mr. Booker commented that he was filling in for Mr. Hensel while he was out of town.

Administrative Business:

Mr. Boal expressed his appreciation with the Commission and thanked them for their work. Mr. Booker commented that the Commission also appreciated Mr. Boal during his time with the County and wished him luck with the City of Victor.

Approval of Written Decision:

Ms. Johnston asked that condition #3 of the motion for the Zoning Map Amendment be updated to match the approved meeting minutes.

MOTION: Ms. Johnston moved to approve the Written Decision for a Zoning Map Amendment Recommendation of Approval and a Conditional Use Permit Recommendation of Approval for the Fin and Feather Bed & Breakfast, as amended. Mr. Larson seconded the motion.

VOTE: The motion was unanimously approved.

PUBLIC HEARING: Amendment to Title 9, Teton County Subdivision Ordinance – Proposing amendments to Title 9 to add CHAPTER 11 - BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS. This amendment is intended to establish procedures for placing purchasers of illegally split parcels on notice that such parcel split occurred in violation of the LLUPA (Idaho State Code 67-65) and the requirements of Teton County Code-Title 9, and to provide a means for certifying that the real property does comply with the provisions of LLUPA and Teton County Code-Title 9.

Staff (Applicant) Presentation:

Mr. Boal explained the changes. The draft ordinance that was proposed on April 12 was modified to make it more comprehensive, to explain the reasons for the lack of building rights and the inquiry process to verify building right eligibility. Section 9-11-2, Criteria for Determination, was also clarified.

Mr. Larson asked if a “legally created parcel” meant a “buildable parcel”. Mr. Boal explained that the term “legally created parcel” is used in the existing code to define a buildable lot. Ms. Spitzer commented that it may be a good idea to change the term or provide a definition in this section of the ordinance to define “legally created parcel”. Ms. Spitzer wanted to clarify that a lot could be legally created without building rights, and we are only using the term “legally created parcel” because it is used in our existing code to define buildable parcels.

Ms. Spitzer explained that the processes in the code changed several times in the past, and the underlying zone is not a blanket. The Planning Administrator at the time signed off on these and no one contested it. People went through a process and thought it was right, and this ordinance would provide those with building rights. What’s not okay and what this ordinance doesn’t allow, is people splitting their property without going through a process.

Mr. Larson asked about ag splits after a certain date. Mr. Boal confirmed that some ag splits would be considered buildable. Lots created through a process are considered buildable, are lots created outside a process are not. Mr. Breckenridge asked how ag splits are identified. Mr. Boal explained that we rely on a survey or deed being labeled as an ag split. Ag splits that were created before 2003 are considered buildable. The code changed in 2003 to be more specific toward ag splits.

Mr. Boal commented that this ordinance, in his opinion, is the most equitable approach as it is protecting those that have a reasonable expectation that a process was followed and rights were obtained through a process. It also provides an opportunity to obtain building rights when the process wasn’t followed.

Mr. Larson asked for clarification on a sort of hardship case, if someone does not qualify for one of the three criteria provided, are we hoping the new code will provide an option? Mr. Boal explained that section 9-11-8 provides different options to obtain building rights, but the underlying zone must still be met. There is also the option to go through the subdivision process. The new code may also provide new options.

Ms. Robson commented that the proposed ordinance mentioned a violation of LLUPA. She asked for a clarification of LLUPA. Mr. Boal explained that LLUPA provides the opportunity for counties to have zoning and subdivision ordinances, and it talks about the processes that need to be followed, so if something doesn't follow those processes, it would be a violation of LLUPA.

Ms. Spitzer explained that LLUPA mandates that counties go through a subdivision process and zoning process with a public hearing and notice, and that is the only way we are allowed to zone. We need to be careful that we don't subdivision or zone without a public hearing that is noticed, that goes to Planning Commission first, then the Board of County Commissioners afterwards. That is why LLUPA is mentioned because if it is not a process that the county had, we can't retroactively create that process because there wasn't that noticed hearing, Planning Commission, and Board of County Commissioners process at that time. We can allow anything that had a process in our code at the time and if it followed our process, it's okay because it went through that process. If we retroactively created a process that wasn't in our code, it would be a violation of LLUPA.

Mr. Booker asked for clarification of what surveys would be recognized. Mr. Boal explained that if a survey was recorded with a county signature, or an ag split before 2003, it would be considered buildable. If there was a survey without a county signature or only a deed, it would not be considered buildable.

Mr. Booker references the map that was included in the staff report showing lots based on property inquiries. Mr. Boal explained that this is not a parcel specific ordinance. Mr. Booker said he understands that, but it helps him understand what examples there are and how to address them. Mr. Boal explained that this ordinance makes a lot buildable if it went through a process. Mr. Booker asked if there was potential that there are lots that may never obtain building rights. Mr. Boal explained that it could be a possibility if a lot wasn't created through a process and it can't meet the requirements of our ordinances. Ms. Spitzer explained that this ordinance doesn't take away any rights; it grants more rights that people did not have.

Ms. Robson asked about the voidability to void a deed or contract. Mr. Boal explained that state code provides this process. The county doesn't void it because they're not part of the contract. The property owner has that option. Ms. Robson also asked about a section of state code that discusses property rights. Mr. Boal explained that it requires that property rights are addressed in the Comprehensive Plan.

Ms. Johnston asked for the following clarifications:

- Section 9-11-2 – are all of the options listed considered individual options (one or the other), or are they cumulative? Mr. Boal said they are one or the other. The word “or” can be added after each of these.
- On the map provided, and it says one building right was associated with multiple RP numbers, is it correct that this means multiple parcels with one building right shared between them? Mr. Boal explained yes, this means multiple tax parcels sharing one building right. There are a multitude of reasons for having multiple tax parcels, even though a deed shows a piece of land as one parcel, it may cross taxing districts or township lines that would require a different RP number.
- Are there any statistics on the properties included on the map from property inquiries? How many parcels are probably affected by this or in subdivisions? Mr. Boal explained that the statistics of the property inquiries was not something included. The majority of

the parcels on the map are rural parcels. Probably less than 10% have no building rights, which is probably skewed somewhat because some lots were included in subdivisions. Some inquiries were submitted for parcels in subdivisions, but platted lots are not in question.

- Section 9-11-3-B: The “to develop” language seems to restrict all development such as future subdivisions and physical development. Does this only mean physical development? Mr. Boal explained it is only physical development not subdivisions, and this can be clarified.
- Section 9-11-2-C-b: Why are we putting a weight on the applicant having a recorded survey in the past? From a surveying and legal perspective, if you record a deed recorded with a metes and bounds description, it isn’t different from a survey showing it graphically. Mr. Boal explained that the recorded survey has to be a One Time Only survey with a county signature, not just any survey. Ms. Johnston apologized; she was looking in the wrong section. Same question in the parcel rectification criteria section. Mr. Boal explained a survey is required there because it goes back to the expectation of how it was created. If there was a survey recorded when someone purchased it, there is a different expectation of how it was created than if there was just a deed. Ms. Johnston asked for clarification to ensure she was understanding correctly. To be eligible for this parcel rectification, part of the criteria is an existing survey, and the intent is because the expectation may be more likely that they thought they had a building right because of the survey versus just a deed. Mr. Boal explained yes, that is correct. It is not to say that processes are not available for parcels that were created by just being deeded off, but this parcel rectification process is geared toward those property owners that had that different expectation based on the survey recorded.
- Section 9-11-8-B-1: This says the parent parcel would be eligible for the One Time Only under the existing code – does this mean the current code now or the code that existed when the application was done. Mr. Boal explained this is the current code, as it exists now. Ms. Johnston asked that the language be clarified.
- Section 9-11-8-D-1: This section also says “eligible under the existing code”. Does this also refer to the current code? Mr. Boal said yes. Ms. Johnston asked that this language be clarified as well.
- Section 9-11-8-C: Is there an example of a situation when this parcel rectification process would be applied? Mr. Boal gave an example of a 40-acre parcel that had a survey recorded to create 2, 20 acre parcels without going through the process at the time. They would also be eligible for the retroactive One Time Only. Ms. Johnston asked if there was an example where someone would be eligible for the parcel rectification and not the retroactive One Time Only. Mr. Boal gave an example of a parcel that went through a One Time Only in the past and then a record of survey was recorded, so it would not be eligible for the retroactive One Time Only but would be for the parcel rectification.
- How long would this parcel rectification process take, realistically? Mr. Boal explained that once we get a completed application, it’s a matter of getting it on the next agenda, so pretty quick. It is an administrative approval, not a public hearing.
- Section 9-11-8-B: Is the retroactive One Time Only something that gets turned in for the parent parcel or the resulting parcel? Mr. Boal explained that the parent parcel is the one being split, so the application is for the parent parcel, and both parcels would be identified

as buildable. Both property owners are required to participate, and if one does not, there may be the option to go through the parcel rectification process. Ms. Johnston and Mr. Boal continued to discuss different examples for going through the parcel rectification process. Mr. Boal explained that a de-facto subdivision cannot be created through this process. Language can be added to 9-11-8-B-4-iv to clarify that no more than two buildable parcels are being created from the parent parcel.

Mr. Booker asked what the Fire District signature block was referring to under Section 9-11-8-B-C. Mr. Boal explained it was only for access. It is not required for fire protection because only two lots can be created through the process, and three or more lots triggers the need for fire protection.

Public comment was opened at 6:08pm

Public Comment:

In Favor:

Shawn Hill, representing Valley Advocates for Responsible Development, stated he is in support of the ordinance. I think this is a good attempt to restoring some order to the chaos of the past. There will probably never be a perfect solution to such a vexing problem. I think the planning staff and county prosecutor have done a good job exploring all possible solutions, and I think the best solutions are incorporated into this ordinance. I would prefer to use of the term Lot of Record because it is industry parlance, it's used in Driggs and Victor, and I believe the county draft code has a definition for this as well. I would suggest the criteria of Section 9-11-2 and use that as the definition for Lot of Record in the county's draft code.

Neutral:

Joanne Labelle, of Victor, stated she was neutral because she hadn't read enough of the revision, but she appreciated the work that had been put into it since the last meeting. It seems like a lot of the critical issues have been addressed. There will still be some hardship issues that will need to be considered. There will be people that purchased, inherited, or somehow got a parcel they were going to build in that doesn't fit in one of these boxes. We need to look out for those people. The map that shows how many inquiries there are; I just want to add that it looks like there are about 100 that had issues. There will be more than this, certainly. People are calling all the time that are not in subdivisions, and we just don't know. It is all over the place, and it is going to affect a lot of people. I spoke before on going back to we as citizens, we relied on the process and if there was a signature or a survey or plat, we relied on the surveyor to follow the proper procedures. The title companies, mortgage brokers, realtors, and citizens had belief they had building rights. Thanks for all you're doing, but I think we need to make sure that no one gets kicked under the bus because it was 2005 instead of 2003 because it was an ag breakoff.

Opposition:

Billie Siddoway, of Victor. I appreciate all of the work that has been done. I oppose the ordinance, some pieces in part and some in whole. I think that section 9-11-2 has the most issues and is not comprehensive enough. I have had the opportunity to talk to a lot of property owners, realtors, developers, and contractors, and we've been able to identify those issued. I'd like to go over those

with you and highlight those that are covered with this ordinance and those that aren't. I think the sentiment of the last meeting I attended was to allow someone that had a lot of record that had been approved, I thought that those would be grandfathered in. I think there's been an effort to do that, but I don't think this is quite comprehensive enough. Two of the general categories that we have examples of are where documents were signed by the county but by the wrong person and I think this could be read either way that a signature by the county is covered. I think this isn't clear where it says an authorized signature, so I think it should just say a county signature. Another example is if a lot of record was approved in Planning Commission minutes saying something was approved and a signature page wasn't provided, that should be approved. It's not clear to me if prior approved rights are covered. I think there are several situations where the county approved a building permit for a property and now they want to come back in and do a remodel. It's unclear if they can come in and get that permit. A related category is where there was a split, where there are two or more resulting rights and one of the property owners received a building right. Now, the other owner is being told that they can't get a building permit. I think these buyers should be treated the same way. Another category are the innocent purchasers. Some may come under the situation that it can be rectified, but we have people that don't have the money or time to pay for a survey. I think that's the kind of hardship that I think we seemed to have some kind of sentiment for correcting before. Those innocent purchases that acquired property of value; I was thinking of people that paid cash money, but you also heard from someone that was working on the farm to earn that piece of land. So recognizing some kind of innocent purchaser exception that may not be the original owner or developer that didn't follow the process, and maybe they have to pay a fee, but I think we should give building rights. Another category is adjudicated parcels. These are parcels made by a decision in a court by a judge that parcels should be split. It's not clear if these are allowed building rights, and I think this deserves recognition as a category. Finally, for a hardship, we already have a process in place to apply for a variance. I think we should have a process where people can plead their case and have consideration given to them through some administrative process. There was some discussion earlier about creating parcels that may not have building rights associated with it. I don't think that's recognized adequately in 9-11-3, which calls this a notice of violation. I think we could improve this by changing the name of it to a notice of no building rights. I think this is a great thing for the county to do. This could be recorded, and it doesn't necessarily mean they violated the law, they just don't have building rights. The Realtor's Association is not thrilled about subsection D. I think it would be appropriate to be struck out, and it puts a burden on the county to make a notice about a sale. There's a process for a purchaser to file a complaint. I think that 9-11-6 makes state code more confusing. It seems to imply that if there's a sale in violation of this title that it somehow becomes a fraudulent transfer. I think this could be deleted because anyone can go to their attorney if they think there was a fraudulent transfer. I also think 9-11-7 should be stricken because you can divide property without building rights. This would make every time we split something off without building rights that we're committing a misdemeanor. I support 9-11-8, but I don't think it is broad enough to include all of those exceptions I think should be in 9-11-2. I think having an expedited process is a good thing, but I don't think it is good enough for those innocent purchaser because of the time and expense involved. I realize that the time for the county can be swift, but there are only a few people here to create surveys, so that is where the time and expense comes in. That's all I have. I appreciate the willingness of the commission to work through this issue. We're working on our own document, but it was not ready for today. We can get it out to you as quickly as we can.

Roger Brink, of Tetonia. I would like to double everything Billie said. Those were my concerns. Conceptually, I would like to add that when this all came to light, it seemed to be unfair to the public. In my view, the County Commissioners and Teton County are in a place to aid the public,

and this whole process seemed quite unfair to me because most everyone bought land here expecting to have building rights felt that those parcels had building rights, legal building rights approved by the county, and no one sold those parcels with the intent of misleading anyone. My objection is conceptually that all of this came to light years after the fact in most cases. In fairness to the public, I think that should be an additional item to be weighed in this decision making process. I think the fees that are outlined, and I commend Jason and Planning & Zoning for taking another look at this and revising the whole thing. It seems they've done a great job trying to rectify most of the issues here. That aside, the fees are still fees, and they are expensive. People can't necessarily afford those fees; some won't want to. People may look into an attorney to look into those issues. It is still an expensive and time consuming process. I appreciate your time and effort you all put into this and your serious consideration.

Harley Wilcox, of Victor. Some simple math, it looks like of the 331 inquiries, there are 33 that have been deemed to be no building rights and need to go through a process. Three of those are not fixable. If you put that to the no inquiry of the 14,325, then that could be 4,727 lots.

It seems to me that this has been from a new interpretation of the rules. The rules have been interpreted over the last 20 years. They were granted building rights through different processes. I'm not talking about the person that created a deed without any process. I'm talking about the ones that went through a process. I was there through some of this and knew some of these guys that did it. Luckily I didn't sell any of these lots to anyone and tell them it was a great building site. When that stuff is pulled back out and shows that realtors and sellers were advertising these as the best building sites with tremendous views, they're going to get sued; the county is going to get sued. I'm tired of county law suits. I keep hearing expecting or what they thought, and I don't necessarily think that's the right choice of words. I think the more clear definition is best practice and directive. People would come to Planning and Zoning and say this is the parcel I have. This is what I want to do. What can I do to get what I want? They were given directive, and they went through a process. This document keeps getting bigger, and I think it needs to get smaller. I think what Billie is working on with other attorneys and other land professionals will shed a lot more light on this. Unfortunately, we weren't able to get it to you prior to this so you could look at it.

I want to remind you that our ag 2.5 and our ag 20 zones are called ag zones. Some of these ag splits were done by staff and by property owners with the understanding that they were creating building sites. Saying if you did an ag split, you don't get a building site is probably not the right way to go. I heard Shawn say this is a good attempt to put some order to the chaos created in the past. Maybe we did make some mistakes in the past. I don't think creating an ordinance to open up the process and look at it, see if we made a mistake, and then revoke approvals is the right way to go. I think that's what this gives someone the right to do.

I visited with the prosecuting attorney, and we were able to look up part of the statute. It calls out in our subdivision ordinance a minimum lot size of 1 acre. The idea of going back to an underlying density of either A-2.5 or A-20 is definitely not something that was explained or given as a directive when some of these came through. I think that needs to not be a part of this final draft. There was a date and time that I think a minimum lot size may have been added to the code, but it was not from the beginning of all of this. I think we all have a good understanding that there have been cases where lots were created, building permits were given, and some buildings were built. Now we're being told those buildings should not have been allowed to be issued and so there for you can't have a garage, shop, or your lot is unbuildable. Does that mean they can't do their

deferred maintenance? I don't know. There will be some cases out of the 14,000 lots we have in the county that there will be more than one home that was built on lots illegally and unfixable. We need some provision so that something that doesn't meet the cookie cutter will be heard by somebody. The reason the 1-acre minimum lot size was in our ordinance for so long is because that's what District 7 allows as a minimum lot size for a well and septic. I realize that staff has done the best they can to come up with something that is a workable solution. I think they're looking at it at a snapshot in time. Today's snapshot. They're saying regardless of what mistakes we made in the past, it doesn't matter because if we did something wrong, so we'll just go back on that. That's not the way we do. If we made an agreement with somebody, we stand by our word. These folks that went through the process and did their due diligence and used best practices as explained to them, we need to make it easy for them to move forward. Don't make them go through that whole thing again and try to prove that they followed the rules at the time. Hopefully you can see through that and make some a suggestion that if any administrative staff or working in P&Z that was directed to sign that plat, that it be honored. Thank you.

Applicant Rebuttal:

Mr. Boal encouraged those that testified to reread the ordinance. Some of the concerns brought up are things that have changed and are addressed. If there is a survey with a county signature on it, we are accepting those as buildable parcels. It seems that was the majority of the objection you just heard, and we are clearly in the ordinance recognizing those as buildable parcels. There were some suggestions as far as removing 9-11-6. We are okay with removing 9-11-6. It is a state code provision, so it is available there. 9-11-7 could be clarified. It is also addressed in chapter 1, section 4. In regards to the 1-acre lot size or the minimum lot size, if it was approved by the county before, this ordinance does recognize those as buildable lots. There's no question of that.

The hardship, the variance that was talked about, I don't know how you can legally hear someone's plea and make a sympathetic granting of building rights. There has to be a process. That's what LLUPA, state code, and our ordinance is. There has to be a process. It goes back to the equity issue. It is fair to those people who went through a process, paid to have the surveys done, who worked with staff and got those approvals. I think this ordinance tries to protect those innocent buyers and provide opportunities to those innocent buyers to obtain those building rights and to follow a process the same as anyone else who has obtained a building right in the county has done.

Commission Questions:

Mr. Arnold: What about 11-3-D? Mr. Boal said we can strike that. Just to clarify, I don't think there's any problem with renaming 9-11-3 to a notice of no building rights.

Ms. Johnston: Can we add an exception to 9-11-7 where someone creating a parcel they are acknowledging doesn't have building rights to follow something similar to 9-11-8-A, recording there are no building rights, that it's allowed. Mr. Boal: okay.

Mr. Breckenridge: Some people built subdivisions in the 1980s, and the minimum lot size could have been half an acre. Mr. Boal explained that if it was in a subdivision or created before 1999, it is considered a buildable parcel, regardless of size. Any parcel that went through a process, including the One Time Only, with a county signature, no matter the size, is considered a buildable parcel with this ordinance.

Ms. Robson: Will this go away with the new code or be incorporated into it? Mr. Boal said it would be incorporated into the new code.

Mr. Moyer: Lots that weren't created the right way and building permits were issued and buildings built. Are we opening the door for that process to continue? We've already allowed property to be built on that wasn't created legally. Is that an issue? Mr. Boal said in looking at the inquiries that have been done and the building permits that were issued, this ordinance is going to fix the majority of those problems. There may be some instances where a building permit was issued. Mr. Moyer asked if in the process of denying someone else, if we gave a building permit to someone else. Ms. Spitzer explained this isn't a problem legally. Doing something that violates the law once doesn't mean you have to keep doing it. It is more of an equitable issue.

Ms. Johnston: Where does this leave people who own a home on an unbuildable lot as far as maintenance, additions, or moving forward? Ms. Spitzer explained that the majority of them should be taken care of because they went through some process that we are going to recognize. If someone was able to build on a parcel that was just deeded off without going through some kind of recognized county process at all, that's where the parcel rectification process would come in. Ms. Johnston asked if they chose not to go through that process, then where would they be left? Mr. Boal said it would come down to what the building code requires building permits for. If they wanted to do something that doesn't require a building permit, then they could do it.

Ms. Robson: If someone who has a house and comes in to get a permit to add a garage, and they're told they can't get a building permit. Is there anything they can do? Mr. Boal explained that this ordinance lays out several processes to make lots legally created lots to obtain building permits. Ms. Robson asked if there would be any cases where they're told no. Mr. Boal explained that there could be, but this ordinance is intended to be fairly comprehensive. The majority of the issues we've seen did go through a process. It is possible, but not very probable. Ms. Robson said she knew of a house that was deeded to a child, and they were told they couldn't get a building permit. Mr. Boal said he doesn't know the specifics of that property, but it sounds like there are options of fixing that. Ms. Robson commented that things like that happen, and it doesn't seem right to me that someone can't remodel their house.

Mr. Moyer: Asked to clarify the difference between the types on the map (multiple RP numbers with one building right, one building right with multiple RP numbers). Mr. Boal and Ms. Rader explained the difference.

Ms. Robson wanted to clarify that the piece she was talking about was able to be rectified, but it was expensive. It just seems wrong that they couldn't get a building permit. Ms. Spitzer asked if it was a house on a large lot that was cut into a smaller piece. She explained that on the large piece, they only had one building right. When they went through the process, that created a new building right for the new lot.

Mr. Haddox: What Ms. Siddoway brought up about a court splitting a property. Would a court order supersede this? Mr. Boal explained that there have been numerous cases like this that we have dealt with. It depends on how they divide it. Sometimes they split up the interest in a deed, sometimes they go through a subdivision, and sometimes someone sells their interest. There are processes that they go through. There are also cases that they only use it for ag.

Mr. Booker closed the public comment at 6:53pm. The commission took a break and returned at 7:04pm.

Mr. Booker explained the public hearing was closed, so he is opening it up for discussion amongst the commission only.

Commission Deliberation:

Mr. Larson: We had a lot of questions and a lot of issues raised. I think this is a good start. We're close to addressing the problem. I too am an engineer and having done this for a long time, I would prefer we handle things legally versus a blanket style. The fees are something the BOCC can do. We have a few different directions. One is to kick it up stairs or do one more crank of the machine. I would like to take another crank, but I know others want to move it through. I'd like to hear from everyone. The only thing I haven't quite resolved are the hardship scenarios. We've talked about different scenarios, and I just don't know quite where they fall in.

Mr. Haddox: I think this is good. Maybe it needs one more iteration, but we need to do something. I feel for the people out there that unknowingly purchased these lots. I think Jason did a good job at addressing a lot of issues. We can't do straight math on this because it won't be proportionate. I'm comfortable.

Mr. Arnold: I agree with Chris. I want to ask a question. Will it be new info if I ask the administrator how time sensitive this is for the public? Is that new info? Mr. Booker said he did not think so. I think it needs to have a crank, whether it's us or the Board of County Commissioners. I would prefer we do it. If that's going to be a burden for the public, I don't have a feel for that. Mr. Boal explained that we do have several property owners that are waiting on building permits and this solution. His thought and preference was to get a fix in place, and if we need to fix it, we can always do that. Without it, it does leave property owners waiting. Mr. Arnold said that's a dilemma in his mind. He wasn't sure if it should be sent to the Board or keep working on it, if that would out a hardship on the public.

Mr. Booker said Mr. Larson had to leave soon, and he would like to throw something out. He's heard from three people saying they'd like another round at this. He would add himself to that list. There were a lot of changes, and he'd like to see those changes made before voting on it. At the same time, he didn't want to hinder anyone. It is important to get it right. Is a general consensus of the commission that they'd like to have another shot at this and continue this one more time?

Mr. Boal explained that the next meeting will be the second Tuesday in June. It can't be noticed for the Board until the Commission makes a recommendation, so it would be mid-July before going to the Board. Mr. Boal explained that he had made a list of changes by section. He offered to go through those changes if it would make them feel better to make sure it adequately addressed the changes discussed. Mr. Booker said he would personally like to see a final product. Ms. Johnston agreed. She felt there were a lot of changes, and she would like to see those revisions before recommending. Mr. Booker explained that there were a lot of changes, and he'd like to see it in a final format. Ms. Johnston said she felt other things may come up in the course of their discussion as well.

Mr. Larson explained that he thought they were doing a better job if they looked at it another time. Time is sensitive. Mr. Arnold commented that it may be more of a benefit to the public for them to continue it.

Mr. Larson left at 7:17pm.

Ms. Johnston commended staff on the background clarification on this and putting together a much more standalone ordinance that defines and clarifies the whole process. One thing that would make her understanding better would be the lot of record definition. We've had different terms floating around for parcels that are and aren't buildable, which adds confusion to this. The first thing that pops up when I google legal lot of record is from Deschutes, Oregon. It says "Not all tax lots are legal "lots of record." Deschutes County will not issue any permits on a lot or parcel until it is determined that it is a legal lot of record. If your parcel is not in an approved subdivision/ partition, has not been issued a building or septic permit, or has never been determined to be a lot of record, you will need to file an application for a lot of record verification." That makes it very clear, and I would like to see us have something very similar if not verbatim. She also commented that if a lot was split, then a septic or building permit was issued, it would become a lot of record. That is something she would advocate for. She also commented that she was not very comfortable with 9-11-8-C. She did not have a clear understanding of the extent of this. How could this be applied and where? She felt the next iteration of this will clarify that. Also, she was not convinced that having a recorded survey being in existence should be a deciding factor for the parcel rectification. When a deed is recorded, the survey is neither here nor there unless it's a map attached to some kind of process like a lot split. She felt the ordinance might be better without this part until she has a better understanding of what that part does.

Mr. Haddox asked Ms. Johnston if she would be okay with just a legal description instead of a legal description and a survey? Ms. Johnston said she felt that the deed, whether or not there was a plat, she does not see the plat as being an important distinction. She would lean toward removing section C completely. She did not feel there was justification to allow this for people with surveys versus without surveys. Mr. Haddox said he would agree with that because historically the federal government has just used deeds. Ms. Johnston said she did not want to open this up to everyone and make it more broad. She would rather see it go away. If it stays, she would like to have justification for why it is there and what it's doing for only surveys. She would also like to see how this applies to the comp plan. We've already said different dates mean building rights, so I'm not seeing a clear argument for why this section is needed.

Mr. Moyer asked how many more parcels are going to fall under this. I'm sure you can't come up with a flat 10%. I'm betting we're still looking at quite a few more lots that we'll have to deal with in the future. He felt the easier we can make the process, the better off we'll be.

Ms. Johnston commented that the map was based on the property inquiry requests, and this ordinance has very different policies. She would anticipate that the number of affected lots would go down significantly. She would be interested in seeing some kind of analysis to see what kind of numbers we're looking at. Again, she commented that she was not convinced that the parcel rectification process was justified or needed, and she would like it better if C was removed.

Mr. Breckenridge said he would leave that up to the administration to see if they like it or why they need it. If they have a good reason for it. His opinion was that this document gives the public everything they want if anything the county said okay on now gets a building right. There were

Motion: Ms. Johnston moved to continue agenda item #3 to the June 14, 2016 Planning & Zoning Commission public hearing, at which time there will be continued public comment at the hearing and written comments will be accepted between now and then in accordance with the public comment and public hearing due process as far as dates. The reasons for continuation and the additional information requested from the applicant is as follows:

1. We are asking the applicant to respond to the Comprehensive Plan items brought up in the staff report;
2. We are asking for a fiscal feasibility analysis;
3. We are asking to see an alternate site plan with the commercial, storage, and incidental uses moved to a more central location more in keeping with the Comprehensive Plan;
4. We are asking for a detailed timeline of the development that would correspond with the fiscal feasibility analysis;
5. We are asking for justification of the unit density conversions, both how those densities are calculated and converted and justification for why the increase in density should be allowed;
6. We are asking for a development agreement draft that stands alone and does not refer back to previous iterations;
7. We are asking that all material for that meeting be submitted seven days prior to the meeting, so all materials need to be received by June 7, 2016;
8. We are asking the applicant if they are willing to make any concession involving the South Rim portion of the overall development.

Information requested from staff is as follows:

1. We are asking for more background information about the current state of the entire PUD approval, both how we got there and what is currently approved and required, and more information on the South Rim portion specifically,
2. We are asking for specific guidance as to whether we have any leverage to bring the South Rim portion of the development back to the table.

Mr. Breckenridge seconded the motion.

Vote: The motion was unanimously approved.

Motion: Mr. Booker moved to adjourn the meeting. Mr. Larson seconded the motion.

Vote: Unanimously approved. The meeting adjourned at 9:00 pm.

Respectfully submitted,
Sharon Fox, Scribe



Cleve Booker, Vice-Chairman



Sharon Fox, Scribe

Attachments:

1. May 10, 2016 Public Comment
2. PZC May 10, 2016 Meeting Packet

TETON COUNTY

PUBLIC HEARING SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: #1

Date: May 17, 2016

PLEASE PRINT LEGIBLY

Name: Shawn Hill

City of Residence (Physical Address- not post office box):

Driggs

Choose one:

Support the application Neutral Oppose the application

Do you wish to testify? Yes No

If you do **not** wish to testify orally, your comments on this sheet will be read into the record – so long as they are written legibly, signed below and do not exceed the space allotted.

Written signature (only if not testifying)

TETON COUNTY

PUBLIC HEARING SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 1

Date: 5/17/16, 20

PLEASE PRINT LEGIBLY

Name: BILLIE SIDDOWAY

City of Residence (Physical Address- not post office box):

VICTOR

Choose one:

Support the application

Neutral

Oppose the ^{ordinance} application

Do you wish to testify? Yes No

If you do **not** wish to testify orally, your comments on this sheet will be read into the record – so long as they are written legibly, signed below and do not exceed the space allotted.

Written signature (only if not testifying)

TETON COUNTY

PUBLIC HEARING SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 1

Date: May 17, 2016

PLEASE PRINT LEGIBLY

Name: ROGER BRINK

City of Residence (Physical Address- not post office box):

2711 E 5000N TETONIA

Choose one:

Support the application

Neutral

Oppose the application

Do you wish to testify? Yes No

If you do **not** wish to testify orally, your comments on this sheet will be read into the record – so long as they are written legibly, signed below and do not exceed the space allotted.

Written signature (only if not testifying)

TETON COUNTY

PUBLIC HEARING SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 1

Date: 5/17, 2016

PLEASE PRINT LEGIBLY

Name: Harley Wilcox

City of Residence (Physical Address- not post office box):

Victor ID (1812)

Choose one:

Support the application

Neutral

Oppose the application

Do you wish to testify? Yes No

If you do **not** wish to testify orally, your comments on this sheet will be read into the record – so long as they are written legibly, signed below and do not exceed the space allotted.

Written signature (only if not testifying)



AGENDA
 PLANNING AND ZONING COMMISSION
 PUBLIC HEARING
 May 17, 2016
 STARTING AT 5:00 PM

Amended
 5-16-2016

DRAFT TETON COUNTY PLANNING AND ZONING COMMISSION
 Meeting Minutes from May 10, 2016
 County Commissioners Meeting Room, Driggs, ID

LOCATION: 150 Courthouse Dr., Driggs, ID
 Main Courtroom – Third Floor (use lower level, SW Entrance)

1. Approve Available Minutes
 - May 10, 2016
2. Chairman Business
3. Administrator Business

5:00 PM – Item #1 - PUBLIC HEARING: Amendment to Title 9, Teton County Subdivision Ordinance – Proposing amendments to Title 9 to add CHAPTER 11 - BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS. This amendment is intended to establish procedures for placing purchasers of illegally split parcels on notice that such parcel split occurred in violation of the LLUPA (Idaho State Code 67-65) and the requirements of Teton County Code-Title 9, and to provide a means for certifying that the real property does comply with the provisions of LLUPA and Teton County Code-Title 9.

5:30 PM – Item #2 - WORK SESSION: Draft Code. Discussion of the Draft Land Use Development Code. No public comment will be taken on the Draft Code.

ADJOURN

- Written comments received by 5:00 pm, May 6, 2016 will be incorporated into the packet of materials provided to the Planning & Zoning Commission prior to the hearing.
- Information on the above application(s) is available for public viewing in the Teton County Planning and Zoning Office at the Courthouse between the hours of 9am and 5pm Monday through Friday.
- The application(s) and related documents are posted, at www.tetoncountyidaho.gov. To view these items, select the Planning & Zoning Commission department page, then select the Public Hearing of May 17, 2016 item in the Additional Information Side Bar.
- Comments may be emailed to pz@co.teton.id.us. Written comments may be mailed or dropped off at: Teton County Planning & Building Department, 150 Courthouse Drive, Room 107, Driggs, Idaho 83422. Faxed comments may be sent to (208) 354-8410.
- Public comments at this hearing are welcome.

Any person needing special accommodations to participate in the above noticed meeting should contact the Board of County Commissioners' office 2 business days prior to the meeting at 208-354-8775.

COMMISSIONERS PRESENT: Mr. Dave Hensel, Mr. Cleve Booker, Mr. Bruce Arnold, Mr. Chris Larson, Ms. Marlene Robson, Mr. Jack Haddox, Mr. Pete Moyer, Ms. Sarah Johnston, and Mr. David Breckenridge.

ELECTED OFFICIALS PRESENT: Mr. Bill Leake, Mr. Kelly Park, Ms. Cindy Riegel, and Ms. Kathy Spitzer.

COUNTY STAFF PRESENT: Mr. Jason Boal, Planning Administrator, and Ms. Kristin Rader, Planner.

The meeting was called to order at 5:06 PM.

Approval of Minutes:

MOTION: Mr. Arnold moved to approve the minutes of April 12, 2016. Ms. Johnston seconded the motion.

VOTE: The motion was unanimously approved.

Chairman Business:

There was no Chairman business.

Administrative Business:

Mr. Boal announced that he would be resigning from the County, with his last day being May 20th. Mr. Hensel wished him the best of luck and said he would be missed. Mr. Park explained that the Board of County Commissioners have made Ms. Rader the Interim Planning Administrator.

WORK SESSION: Draft Code. Discussion of Draft Land Use Development Code with the Board of County Commissioners.

Mr. Hensel introduced the Draft Code that the Planning and Zoning Commission has been working on. He thanked the rest of the Commission for the time and work they have put into the Code. Mr. Hensel asked the Board how they felt about the process and moving forward with the Draft Code, specifically how they wanted to handle public outreach.

Ms. Riegel said she would like to hear from the members of the Commission first on what they were proud or excited about with the Draft Code and what they felt were major improvements from the existing code.

Each member of the Commission commented on the Draft Code. The following comments were made:

- The Commission is proud of the Draft Code, and they feel it is a good document.

Planning & Zoning Commission Hearing 5/10/2016

1 of 13

- There are more division options available now, different minimum lot sizes, and different density options.
- The proposed zoning map is more equitable than the current zoning map because the boundaries can be justified.
- The draft code included a lot of compromise, and the Commission felt the different views of the community were represented well.
- The Scenario Tool that staff created was very helpful in explaining the code, and it will be useful for public outreach and education.
- The draft code is not perfect, but it includes a lot of expertise, and the rough patches can be worked out through public comment and when it is put into practice.
- Not all of the Commission members agree that the same densities should be used in the rural zones. Some Commissioners felt that even though the density options are the same, it is not an “across the board” approach because each zoning district has specific requirements that developments have to comply with.

Different types of public comment were discussed – emotional based comments, like a feeling towards the code, and comments that are directed at specific parts of the code with justification of why it does or does not work. The Commission agreed that both types of comments should be considered, and reviewing comments and making revisions to the code will be a compromise.

Ms. Riegel asked the Commission if they would like comments from the Board before public outreach is started, during the public comment period, or have the Board address their own comments during the Board’s review and public hearings. The Commission agreed they would like to know of any key issues the Board has before going to the public.

Mr. Leake asked the Commission if they felt the philosophical concerns had been addressed with the Draft Code and Comprehensive Plan. Mr. Hensel stated he felt that was the question the Commission was asking the Board. Mr. Leake said he felt that staff had gone through the Draft Code and Comprehensive Plan to address those concerns, and he felt they had been addressed.

Mr. Leake commented that he felt there should be some form of executive summary of the Draft Code to explain the major points to the public. He felt that getting the word out to the public would be difficult, and keeping it simple would be key. Ms. Riegel agreed, and added that if we are asking for public input, we need to make sure there is sufficient opportunity provided for the public to understand the changes to the code and then give comment.

Mr. Park told the Commission that he was proud of the work they have done and the compromises that they have made with the Draft Code. He mentioned that the Commission has worked a long time on this Draft Code, so the Board could do public outreach to help with some of that workload. Mr. Hensel explained that the Commission has to take the Draft Code to a public hearing, and they would feel more comfortable having some form of public outreach versus going straight to a public hearing.

The Commission asked the Board to provide them with a list of Key Concerns, and they will have another joint work session on June 14, 2016 to review those concerns and discuss how to handle public outreach.

Motion: Mr. Arnold moved to close the Work Session. Ms. Robson seconded the motion.

Vote: The motion was unanimously approved.

The Work Session was closed at 6:15pm.

PUBLIC HEARING: Zoning Map Amendment AND PUBLIC HEARING: Conditional Use Permit Application.

Michael and Rachel Fortier, owners of the Fin and Feather Bed & Breakfast, are applying for a zoning map amendment and a conditional use permit. The Fin and Feather was permitted as a Residential Bed & Breakfast in 2014, which allows up to 3 rooms. The Fortiers would like to increase the number of rooms to 5 to accommodate their growth, allow for an operational buffer, and allow for business insurance. A bed & breakfast with 5 rooms is considered a Bed & Breakfast Inn, which is not permitted in the A-2.5 zone. This proposal includes rezoning the Fortier parcel, located at 9444 S HWY 31, Victor, ID 83455, from A-2.5 to R-1, followed by a Conditional Use Permit application for a Bed & Breakfast Inn. This increase in rooms does not require any additional construction.

Staff Presentation:

Ms. Rader explained the rezoning application going from A-2.5 to R-1 along the scenic corridor, so they can apply for a CUP as a Bed & Breakfast Inn, which allows 4 or more rooms. She commented the applicant, Rachael Fortier, had a power point presentation which was the same information contained in the Commission meeting packet, and she would speak first.

Applicant Presentation:

Ms. Rachael Fortier explained that she and her parents are the owners of Fin & Feather Inn, and explained that the original permit was for a residential B&B, which allows up to three rooms. She discussed the initial purchase by her parents in 2014, her subsequent purchase from her parents, and the major remodel that took place so they could open for business in the summer of 2015. Ms. Fortier commented they had a successful summer season with all three rooms rented the majority of the time. She briefly discussed their marketing efforts and feel that the business is steadily increasing and could easily fill the additional two rooms. She went through the major renovations and emphasized the safety features and improvements, and the ability for the improved infrastructure to accommodate even more guests. There would be no impact to the building with the increase to 5 rooms or the parking, and felt it would not have any additional impact on county services. She explained the difficulty with obtaining business insurance with less than 4 rooms and the need for more tenants to meet expenses. Ms. Fortier also commented on the positive economic impact on the community from the guests going out and spending money on recreation and entertainment.

Mr. Hensel commented he was concerned with the zone change. He asked if the applicant was familiar with the new zoning and subdivision regulations being developed to implement the Comprehensive Plan and the impact that would have on the rezoning, and if she was OK with the restrictions requested by the staff. Ms. Fortier commented she is aware of the upcoming changes and had no problem with the staff conditions for approval.

Staff Presentation:

Ms. Rader commented that the B&B is an existing operation and the request is for utilizing two existing rooms for short term rentals. The applicant is not proposing anything else and is willing to give consent in writing that the property could be rezoned with the new zoning map and draft code. The Idaho state code states that the county cannot do that within four years of approval without the written consent from the applicant, and they have agreed to that condition. Normally, the four-year time frame would start with the final BOCC approval, but the written consent allows the county to make the change before the four years are up. Ms. Rader next reviewed the zone change considerations and the CUP considerations outlined in the staff report.

Mr. Hensel asked about proposed changes in the ordinances and draft code in six months and what would happen to the rezone and CUP if it was approved. Ms. Rader commented the CUP approval would stay intact along with the uses and conditions of approval, but the underlying zone would change as outlined in the proposed zoning map and draft code.

Public Comment:

In Favor:

No public comment.

Neutral:

Mr. Sandy Mason, a Teton resident, felt it would make sense to change the underlying zoning ordinance to allow five rooms rather than a zone change which he felt was spot zoning. He believed it was cleaner and easier to do it that way.

Opposed:

Mr. Shawn Hill, representing VARD, commented he supported the use in principal but felt the appropriate process was to change the underlying ordinance. He felt approving spot zoning was problematic, and it was not clear when the new ordinances would be adopted. He also felt that the issues encountered by Fin & Feather will be encountered by other B&Bs as well, and the problem should be dealt with across the board, not spot rezoned to fix the issue.

There was no further public comment so Mr. Hensel closed the public comment portion.

Commission Deliberation:

Mr. Breckenridge asked how long it would take to change the underlying zoning. Mr. Hensel commented it would require a public hearing with the P&Z and the BOCC, so it would take roughly three months. Ms. Fortier commented in reviewing the Comp Plan she felt there may be other places that would better support the use, but it is an existing use and she felt that should be considered in allowing it to continue. Ms. Rader commented it was not necessarily in conflict with R-1 uses and since it was an existing use, she felt it supports the underlying concept.

Mr. Hensel commented he was opposed to spot zoning as a general rule, but had no problem with the conditional use and would be fine with granting the zone changes with the restriction to specifically operate as a B&B. Mr. Arnold agreed with Mr. Hensel as long as it is a restricted use.

Ms. Johnston commented the proposed use and CUP was consistent with Comp Plan, but other R-1 uses like multi-family and the R-1 density was not consistent with the Comp Plan for that area. She was not comfortable approving it unless there is a mechanism for limiting the approval to the current CUP. Mr. Boal commented that as a condition of approval they could request that the applicant enter into a development agreement to formalize the terms. Ms. Johnston commented she did not like the idea of spot zoning, but with specific conditions and limitations she felt that would answer the problems with the R-1 zoning.

Motion: Zoning Map Amendment: Mr. Arnold moved that having concluded that the Criteria for Approval of a Zoning Map Amendment found in Title 8-11 and Idaho State Statute 67-6511 can be satisfied with the inclusion of the following conditions of approval:

1. The applicant will provide written consent stating Teton County may rezone the property with the adoption of the new Land Use Development Code and associated Zoning Map.
 2. The applicant will not pursue a zoning map amendment for their adjacent property, also known as Lot 2 of Brown Acres Subdivision.
 3. The applicant will enter into a Development Agreement with Teton County, pursuant to Idaho State Statute 67-6511(a), restricting the R-1 uses to only allow Bed & Breakfast Inn.
- and having found that the considerations for granting the Zoning Map Amendment can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,
 - and having found that the proposal is not in conflict with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,
 - I move to RECOMMEND APPROVAL to the Teton County Board of County Commissioners for the Zoning Map Amendment for Rachel Fortier as described in the application materials submitted on March 28, 2016 and as supplemented with additional applicant information attached to this staff report. There will also be a development agreement entered into specifying allowable uses.

Mr. Breckenridge seconded the motion.

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

Motion: Conditional Use Permit: Mr. Larson moved that having concluded that the Criteria for Approval of a Conditional Use Permit found in Title 8-6-1 can be satisfied with the inclusion of the following conditions of approval:

1. The Bed & Breakfast Inn is limited to using 5 guest rooms. If more rooms are desired, the Conditional Use Permit must be modified through the required process at that time.
2. Any additional development or changes to the existing structure on this property requires a Scenic Corridor Design Review, where applicable.
3. Parking must meet the Teton County Code requirements, including number of spaces and size, as well as ADA accessible requirements.
4. The CUP is conditional on the Development Agreement for the Zoning Map Amendment.

- and having found that the considerations for granting the Conditional Use Permit can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,
- and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,
- I move to RECOMMEND APPROVAL to the Teton County Board of County Commissioners for the Conditional Use Permit for the Fin and Feather Inn as described in the application materials submitted on March 28, 2016 and as supplemented with additional applicant information attached to this staff report.

Mr. Breckenridge seconded the motion.

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

The Commission took a short break at 6:50pm. The meeting was resumed at 7:05 pm.

PUBLIC HEARING: Application for River Rim Ranch PUD Division II to amend the Phase I Plat and Development Agreement. GBCI Other Real Estate, LLC & 211 West Rim, LLC, is proposing an amendment to the River Rim Ranch PUD Division II, Phase I, Final Plat that would return the golf course portion of the PUD and the "incidental uses" associated with the golf course. The proposed amendment includes the following changes to the West Rim Village (entrance) Area: office, conference space, and spa uses in the existing headquarters building; A commercial support center with a gift shop, coffee shop, and convenience store uses; A recreation center; 12 work force housing units; and storage facility. The proposed amendment also includes the following changes to the Golf Village Area: Modifying Tract D from 45-Cluster Chalets to 48- two room "Hospitality Suites"; Modifying Tract E from 12 residential lots to 48- two room "Hospitality Suites" and Pro Shop, dining and spa uses; eliminating the 3 residential lots on Tract G for the O&M facilities; removing the 6 lots from Tract J for the driving range. The Development Agreement would be modified to: allow the golf course and associated incidental uses, identify the uses of each lot/tract in Phase I, and update the cost estimate and timelines.

Mr. Hensel explained the process starting with staff presentation and how the public comment portion would be handled.

Staff Presentation:

Mr. Boal gave a brief introduction and stated that the proposed application is to amend the plat to Division I, which is a recorded plat. He discussed the previous Master Plan amendment which affected all the phases, and emphasized that the current application is only for amendment to Phase I. Because it is a substantial change it requires review and approval by the P&Z and BOCC.

Applicant Presentation:

Mr. Brett Potter, founder of Focus Architects based out of Bozeman, MT, commented he is the architect that designed all the community buildings in River Rim and has been involved with the project since 2005. He stated he is representing David Chu, who is currently under contract to purchase River Rim development with Glacier Bank and is in the due diligence period. He is here to determine if it is feasible under the current development agreement to execute the allowable golf course component. He introduced the other members of the team in attendance who he stated

were available to answer questions. Mr. Potter then used a power point presentation to show the vision of the applicant to turn River Rim into a vibrant outdoor community. He reviewed the key components starting with restoring a family oriented golf course designed to be pedestrian in nature with reduced impact on the environment. The second component would be adding a small community commercial center geared to the residents at the entrance of the subdivision intended for residents to get a cup of coffee or some milk, pick up a newspaper, etc. without having to go outside the community. The third element would be the central section which would be the golf club village. They are proposing to take existing residential entitlements and reconfigure them into new residential entitlements that will reduce the total impact on the project.

Mr. Sean Craycraft, Senior Vice President for OB Sports Golf Management based in Scottsdale, AZ who manage golf courses all over the country. He discussed a new type of golf course designed by David Kidd who designed the Huntsman Spring course. His links style golf course design involves using less water and more natural landscaping with limited irrigation. The Gamble Sands course outside Seattle was used as an example. He commented golf courses are going more environmentally friendly and less water use to reduce impact to the environment. Mr. Craycraft stated they are interested in broadening the appeal to include good players, but also families and average players.

Mr. Potter commented that the proposed design is to encourage pedestrian activity throughout River Rim. He discussed design excellence and awards won for original design in Division I and the intent to carry on that excellence into Division II. The idea is to create compact housing and walking friendly open areas and circulation. Mr. Potter stated he believes the changes they are proposing will substantially raise the tax base, provide more full time on site jobs and construction jobs for the valley, and the proposed links type design will require less water for maintenance and have less impact on the environment. He pointed out that River Rim has its own water and sewer system, maintains all it's own internal streets, has a dedicated parcel of land to the fire district, and the majority of owners who build in this type of district have children that are of college age or older.

Mr. Potter next discussed the entrance and commercial buildings proposed. There is an existing admin building and the new design proposes adding a small community commercial building with a post office, a small grocery, dry cleaner, small convenience store, events component pavilion and small meeting rooms. They are also proposing employee housing and on site community storage for drift boats, snowmobiles, etc.

Mr. Potter discussed the current components of existing residential approval and the proposed concept of a hospitality village. It is proposed as a mix of two-bedroom & four-bedroom hospitality units. A dense central village is proposed that promotes pedestrian activity. The current approval allows for 66 four bedroom residential entitlements. The applicant is proposing 96, two-bedroom condos instead of previous approved residential units. The condo buildings will be two story and blend into the natural environment. The four-bedroom units will be on the 62, approved residential chalet sites. They are proposing four-bedroom hospitality units broken down into two-bedroom suites that can be entered into the hospitality rental program for potential income on their investment.

Mr. Potter summarized by saying they have three components to the process: the technical and county review, the finance and design phase, and the construction and operations phase. They are

in the first stage of county review and are working with all departments to ensure compliance and public safety.

Staff Presentation:

Mr. Boal commented the application being presented has been through numerous revisions and is being revised again based on existing codes today. The amendment proposes the re-introduction of the golf course amenity into the River Rim Ranch PUD Division II, similar to what was originally master planned. Associated or "incidental uses" associated with the golf course are also being proposed to be re-introduced in two areas- 1) Golf Village area - a club house/pro-shop, restaurant, spa and other resort services; 2) West Rim Village- limited commercial uses such as a coffee shop, café, small grocery store, fly fishing shop. These uses were eliminated in Amendment #5, which was recorded in 2014.

He then highlighted the changes in the ordinances since the original approval, the approval criteria in the original PUD, and specifics like open space calculations, density calculations, and the fact that the PUD as a whole meets the requirements of the current code but the individual phases do not necessarily comply. He discussed the question of the hospitality units versus the approved residential units regarding density and whether or not they would decrease the impact on the overall PUD. He expressed concerns with the current design of the incidental uses being proposed along the highway, specifically the storage proposed which according to current code should be on the interior of the PUD. Last key issue he identified was regarding operation and maintenance records which he believed is being resolved through continuing dialogue with Eastern Idaho Public Health and DEQ.

Public Comment:

In Favor:

Ms. Patti Saylor, owner of a cabin built in Division I and president of two out of three HOA boards that run Division I. She felt that the lack of building is due to people waiting to see if the development will continue to go forward. Ms. Saylor stated she is not speaking for the boards, but feel most owners she has spoken with are in favor of the proposed changes. She stated she was in favor of the proposed purchaser who has a background with the project and the valley and felt that was a positive factor in supporting the change. She believed the hospitality units were a big enhancement and would increase rental income potential for second home owners.

Neutral:

No Comment.

Opposition:

Mr. Shawn Hill, representing VARD, commented he agreed with Ms. Saylor in wanting River Rim to be successful. He wanted to see the current proposal comply with the approved Comp Plan and with the existing code, and he felt the proposal as it currently stands does not comply. He felt the incidental uses were highway oriented and requirements are for interior orientation, and he wanted to see a wildlife habitat assessment conducted. He was also concerned with the plat amendment provision of the code being adhered to. He pointed out the proposal is a PUD amendment and the

county has no obligation to approve the amendment to the development. Mr. Hill commented on the importance of minimizing the impact of development on the south canyon area and felt that should be used as a potential compromise when looking at the proposed changes to the PUD. He stated he believed the change from chalet units to hospitality units was not a reduction in impact or intensity and was not in favor of converting the use.

Mr. Sandy Mason, resident of Teton, commented he supported the comments of Mr. Hill and also pointed out the PUD process involves a negotiated agreement between the county and the developer for higher densities and required showing a real, tangible public benefit. He believed there should be more negotiations involved with the new proposal. He wanted to bring in new data about wildlife preservation and the affect of development on Teton River corridor to reduce density on the south canyon area in exchange for the proposed changes. He felt there should be more serious discussions with the applicant regarding tradeoffs for approving the proposed changes and that more information was needed to consider making any more changes to the River Rim PUD.

Applicant Rebuttal:

Mr. Potter commented he is a smart growth advocate and felt the inclusion of small community commercial uses in the project were essential for success. Regarding hospitality units he felt the single family detached homes use the most amount of community resources during the highest peak of the day. He believed that hospitality units are more compact and use less community resources because they are general seasonally occupied as opposed to year round residences. He stated he was open minded about moving the commercial away from highway and will look at moving the storage units as well.

Commission Questions:

Mr. Arnold asked Mr. Boal to repeat the existing items not resolved. Mr. Boal commented the staff's key issues they felt should be considered are the open space calculations, which is now 70% not 50% based on the whole PUD. He discussed the 2013 Master Plan amendments regarding the open space and units approved in future phases. He stated this proposal is not meant to amend or address any future phases and as each future phase comes in they will have to go through the subdivision process. He commented this amendment was for Division II only and would not affect future phases, which would be judged by laws in place at that time. Mr. Boal commented he was also concerned with the location of the commercial uses in relation to the highway and wanted to see a development agreement that clarifies the specific acreage and use of each identified parcel on the plat for Phase I so that is was clear what each parcel was being used for. He wanted to see one stand alone development agreement rather than several different ones associated with different phases.

Ms. Johnston asked if they were borrowing from future phases that would have to be amended if this application is approved. Mr. Boal commented what was agreed to in previous amendments was sufficient to justify the proposed density calculations. Mr. Hensel commented the numbers previously agreed to were in return for other negotiations, so essentially the proposed increased density still meets the open space requirements.

Mr. Arnold asked if there was a 70% reduction in bedrooms. Mr. Boal commented utilizing the two-bedroom hospitality suites versus a four-bedroom single family residence represented 70 fewer bedrooms, not a 70% reduction in density.

Mr. Moyer asked if they must meet 70% open space and how that calculation works with what is presented. Mr. Boal discussed the way the total acreage of open space was calculated and pointed out the definition of open space was different when the project was originally approved.

Mr. Larson asked if the different phases must be combined to determine open space criteria. Mr. Boal commented there is no way to distinguish open space per each phase independently.

Ms. Johnston asked how much open space is required for Phase 2. Mr. Boal commented the open space for the whole PUD for all of Division II was at 70% and requires just over 3,100 acres of open space, and the last master plan approved provides just over 3,200 acres of open space. He pointed out that the application was just for Phase I and doesn't meet the 70% open space required for Division II. She asked if this phase has a set amount of open space through a previous approval. Mr. Boal commented it did not. The ordinance requires 70% open space and it does not specify each phase has to meet that, only the PUD as a whole must and the master plan approved in 2013 meets the 70% as a whole for all the phases in Division II. Mr. Hensel commented the current open space requirements will have to meet the 70% overall PUD open space requirements. The applicant is requesting to build the densest phase first.

Ms. Robson asked if the south canyon is in this phase. Mr. Boal commented it is in Phase 5 or 6 across the street, northeast of the highway.

Mr. Larson asked if the wildlife habitat assessment comes into play. Mr. Boal commented that a wildlife habitat assessment was not required on the original approval. In 2013 Fish and Game provided comments that were considered in the approval process. Since the design has not been heavily modified since 2013, he did not feel it was a concern.

Mr. Arnold asked Mr. Potter if the applicant was willing to move incidental uses away from highway. He also asked about existing developments rights on the south canyon rim edge and the potential for moving them back. He wanted to see, as a trade, moving the building envelopes on the canyon edge back to benefit the community and the scenic Teton River corridor. Mr. Potter commented that he was not prepared to discuss the south canyon at this time. If the Commission wants to move forward with negotiations to Division II, Phase I he felt that rim area development can be discussed in the future when new phases are ready to move forward.

Mr. Booker asked Mr. Potter about the storage facility design. Mr. Potter commented they would have natural siding and relate to the vernacular architecture styling of Idaho. He also stated he was willing to move them away from the highway. Mr. Booker wanted everything enclosed, and Mr. Potter had no problem with that. Mr. Booker also asked about fencing and lighting. Mr. Potter commented that lighting would comply with night sky lighting restrictions and security fences would be consistent with the subdivision design.

Mr. Moyer asked how large the commercial structure would be. Mr. Potter commented he was proposing an 8,000 sq. ft. structure and would be happy to define how much square footage will be allocated to each different use.

Mr. Booker asked about the hospitality rental units. Mr. Potter explained each individual owner has the choice to enter it into the program or use it exclusively. The hospitality program is flexible and voluntary, and the intent is to allow more choices for purchasers.

Mr. Breckenridge asked if instead of having a separate convenience store it could be part of the golf course clubhouse. Mr. Potter commented he would be willing to consider that because his main concern was that all Division II owners could bike to milk.

Mr. Booker asked if the golf course would be public or private. Mr. Potter commented it would be public.

Commission Deliberation:

Mr. Hensel commented that, since it is 8:30pm, it would be a good idea to continue the public hearing to a future date in order to digest the information presented and suggested providing input to the applicant for things they would like to see at the next meeting. He commented it is a big change in direction and asked about the commitment and feasibility to put back the golf course at this time. He wanted to see the changes in regards to the whole project and may want to ask for some give and take in order to approve the proposed changes. He also wanted to see the commercial moved away from the highway.

Mr. Booker commented there is a large amount of information to digest and felt there should be more time for approval consideration. He was concerned with making changes to the PUD that may not lead to a potential buyer obtaining financing, and that things could be changing again with the next potential buyer. He wanted more time line information relating to financing. Mr. Booker commented he was not sure about the wildlife habitat study being required at this time because it is more specific to the south canyon phase than this particular phase. Mr. Boal commented that as each phase comes forward they would be required to do a wildlife habitat assessment in order to meet the ordinances and criteria adopted by the county at that time.

Mr. Arnold asked if this specific application involved enough changes that it would require wildlife habitat studies. Mr. Boal commented the Commission could require it, but did not feel the proposed changes for this phase would sufficiently change the impact on wildlife. Mr. Arnold didn't feel the subject should be brought up again for this phase.

Ms. Johnston commented that the density on the landscape is changing and should be considered in wildlife habitat impact. She asked how the comparison is made between hospitality units versus single family units. Mr. Boal commented there is nothing in the ordinance that talks about the difference between a hotel unit and a single family unit. Staff did not feel it was a significant change as far as the sewer and water system was concerned or the parking situation. At this time there is no formula to equate residential units with hospitality units. Mr. Boal suggested asking the applicant to provide some clarity regarding the different impacts of the hospitality units regarding traffic, number of users, etc. to quantify the difference. Ms. Johnston wanted to see what was given up in the past to obtain changes to the master plan and then what would they give up to get them back.

Mr. Larson commented it would help if staff would provide a summary of the rational and changes agreed to in previous hearings. He felt the past information from the previous hearings would help make decisions on the current application.

Mr. Moyer asked to see an alternative site for incidental uses away from highway. Mr. Breckenridge wanted to see the commercial attached to the golf course facilities.

Mr. Larson commented that the new proposal has to comply with the new Comp Plan and development code. He wanted to see the non residential commercial reduced based on the Comp Plan, was concerned with open space calculations, and was struggling with hospitality units not equating to full time residential. He felt it is an increase in use and density based on the increase in the number of keys. Mr. Larson also wanted to see south canyon pulled back into the decision if possible and would like to see a summary of changes from the last hearing.

Mr. Breckenridge commented he wanted to see more ideas presented for the south canyon area besides just a density reduction.

Mr. Booker asked for a preliminary development agreement before the next hearing so they had plenty of time to review it.

Mr. Sean Moulton, with Moulton Law Office representing the applicant, commented on the development agreement as being a moving target and did not want to see the applicant committed to drafting a new development agreement when the negotiations are still ongoing. He did not want to waste time on details that will be changed based on future negotiations. He agreed there should be one complete development agreement rather than being a continuation on previous agreements.

Mr. Haddox commented he needed more information on previous approvals on River Rim, specifically previous PUD changes for this phase. Ms. Johnston also wanted more background information on the existing plan and previous approvals.

Mr. Boal asked the Commission to state the things they are looking for specifically when making a motion. He outlined the things he believed they were looking for which included a response based on the Comp Plan changes, a fiscal feasibility explanation, the nature of the PUD changes regarding the incidental uses and a proposal to combine the commercial uses with the clubhouse, as well as a detailed timeline of the development with regards to financing, and some unit conversions to justify the conversion from single family units to hospitality units. From staff he agreed to provide a summary of past changes and clarification of changes to the existing master plan and specifically this phase, and staff will also look into the south rim question. Regarding the development agreement, he commented they submitted a preliminary agreement in the application.

Ms. Johnston wanted to see a draft development agreement that did not refer back to previous agreements. Mr. Booker wanted to see more design information on the storage units.

Motion: Ms. Johnston moved to continue agenda item #3 to the June 14, 2016 Planning & Zoning Commission public hearing, at which time there will be continued public comment at the hearing and written comments will be accepted between now and then in accordance with the public comment and public hearing due process as far as dates. The reasons for continuation and the additional information requested from the applicant is as follows:

1. We are asking the applicant to respond to the Comprehensive Plan items brought up in the staff report;

2. We are asking for a fiscal feasibility analysis;
3. We are asking to see an alternate site plan with the commercial, storage, and incidental uses moved to a more central location more in keeping with the Comprehensive Plan;
4. We are asking for a detailed timeline of the development that would correspond with the fiscal feasibility analysis;
5. We are asking for justification of the unit density conversions, both how those densities are calculated and converted and justification for why the increase in density should be allowed;
6. We are asking for a development agreement draft that stands alone and does not refer back to previous iterations;
7. We are asking that all material for that meeting be submitted seven days prior to the meeting, so all materials need to be received by June 7, 2016;
8. We are asking the applicant if they are willing to make any concession involving the South Rim portion of the overall development.

Information requested from staff is as follows:

1. We are asking for more background information about the current state of the entire PUD approval, both how we got there and what is currently approved and required, and more information on the South Rim portion specifically.
2. We are asking for specific guidance as to whether we have any leverage to bring the South Rim portion of the development back to the table.

Mr. Breckenridge seconded the motion.

Vote: The motion was unanimously approved.

Motion: Mr. Booker moved to adjourn the meeting. Mr. Larson seconded the motion.

Vote: Unanimously approved. The meeting adjourned at 9:00 pm.

Respectfully submitted,
Sharon Fox, Scribe

Cleve Booker, Vice-Chairman

Sharon Fox, Scribe

Attachments:

1. May 10, 2016 Public Comment
2. PZC May 10, 2016 Meeting Packet



May 17, 2016

Teton County Planning & Zoning Commission Written Decision for a Zoning Map Amendment Recommendation of Approval and a Conditional Use Permit Recommendation of Approval for the Fin and Feather Bed & Breakfast

Overview

On May 10, 2016, Rachel Fortier came before the Teton County Planning & Zoning Commission to request a recommendation of approval for a Zoning Map Amendment from A/RR-2.5 to R-1 and a Conditional Use Permit for a bed & breakfast inn on property located west of Victor, at 9444 S HWY 31.

This written decision includes the motion, conditions of approval, and conclusions associated with the Zoning Map Amendment recommendation and the Conditional Use Permit recommendation.

Planning & Zoning Commissioners Present: Mr. Dave Hensel, Mr. Cleve Booker, Mr. Bruce Arnold, Mr. Chris Larson, Ms. Marlene Robson, Mr. Jack Haddox, Mr. Pete Moyer, Ms. Sarah Johnston, and Mr. David Breckenridge.

Applicant(s)/Representative(s) Present: Rachel Fortier

Motion | Zoning Map Amendment

Mr. Arnold moved that having concluded that the Criteria for Approval of a Zoning Map Amendment found in Title 8-11 and Idaho State Statute 67-6511 can be satisfied with the inclusion of the following conditions of approval:

1. The applicant will provide written consent stating Teton County may rezone the property with the adoption of the new Land Use Development Code and associated Zoning Map.
 2. The applicant will not pursue a zoning map amendment for their adjacent property, also known as Lot 2 of Brown Acres Subdivision.
 3. The applicant will enter into a Development Agreement with Teton County, pursuant to Idaho State Statute 67-6511(a), restricting the R-1 uses to only allow Bed & Breakfast Inn.
- and having found that the considerations for granting the Zoning Map Amendment can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,
 - and having found that the proposal is not in conflict with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,
 - I move to RECOMMEND APPROVAL to the Teton County Board of County Commissioners for the Zoning Map Amendment for Rachel Fortier as described in the application materials submitted on March 28, 2016 and as supplemented with additional applicant information attached to this staff report. There will also be a development agreement entered into specifying allowable uses.

Mr. Breckenridge seconded the motion. After a roll call vote, the motion was unanimously approved.

Conclusions | Zoning Map Amendment

Having given due consideration to the application and evidence presented, and to the criteria of approval defined in Teton County Code, Title 8-11 and Idaho State Statute 67-6511, the Teton County Planning & Zoning Commission hereby makes the following conclusions:

1. The permitted uses in the R-1 zone will be restricted to the Bed & Breakfast Inn. With this restriction, the proposed Zoning Map Amendment is not in conflict with the goals outlined in the 2012-2030 Teton County Comprehensive Plan.
 - a. In general, the proposed Zoning Map Amendment supports the following goals outlined in the Comprehensive Plan:
 - i. ED 1.3 Encourage and support local commerce
 - ii. ED 1.6 Encourage and pursue economic diversity, innovation, and creativity to keep our economy stable
 - iii. ED 1.7 Support the expansion of recreational, cultural, and entertainment options that would improve the visitor experience and boost economic development
 - iv. ED 4.7 Encourage creative economic solutions such as live-work opportunities and appropriate home businesses.
 - b. This property is located near a Gateway on the Framework Map, which is an area identified as areas that emphasize the sense of arrival, which could include rest areas, visitor information, etc. The Fin and Feather Inn provides lodging to visitors, as well as visitor information about local and regional activities.
 - c. This property is identified as Rural Agriculture on the Framework Map, which calls for low density residential uses. With the R-1 uses restricted, no high density residential development will be permitted.
2. This proposal is not negatively impacting the public health, safety, or general welfare. The impact of this use will be the same as the existing use on the property. No new construction is being required, and no new services are being required. This application will also provide additional short term lodging options available in the County.
3. The proper legal requirements for advertisement of the public hearing have been fulfilled as required by Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512, and Title 9, Section 3-2-(B-2) of the Teton County Zoning Ordinance. The public hearing was duly noticed in the Teton Valley News on April 21, 2016 and April 28, 2016. A notification was sent via mail to surrounding property owners within a 300-foot buffer area, as well as all property owners in subdivisions that intersect with the 300-foot buffer. Notice was also mailed to political subdivisions providing services in the planning jurisdiction, including the school district and airport board. A notice was also posted on the property providing information about the public hearing.
4. Other persons in attendance expressed neutral and opposing comments of the proposed Zoning Map Amendment and Conditional Use Permit. All public comments are on file with the minutes of May 10, 2016.
5. This proposal is not in conflict with the provisions of any adopted ordinance or intent of any county policy or use within the proposed zone classification.

Recommended Conditions of Approval | Zoning Map Amendment

1. The applicant will provide written consent stating Teton County may rezone the property with the adoption of the new Land Use Development Code and associated Zoning Map.
2. The applicant will not pursue a zoning map amendment for their adjacent property, also known as Lot 2 of Brown Acres Subdivision.
3. The applicant will enter into a Development Agreement with Teton County, pursuant to Idaho State Statute 67-6511(a), restricting the R-1 uses to only allow Bed & Breakfast Inn.

Motion | Conditional Use Permit

Mr. Larson moved that having concluded that the Criteria for Approval of a Conditional Use Permit found in Title 8-6-1 can be satisfied with the inclusion of the following conditions of approval:

1. The Bed & Breakfast Inn is limited to using 5 guest rooms. If more rooms are desired, the Conditional Use Permit must be modified through the required process at that time.
2. Any additional development or changes to the existing structure on this property requires a Scenic Corridor Design Review, where applicable.
3. Parking must meet the Teton County Code requirements, including number of spaces and size, as well as ADA accessible requirements.
4. The CUP is conditional on the Development Agreement for the Zoning Map Amendment.

and having found that the considerations for granting the Conditional Use Permit can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,

and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan.

I move to RECOMMEND APPROVAL to the Teton County Board of County Commissioners for the Conditional Use Permit for the Fin and Feather Inn as described in the application materials submitted on March 28, 2016 and as supplemented with additional applicant information attached to this staff report.

Mr. Breckenridge seconded the motion. After a roll call vote, the motion was unanimously approved.

Conclusions | Conditional Use Permit

Having given due consideration to the application and evidence presented, and to the criteria of approval defined in Teton County Code, Title 8-6-1, the Teton County Planning & Zoning Commission hereby makes the following conclusions:

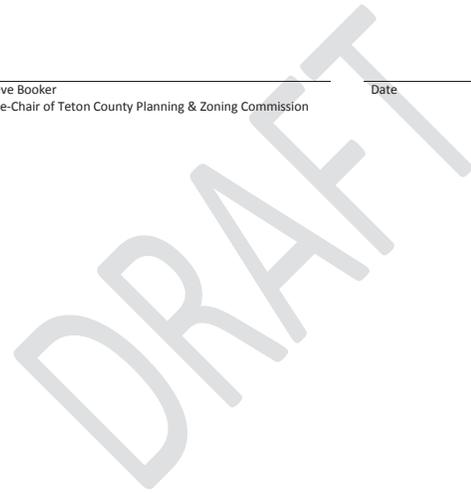
1. The location for the proposed use is compatible to other uses in the general neighborhood. The existing building has been used as a bed and breakfast with three room since 2014.
2. The fiscal impact of the proposed use will be minimal as no new construction is being proposed. There are eight existing rooms in the home being used, with three being used by the Bed & Breakfast and the others being used by long term rentals and the owners. This proposal converts the long term rental rooms to rooms utilized by the Bed & Breakfast. No new parking areas are required, and the property is accessed directly from Highway 31.
3. The location for the proposed use is large enough to accommodate the proposed use as requested.
4. In general, the proposed Conditional Use Permit conforms with the goals outlined in the 2012-2030 Teton County Comprehensive Plan, including new services for the community and community involvement.
5. The proper legal requirements for advertisement of the public hearing have been fulfilled as required by Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512, and Title 9, Section 3-2-(B-2) of the Teton County Zoning Ordinance. The public hearing was duly noticed in the Teton Valley News on April 21, 2016 and April 28, 2016. A notification was sent via mail to surrounding property owners within a 300-foot buffer area, as well as all property owners in subdivisions that intersect with the 300-foot buffer. A notice was also posted on the property providing information about the public hearing.
6. Other persons in attendance expressed neutral and opposing comments of the proposed Zoning Map Amendment and Conditional Use Permit. All public comments are on file with the minutes of May 10, 2016.
7. This proposal, in conjunction of the Zoning Map Amendment, is not in conflict with the provisions of any adopted ordinance or intent of any county policy or use within the proposed zone classification.

Recommended Conditions of Approval | Conditional Use Permit

1. The Bed & Breakfast Inn is limited to using 5 guest rooms. If more rooms are desired, the Conditional Use Permit must be modified through the required process at that time.
2. Any additional development or changes to the existing structure on this property requires a Scenic Corridor Design Review, where applicable.
3. Parking must meet the Teton County Code requirements, including number of spaces and size, as well as ADA accessible requirements.
4. The CUP is conditional on the Development Agreement for the Zoning Map Amendment.

Cleve Booker
Vice-Chair of Teton County Planning & Zoning Commission

Date



TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 2
Date: 5/10, 2016

PLEASE PRINT LEGIBLY
Name: SAUCY WASON
City of Residence (Physical Address - not post office box):
6200 N 1000 W
Tetona, ID 83452

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 2
Date: May 10, 2016

PLEASE PRINT LEGIBLY
Name: SAUCY WASON
City of Residence (Physical Address - not post office box):

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 3
Date: 5-10-16, 2016

PLEASE PRINT LEGIBLY
Name: Saucy Wason
City of Residence (Physical Address - not post office box):
6200 N 1000 W
Tetona, ID 83452

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 3
Date: 5/10, 2016

PLEASE PRINT LEGIBLY
Name: CHRISTOPHER
City of Residence (Physical Address - not post office box):
216 ACCORD DR
216 MT 5321

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 3
Date: 5/10, 2016

PLEASE PRINT LEGIBLY
Name: Fatti Saylor
City of Residence (Physical Address - not post office box):
4555 River Bend Rd #2
Alii, Tetona, Tt

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

TETON COUNTY
PUBLIC HEARING
SIGN-UP SHEET

You must sign up to testify – or submit comments

Agenda Item Number: 3
Date: May 10, 2016

PLEASE PRINT LEGIBLY
Name: Samuel
City of Residence (Physical Address - not post office box):

Choose one:
 Support the application Neutral Oppose the application
Do you wish to testify? Yes No

If you do not wish to testify orally, your comments on this sheet will be read into the record - as long as they are written legibly, signed below and do not exceed the space allowed.

Written signature (only if not testifying)

Attachment 5

Current Use

- Rent 3 rooms on nightly basis – 3 Bath - in B&B wing
- 2 long term rentals (yearly lease)
 - 1 Two Bedroom suite – 1 Bath
 - 1 One Bedroom suite – 1 Bath
- 1 Owner Suite – 1 Bath
- 1 Guest room for Owner – 1 Bath
- Parking for 8 vehicles
 - 3 B&B
 - 3 Yearly lease
 - 1 Owner
 - 1 Guest

Attachment 5

Impact of move to B&B Inn - ZERO

- No construction required
- No other facility improvements required
- No Parking Impact
- Yearly rental vehicles replaces by nightly renters vehicle
- Most likely there will be 1 less vehicle
- No impact to neighbors
- No additional county services required

Attachment 6

Attachment 6

Attachment 5

Problems and Benefits to Fin and Feather

Current revenue is barely break even

- Costs
 - Advertising, Phone, Internet, Satellite TV, Heating, Air conditioning
 - Reservation System, Business Insurance, Food, Laundry, garbage,
 - Reservation Sites, Insurance, Snow removal, Lawn Care, etc.
- Farmers insurance would not give Business Insurance because only do 4 rooms or more

Additional rooms would allow Operational buffer

New Hires to give owner a break from May 1 – Oct 30

Attachment 5

Benefits to Valley

More visitors to Teton Valley

More visitors to local businesses

- Restaurants
- Guide Services
- Skiers to Grand Targhee and Jackson

Provide employment to the valley

Great Ambassador for the valley

- Fantastic reviews
 - Return Visitors (very high return rate)
 - Friend of previous visitors

Promote Valley Events

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Attachment 6

Attachment 6

within River Rim allow for these types of facilities. The following summarizes the results of this calculation:

INCIDENTAL USE SUMMARY (See Table 3 for details)	ACREAGE	PER CENT
Total River Rim, Div. II Phase I	1,484.15	100%
Open Space Portion	956.42	65.3%
Developed Portion by Lot or Easement	507.73	34.7%
Maximum allowable Incidental Use, Div. II Phase I	10.15	2% of development area

Based upon the current concept plan, about 3.32 acres of incidental use area have been identified for the Golf Village area and 5.08 acres within the West Rim area for a total of about 8.40 acres. The areas of incidental use included in these calculations appear in Exhibit C and D. Because the current buildings and site plans are conceptual and subject to change as the plan is refined, it is suggested that a note be added to the plan that the final incidental use area not exceed 10.15 acres within both village locations combined.

The allowable incidental use area will increase as other phases within Division II of River Rim are planned. This calculation only pertains to Phase I.

4. INFRASTRUCTURE. As noted in earlier project discussions, River Rim involved more than 30 million dollars in infrastructure prior to the 2008 recession. This included power, water supply and distribution, fire suppression and irrigation water supply and distribution, sewerage collection and treatment, power and communications and road and site preparation. Since this time the current owner, GBCI Other Real Estate, LLC, has worked extensively with the various agencies to secure final permits and approvals for all of these improvements. In addition the owners have also completed additional infrastructure work and now have a majority (about 60%) of their current, \$ 3.1 million obligation associated with the Amended Development Permit (instrument # 231302) completed. The largest remaining item is the paving of the main subdivision roads which will not be required until local traffic exceeds 200 trips per day.

Water and Sewer Systems. Both water and sewer systems were designed for the original PUD plan from 2007 which had a total of 358 units in Division II Phase I and considerably more non-residential development. No changes are anticipated for these systems which have ample capacity and can accommodate the proposed changes. Copies of the record drawings for these systems and documentation of the approvals are on file in the county engineer's office.

Fire Suppression / Irrigation. The fire suppression and irrigation system was also designed for much higher flow and heavier irrigation use on the golf course. The current golf plan involves more of a links type design which will reduce water needs while simplifying operations. Consequently the current system has excess capacity and will not be affected by the proposed changes. Copies of these plans as approved by the county Fire Marshall are on file with the county engineer's office.

Power / Communications. The main systems are in place. Minor extensions are scheduled for this spring. However no major changes are anticipated with these amendments as the level of development is equal or less in intensity compared to the original Golf Village Plan in terms of power needs.

Roads. No changes are planned. The same requirements for paving when reaching 200 ADT would remain in place. Also, there is also an ITD approved plan and letter of credit in place for turning lanes at the main entrance. These plans have also been submitted to the county.

Attached with this plan amendment is an update to the traffic analysis previously done for Teton County in November of 2013. This update recalculates traffic estimates based upon the changes proposed in the five areas described. Compared to the 2013 analysis, total traffic increases by about 4.7% from an estimated subdaily number of 3,200 ADT with the previous plan to 3,455 ADT with the current plan.

One large required road improvement was the relocation and upgrade of County Road 9400 West. This work has been completed and is ready for partial release of the performance bond.

Summary. Based upon the infrastructure in place and letters of credit currently held by Teton County no new engineering drawings or cost estimates are anticipated for this amendment. The proposed changes will occur within existing platted lots that were part of the original PUD. No wetlands or other environmentally sensitive areas are associated with these changes.

5. ENVIRONMENTAL REVIEW. No additional environmental review is anticipated for this amendment. The proposed changes will occur within existing platted lots that were part of the original PUD. No wetlands or other environmentally sensitive areas are associated with these changes.

6. OWNERSHIP / APPLICANT. Four out of the five areas where changes are proposed with this plan amendment No. 7 are currently owned by GBCI Other Real Estate, LLC, a subsidiary of Glacier Bancorp and represented by exclusive vice president Don Chiny. Glacier Bancorp took ownership of this property in 2008 when the original developers ran into financial difficulties and has since been working to complete development agreement obligations that will enable future owners to finalize the project. GBCI has previously completed amendments 3 through 6 which included a major revision to the development agreement with Amendment No. 5.

Tract D is currently owned by 211 West Rim LLC, represented by principle David Choo. 211 West Rim also owns Tract C and therefore has entitlements for 107 total units in River Rim Division II Phase I. The owners of 211 West Rim LLC have signed a

Jason Boal, Planning Administrator
FOCUS Architects is pleased to present a new vision for River Rim Ranch to the Teton County Planning Department for feedback and this package includes:

1. A new River Rim Ranch PUD Master Plan with a detailed list of proposed entitlements.
2. A new detailed golf club village site plan with proposed building concepts.
3. A new detailed entry village site plan with "small scale" community support functions.

This new vision for River Rim Ranch is consistent with the Teton County Comprehensive Plan and includes:

1. The creation of a concourse outdoor community where people can arrive, park their cars, and walk, bike, or bring an electric golf cart to do almost everything.
2. The creation of a "small scale" neighborhood community center at the entry village that balances the community by allowing residents to have a place to relax, pick up the mail, and drop off the dry cleaning close to home.
3. The creation of a reduced water consumption "links" style golf course that increases property values and creates neighborhood connectivity with pathway design.
4. A contribution of the River Rim Ranch architectural styles that draws inspiration from local farm, agricultural, cultural, and small town shapes and forms which capture the simple rural beauty of the surrounding area.
5. The continuing commitment to maintaining large parcels of open space which will be used as active farm land to support the community.
6. A focus on outdoor amenities including tree access, trail access, plaza space, park space, and open space.
7. Supporting the economic vitality of Teton County by raising the tax base, creating full time, and seasonal job opportunities when employees will have the option to live on site, energizing the local construction industry while increasing regional land appraisal values, boosting the equity of current property owners, and providing economic opportunities for families.

Thank you again for the opportunity to discuss this new vision for River Rim Ranch and feel free to contact myself at (406) 578-8400 with any questions.

Sincerely,

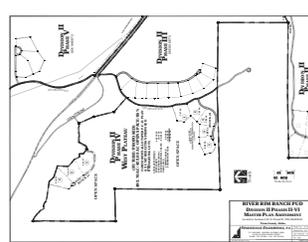
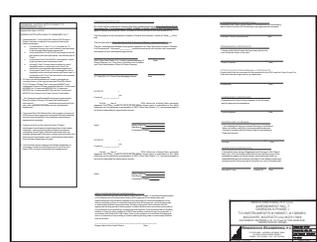
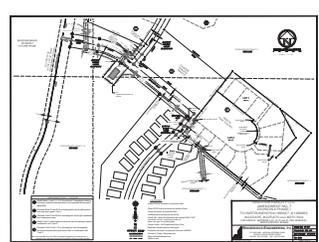
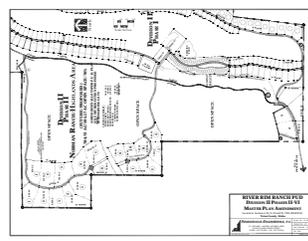
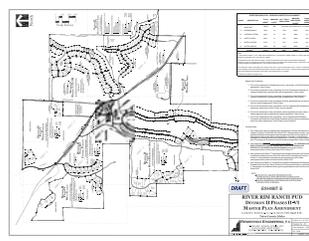
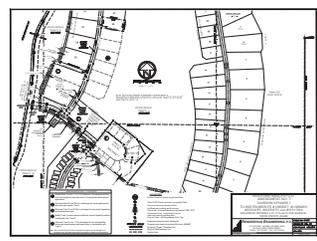
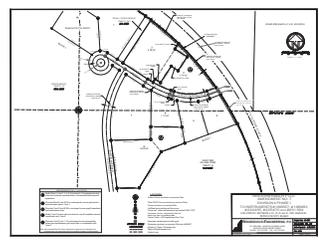
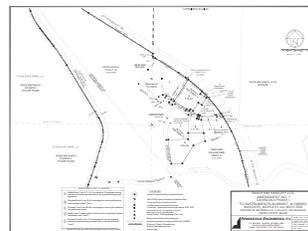
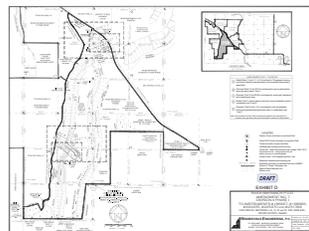
Bob R. Pober, AIA LEED AP
Principal
FOCUS Architects

The information in this Memo is intended only for the individual or entity to which it is addressed and may contain information that is proprietary, confidential or otherwise the recipient of the message is again responsible for notifying the sender of any release, copying, distribution, or other use of the information. If you are not the intended recipient, please notify the sender immediately by e-mail. FOCUS Architects and Memo are not to be used for any purpose other than that for which they were originally intended.

purchase agreement with GBCI Other Real Estate, LLC which is contingent upon a formal acceptance by Teton County of this revised plan, or similar mutually agreed to plan. It is also contingent upon a comprehensive financial analysis of the plan's viability. Consequently until formal transfers of ownership or other agreements take place, the amended plan and related documents will include signatures from both property owners. More details in this potential transfer process are expected to be available once additional feedback regarding this plan is obtained from county officials.

7. DOCUMENTS TO ACCOMPANY PLAN AMENDMENT. The following is a summary of the documents that are to be included with this plan amendment application. Three copies of most documents, except as noted, are being submitted at this time along with a DVD with PDF files of all documents. Additional larger format copies of the plan maps and additional copies will be submitted upon request.

DESCRIPTION	COPIES	FORMAT	EXHIBIT
Amendment Application with filing fee	1	8-1/2 by 11	
Negative opinions and amendments	15	8-1/2 by 11	
Concept Worksheet for Golf Village	15	11 by 17	A
Concept Worksheet for River Rim Village	15	11 by 17	B
Memo to County Planner discussing project	15	8-1/2 by 11	C
Plan Amendment No. 7 draft	15	11 by 17	D
River Rim Master Plan Amendment (1) draft	15	11 by 17	E
Golf Village Incidental Use Exhibit	15	11 by 17	F
River Rim Village Incidental Use Exhibit	15	11 by 17	G
Updated Traffic Memo - stand alone	15	8-1/2 by 11	H
Updated Traffic Memo	3	8-1/2 by 11	I
GIS Traffic Memo	3	8-1/2 by 11	Included with I
ITD Access Permits for River Rim Div II Phase I	15	8-1/2 by 11	Included with I
Final Development Agreement Change	15	8-1/2 by 11	
DVD with PDF files of all documents	1	EVD	



BOARD OF COUNTY COMMISSIONERS
TETON COUNTY, IDAHO

EXHIBIT A: Illustrative Master Plan dated _____ prepared by Paces Architects

EXHIBIT B: Engineer's Estimate for Financial guarantee

EXHIBIT C: Phasing Plan

EXHIBIT D: Density Table by Phase

EXHIBIT E: Reinstated Golf Course - Open Space Area (Tract 4) Plan

By: _____
William Leake, Chairman

STATE OF IDAHO)
County of _____ ss.

On this _____ day of _____ 2016, before me, a Notary Public, personally appeared William Leake, 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 he subscribed for the same therein as such.

Notary Public for IDAHO
My Comm. Expires: _____
My Comm. No.: _____

(SEAL)

Eastern Idaho Public Health logo and RECEIVED stamp dated APR 23 2016. Includes contact information for River Run Ranch Division I and annual report information.

Jason Boal email header and content. Includes 'From: Jason Boal', 'Subject: RE: River Run PUD', and a 'RECEIVED' stamp. Content discusses the application and documents for the River Run PUD.

AMENDMENT TO SUBDIVISION DEVELOPMENT AGREEMENT - Page 12

AMENDMENT TO SUBDIVISION DEVELOPMENT AGREEMENT - Page 13

Jason Boal email body text. Discusses monitoring and reporting, water and sewerage systems, and other project details. Includes a 'DRAFT' watermark.

Jason Boal email body text. Discusses the master plan, water and sewerage systems, and other project details. Includes a 'DRAFT' watermark.

RENEZVOUS ENGINEERING, P.C. logo and contact information. Includes address, phone, and email details for the firm.

compact clubhouse facility which compared to previous plans for this project will ultimately result in fewer overall impacts. The plan also includes a number of components, some of which were part of the previous plan...

Eastern Idaho Public Health logo and contact information. Includes address, phone, and email details for the health department.

Facebook logo and social media information. Includes a link to the organization's Facebook page.

Valley Advocates for Responsible Development logo and contact information. Includes address, phone, and email details for the advocacy group.

Valley Advocates for Responsible Development logo and contact information. Includes address, phone, and email details for the advocacy group.

AMENDMENT TO TITLE 9, TETON COUNTY SUBDIVISION ORDINANCE - ADDING CHAPTER 11 - BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

APPLICANT: Teton County Planning Department
APPLICABLE CODE: Idaho State Code- 67-6513 Subdivision Ordinance
REQUESTS: Staff is proposing to add a chapter to Title 9, the Subdivision Ordinance, to clarify (codify) a process for: 1) better define what parcels qualify for building rights, 2) determining the building right eligibility of a parcel, 3) providing an action for recourse for a property owner who unknowingly purchases a parcel without building rights, and 4) provides a process for property owners to obtain building rights (other than a "retro-active" One-Time Only or subdivision).
APPLICABILITY: County wide, all zoning districts

AMENDMENT DESCRIPTION: The proposed ordinance identifies the application, processing, and approval requirements that are needed to utilize this new process. This process will be used to "rectify" parcels that were created and may have had an expectation of a building permit. However, they cannot be considered "legally designated "lots"" (Teton County Code: 8-3-5) because they did not meet the legal (ordinance) requirements at the time of their creation. The purpose is to provide an official process, for land owners, where these lots can be reviewed and approved, and the building rights guaranteed.

BACKGROUND: The Teton County Planning and Building Department started to be concerned about how parcels were created and if they had building rights in the fall of 2014. To help educate the public and provide a resource for property owners, we start the "Property Inquiry Process" (see attached flyer and application- Attachment #1). Since the fall of 2014, we have researched over 400 parcels in the county. The majority of the parcels we researched were created through a proper legal process to obtain building rights. (It is important to understand the distinction between a parcel being created and a parcel obtaining building rights. A survey or a deed are used to create a parcel. However, a county adopted process such as a One-Time-Only or Subdivision that has specific criteria (and that criteria is met) must be used to create a parcel with building rights.)

The reasons the parcels did not meet the ordinance mainly can be narrowed down to two issues: 1) lot size didn't meet the underlying zoning and 2) they were not eligible to split (the parent parcel was created through the OTO, the parent parcel was

illegally created, or the parent parcel was created through an Ag Split (Attachment #2 provides further explanation).

Through providing the "Inquiry Process" we identified parcels that do not have building rights for a variety of reasons.

The summary of our findings includes (Attachment #3 provides a map of the findings):

- 331- Parcels that are buildable
- 34- Parcels that did not have building rights
 - 31 have existing options for obtaining building rights
 - 3 have no option at this time
- 4- Parcels that have one RP# with multiple building rights
- 62- Parcels that have multiple RP#s but only have 1 building right

This proposed code provides clarity to the existing "Inquiry Process" (9-11-4 & 9-11-5) and what property owners can expect from going through the process- "Certificate of Compliance".

In most cases the only way for a property owner without building rights to obtain them under the current code is to go through the subdivision process. There have been some instances where the parent parcel qualified for an OTO when they were created, and we have worked with both property owners to create the lots through a legal process, all be it retroactively.

This proposed ordinance's intent is to provide an additional remedy option to parcels that were created outside a legally adopted process for any number of reasons. It does this in the following ways:

1. *It accepts all parcels created through a One-Time-Only survey that is signed and recorded.*
2. *It provides a process for parcels that were created through a recorded survey that meet the ordinance*

AMENDMENTS TO TITLE 9 – TETON COUNTY SUBDIVISION ORDINANCE

See Attachment #4

STAFF ANALYSIS:

1. **Consistent with purposes of the Teton County Subdivision Ordinance.** The proposed amendment and associated text changes are consistent with Section 9-1-3 Purposes and Scope of Title 9 of the Teton County Subdivision Ordinance, and in particular 9-1-3-G: "The manner and form of making and filing of any plat." This process would require a plat to be recorded to ensure the building rights are obtained.
2. **Consistent with Comprehensive Plan.** The proposed amendment is consistent with the Teton County Comprehensive Plan 2012-2030. This proposal maintains larger lots in most cases, and provides an approval process to reduce the "incentives" or desire to subdivide into smaller lots to obtain building rights.

3. **Consistent with other sections of the Teton County Zoning and Subdivision Ordinance.** The proposed amendment is consistent with other provisions of the Teton County Code. The proposed amendment utilizes the basic framework for the Plat Amendment Process.

4. **Consistent with State Statute.** The proposed amendment is consistent with the Idaho State Local Land Use Planning Act 67-65.

67-6502. PURPOSE. The purpose of this act shall be to promote the health, safety and general welfare of the people of the state of Idaho as follows:

- (a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.
- (b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.
- (c) To ensure that the economy of the state and localities is protected.
- (d) To ensure that the important environmental features of the state and localities are protected.
- (e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, fiber and minerals, as well as the economic benefits they provide to the community.
- (f) To encourage urban and urban-type development within incorporated cities.
- (g) To avoid undue concentration of population and overcrowding of land.
- (h) To ensure that the development on land is commensurate with the physical characteristics of the land.
- (i) To protect life and property in areas subject to natural hazards and disasters.
- (j) To protect fish, wildlife and recreation resources.
- (k) To avoid undue water and air pollution.
- (l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.
- (m) To protect public airports as essential community facilities that provide safe transportation alternatives and contribute to the economy of the state.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. The proposed amendment supports the goals, purposes and intent of the Teton County Comprehensive Plan.
 - a. Goal ED 2, Policy 2.1: Encourage development and land use proposals that support prime economic values of rural character and heritage.
 - b. Goal ED 4, Policy 4.9: Maintain rural areas that encourage farming and ranching and support low density residential development.
 - c. Goal ARH 1 Policy 1.6: Encourage higher density development in the cities of Driggs, Victor, and Teton.
2. The proposed amendment supports the goals, purposes and intent of Teton County Title 9, Subdivision Ordinance.
3. The proposed amendment is in compliance with Idaho State Statute, specifically the Purpose found in 67-6502.

PUBLIC NOTICE: Legal ads were made to the Teton Valley News and sent to political subdivisions in accordance with local and state requirements.

COMMENTS FROM NOTIFIED NEIGHBORS AND GENERAL PUBLIC
No comments have been received at the time of this reports writing.

STAFF RECOMMENDATION: It is staff's recommendation that you recommend approval this amendment to the BoCC.

POSSIBLE MOTIONS

Recommending Approval- Having found that the proposed amendment to Title 9 is in compliance with state statute and supports the comprehensive plan and other Teton County ordinances, for the following reasons _____ and that a public hearing was legally noticed and conducted, I move to recommend approval of the amendment as presented in the attachment entitled "**CHAPTER 11 BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**" to the Board of County Commissioners *[with the following changes]*.

Recommending Denial- Having found that the proposed amendment to Title 9 is not compliance with state statute and supports the comprehensive plan and other Teton County ordinances, for the following reasons _____ and that a public hearing was legally noticed and conducted, I move to recommend denial of the amendment as presented in the attachment entitled "**CHAPTER 11 BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS**" to the Board of County Commissioners.

Attachments:

- #1- Buildability Handout & Inquiry Application
- #2- Unbuildable Parcel Determinations
- #3- Property Inquiry Map
- #4- Proposed 9-11 Ordinance

Dividing or Buying Parcels

WHAT YOU NEED TO KNOW



Teton County Planning and Building Department

February 2015

ILLEGAL LOT SPLITS & BUILDING RIGHTS

There are many reasons why a property owner may want to divide an existing parcel of land. However, if the division of land does not comply with County and State laws, the property owner may forfeit a residential building right to one or all of the parcels when the division is recorded with the County Recorder.

The Teton County Subdivision Ordinance states that property owners are allowed a One Time Only Split of One Parcel of Land, allowed since June 14, 1999, without being required to subdivide and plat. At least 20 acres of land is required for this One Time Only Split of One Parcel of Land. Once this One Time Only Split has been utilized on a parcel, any further divisions are required to subdivide and plat according to the Teton County Subdivision Ordinance. **If this process is not followed and a deed is recorded with the County Recorder, one or all parcels WILL lose residential building rights.**

Teton County Planning & Building recommends that anyone desiring to split a parcel or considering purchasing a parcel to call or stop by our office. At your request, Teton County Planning & Building will research the recorded history of a parcel to determine if a split is available. If a split is not available, there may be steps available to remedy the issue. All potential buyers of parcels are recommended to request property research, because even if the current property owner did not split the land, an illegal split by a previous owner will render the property non-buildable.

Requests for property research may be submitted to Teton County Planning & Building using the attached form, which may be delivered to the office, faxed, or emailed. We ask for up to ten (10) days to complete property research.



**TETON COUNTY
PLANNING & BUILDING**
150 Courthouse Drive
Driggs, ID 83422

PHONE: 208-354-2593
FAX: 208-354-8401
EMAIL: pz@co.teton.id.us



TETON COUNTY PLANNING & BUILDING DEPARTMENT

150 COURTHOUSE DRIVE | DRIGGS, ID 83422 | pz@co.teton.id.us

PHONE: 208-354-2593 | FAX: 208-354-8410



PROPERTY INQUIRY REQUEST

Owner Developer Appraiser Other:

Personal Information

NAME:

MAILING ADDRESS:

CITY, STATE, ZIP:

PHONE NUMBER(S):

EMAIL ADDRESS:

HOW WOULD YOU PREFER TO RECEIVE THE RESULTS OF THIS REQUEST? USPS Mail Email

Property Information

PROPERTY OWNER:

PROPERTY ADDRESS:

PARCEL ID (RP NUMBER):

This information can be obtained from the Assessor's Office, tax notices, or the online, public GIS.

What exactly do you want to know about the history of this property? Please be very specific.

Empty box for property history details.

FROM: Planning & Building Administrator Jason Boal
TO: Board of County Commissioners
RE: Unbuildable Parcel Determinations
MEETING: February 22nd, 2016

Staff has reviewed the inquiries that we have completed up to this point to identify a list of "potential" issues which explain how a parcel has become unbuildable.

Staff's recommendation is that we try to utilize the existing "approvals" (OTO or Subdivision) as much as possible. This would clarify any issues moving forward, provide specific approval for each property which is documented and not provide a large loophole that other property owners did not have opportunity for.

Possible reasons for no building rights:

- 1. Parcels deeded off without going through a division process-
a. Explanation- A parcel owner came into the county and records two or more new deeds dividing their property into two parcels.
2. Parcel created through an Ag Split-
a. Explanation- If deeded and recorded before 9-22-2003, Ag Splits were allowed one building permit.
3. Parcel split through the OTO and did not meet the ordinances-
a. Explanation- We have identified at least five (5) reasons that what appears to be a correct process One-Time-Only was not in fact in conformance with the ordinance.

- i. Not valid because the parent parcel was created through an Ag Split.
ii. Not valid because they did not meet the underlying zoning
1. Minimum lot size of new parcels (i.e. creating a one acre lot in the A-20 zone, where the minimum lot size is 20 acres, through the OTO)- Unless the parcel meets the underlying zoning requirements now (lot size), there is no remedy currently for these parcels to obtain building rights.
2. Minimum lot size of parent parcel to be eligible (i.e. the parent parcel was only 10 acres when the ordinance requires the parcel to be 20 acres before it can be eligible for a OTO).
iii. Not valid because the parent parcel was created through an "illegal" split, i.e. a process was not followed and parcel did not have building rights to begin with.
iv. Not valid because the parent parcel was created through a OTO (i.e. the parcel that applied to be split through the OTO was the product of a previous OTO)
v. Not valid because the parent parcel was created through the Subdivision, and a plat amendment was required to split the property again.
b. Existing Solutions (See below): 1, 3, 4.
4. Parent parcel created through a Family Exemption and those conditions were not met-
a. Explanation- The ordinance required that the parcel be deeded to separate family members, only once, had to maintain deed for a number of years, etc.
5. Parcel is part of a subdivision that has not been completed-
a. Explanation- Technically the lot has building rights because it's platted, however it may not be eligible for a building permit and/or certificate of occupancy at this time because the development as a whole is out of compliance with the conditions of approval or the development agreement.
b. Existing Solutions- The solution here is for the development to come into compliance with the requirements. This may take action by multiple land owners, the HOA or the "developer" to complete these requirements and have them signed off by the county.

- iii. New deeds
iv. Fee- \$206 & \$200 Survey review fee
v. Outside Costs-
1. Survey/Deeds
2. Recording Fees
vi. Time to Complete- this application is highly dependent on the applicant and the surveyor/engineer they use for the survey.
3. Two-Lot Subdivision
a. This solution requires the applicant to submit all of the items currently required for Two-Lot Subdivision:
i. Application- We would require all owners of parcels created from the parent parcel to sign any application, if they want building rights.
ii. Plat
iii. County Fee- \$1,000
1. Survey Review Fee- \$350
iv. Outside Costs-
1. Plat & Improvement Plans (storm water plans, utilities, roads, etc.)
2. Possible Studies (See Notes)
3. Recording Fees
v. Time to complete
1. If the parcels are outside an overlay they do require 3 public hearings- Best case scenario is 4 months (not realistic).
2. If the parcel is in an overlay it requires an additional public hearing (4 total)- best case scenario 4 months (not realistic).
vi. Notes
1. Two Lot Subdivisions do not require fire protection (fire ponds)
2. Depending on the location, there may be habitat, NP or other studies required in addition to the application and plat.
4. Three or more -Lot Subdivision
i. Application
ii. Plat
iii. County Fee- \$2,139
1. Survey Review Fee- \$350
iv. Outside Costs-
1. Plat & Improvement Plans (storm water plans, utilities, roads, etc.)
2. Possible Studies (See Notes)
3. Recording Fees
v. Time to complete
1. If the parcels are outside an overlay they do require 3 public hearings- Best case scenario is 4 months (not realistic).
2. If the parcel is in an overlay it requires an additional public hearing (4 total)- best case scenario 4 months (not realistic).
vi. Notes
1. Three or more lots in a subdivision does trigger the fire protection requirement.
2. Depending on the location, there may be habitat, NP or other studies required in addition to the application and plat.

Current Solutions for Obtaining Building Rights on Currently Unbuildable Lots:

Current solutions allowed by Title 9 include-

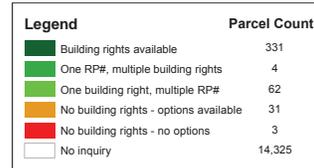
- 1. Record Deeds Identifying one of the parcels that was previously created as buildable and the others as unbuildable.
2. "Retroactive" One-Time-Only
a. This solution requires the applicant to submit all of the items currently required for a OTO, including:
i. Application- We would require all owners of parcels created from the parent parcel to sign any application, if they want building rights.
ii. A new updated survey (they can utilize the surveyor and data of an old survey, if one was completed)

Possible "Additional" Remedies to Aid in the Obtaining Building Rights on Currently Unbuildable Lots:

The BoCC could pass a resolution detailing the specific issues and remedies you are seeking to address.

1. **Fee Waiver/Reduction**- The fees for the following could be waived or reduced. It should be noted that these fees are intended to cover: staff time, noticing requirements, PZC/BoCC stipends/time and supplies. These costs will need to be paid for or covered by another source. Also, in some cases there have been fees paid to the county in the past for a process of dividing the land.
 - a. OTO Application Fee
 - b. 2 Lot Subdivision Fee
 - c. 3- 7 Lot Subdivision Fee
 - d. Survey Review Fee
2. **Modification of Process** – This would modify the process that applicants would need to go through to obtain approval. One of the complaints we have heard is the amount of time it will take to come into compliance.
 - a. OTO- This really is the simplest process available and I don't see any way of simplifying it.
 - b. Subdivisions- State Code 67-6513 does not require a public hearing for the approval of a subdivision. The BoCC could hold a public hearing to adopt a "special" subdivision process that would modify the process (Concept, Preliminary, and Final approval) and the number of PZC and BoCC meetings required for applicants who are seeking to come into compliance. It could be similar to the process for Plat Amendments, for example. This ordinance could be made very narrow (i.e. only for 2 lot subdivisions that meet the current zoning requirements and have a record of survey recorded with the county prior to 2010) and "sunset" or automatically become void after a period of time. Another option to narrowly define the eligible applicants and make it more equitable, would be to allow the modified process only available to those who have applied/paid to the county in the past for approval.
3. **Modification of Requirements**- This would change the requirements an applicant would have to meet in order to obtain approval. Staff is leery of any action taken in this regard. There are property owners who have met the requirements of the code to obtain approval since 1999. I am sure there are also property owners who were denied or didn't apply because they could not meet the requirements. In any case, some examples of these modifications could include:
 - a. Submittal requirements for:
 - i. OTO
 - ii. Subdivision
 1. Plans required for submittal, such as storm-water, wildlife habitat, NP study
 - b. Lot size requirements
 - c. Parent Parcel Requirements (*How the parent parcel was created. So for example an Ag Split Parcel could be eligible for an OTO, or a deeded property could be eligible for an OTO.*)
4. **Potential Changes in the new Land Use Code which may provide additional remedies-**
 - a. The new Land Use Code does modify the lot size requirements, so that past divisions that did not meet the lot size requirements, but would meet the density standards, would have the ability to apply for a retro-active OTO, Land Division or Subdivision.
 - b. The New Land Use Code does provide additional division options that we do not currently have: Land Division and Short Plat. These division options may provide some land owners additional options, with reduced standards from the Full-Plat Subdivision that they currently do not have.

Property Inquiries - Building Rights Status May 2016



ORDINANCE NO. 2016-9-11

AN ORDINANCE OF THE COUNTY OF TETON, STATE OF IDAHO, ADDING TETON COUNTY CODE TITLE 9, CHAPTER 11 TO ADDRESS THE BUILDING RIGHT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS.

BE IT ORDAINED by the Board of County Commissioners of Teton County, Idaho that Title 9, Chapter 11 of the Teton County Code shall be added as follows:

CHAPTER 11

BUILDING PERMIT ELIGIBILITY OF PREVIOUSLY CREATED PARCELS

SECTION:

- 9-11-1 PURPOSE AND INTENT OF PROVISIONS.
- 9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.
- 9-11-3 NOTICE OF VIOLATION – REQUIRED WHEN – CONTENTS – EFFECT.
- 9-11-4 CERTIFICATE OF COMPLIANCE – REQUEST FOR DETERMINATION AUTHORIZED.
- 9-11-5 CERTIFICATE OF COMPLIANCE – APPLICATION PROCEDURE – DOCUMENTS TO BE SUBMITTED – FEE.
- 9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.
- 9-11-7 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED MISDEMEANOR – PENALTY.
- 9-11-8 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.
- 9-11-9 DENIAL OF APPLICATION.
- 9-11-10 APPEAL OF FINAL DECISIONS.

9-11-1 PURPOSE AND INTENT OF PROVISIONS.

In accordance with the provisions of the LLUPA (Idaho State Code 67-65), it is the purpose and intent of the Board of County Commissioners to establish procedures for placing purchasers of illegally split parcels on notice that such parcel split occurred in violation of the LLUPA and the requirements of Teton County Code- Title 9, and to provide for a means of certifying that the real property does comply with the provisions of LLUPA and Teton County Code- Title 9.

9-11-2 LEGALLY CREATED PARCELS – REQUIRED FOR GRANTING OF CERTAIN PERMITS – CRITERIA FOR DETERMINATION.

No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to develop any property, unless and until said property has been determined to have been

legally created; provided further, such permits may be denied if the applicant was the owner of the real property at the same time of the violation or currently owns the property with the knowledge of the violation as provided through a notice of violation pursuant to the procedures set forth herein.

For a parcel to be considered a legally created parcel, its specific boundaries must have been established or set forth by one of the following means:

- A. A signed & recorded subdivision plat;
- B. If the parcel was created BEFORE June 14, 1999-
 - a. A deed describing the parcel by a metes-and-bounds description recorded prior to June 14, 1999 (contiguous sub-"lots" or sub-"parcels" described on a single deed are considered a single parcel);
 - b. A record of survey recorded prior to June 14, 1999 showing the existing boundaries;
- C. If the parcel was created AFTER June 14, 1999-
 - a. A recorded One-Time-Only survey with a Teton County authorization signature;
 - b. A recorded survey identifying the legal process in Title 9 and the created parcels met the requirements of the identified process in Title 9 at the date of creation;
- D. Any of the above means combined with a County-approved and recorded boundary adjustment survey or amended plat;
- E. Signed & recorded "Parcel Rectification Plat", in compliance with 9-11-8.

9-11-3 NOTICE OF VIOLATION – REQUIRED WHEN – CONTENTS – EFFECT.

If the Planning Director becomes aware of any parcel which has not resulted from a legal division or consolidation of property in compliance with LLUPA and applicable County Codes, he/she will send to the property owner, or owners, of said property written notice notifying them of the violation. This written notification will advise the property owner(s) that:

- A. The Planning Director has determined that subject property together with other contiguous property has been divided or has resulted from a division in violation of LLUPA and applicable County codes;
- B. No building permit, grading permit nor any other permit may be issued, nor any approval granted necessary to develop said property, unless and until an identified approval process 9-11-8 is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter, adopted pursuant thereto.
- C. The Planning Director will cause a notice of violation to be recorded in the office of the county recorder within 15 days of notification to property owner(s) which will describe the violation and the property and name the owner(s) thereof. This notice when recorded will be constructive notice of the violation to all successors in interest of said property;
- D. If subject property was purchased through a licensed real estate salesman or broker after the adoption of this ordinance and it is felt that the property was misrepresented, the Idaho Real Estate Commission shall be notified.

9-11-4 CERTIFICATE OF COMPLIANCE – REQUEST FOR DETERMINATION AUTHORIZED.

Any person owning real property may apply for a Certificate of Compliance, and the County shall determine, whether said property was created in a way that complied with the provisions of Title 9, and thus constitutes a legal and buildable parcel.

9-11-5 CERTIFICATE OF COMPLIANCE – APPLICATION PROCEDURE – DOCUMENTS TO BE SUBMITTED – FEE.

A. Application.

1. Application for a "Certificate of Compliance" shall be made with the Planning and Building Department in accordance with the following specifications:
 - i. A completed application form must be filled out
2. Each plat shall contain the following information:

B. A notice stating the following shall be signed:

This certificate relates on to issues of compliance or noncompliance with LLUPA and local ordinances enacted pursuant thereto. The parcel described herein may be sold, leased or financed without further compliance with LLUPA or any local ordinance enacted pursuant hereto. Development of the parcel may require issuance of a permit or permits, or other grants of approval.

C. The required filing fee(s).

9-11-6 VOIDABILITY OF DEEDS OR CONTRACTS VIOLATING PROVISIONS.

Any deed of conveyance, sale or contract to sell made contrary to the provisions of this title may be voidable in accordance with Idaho State Code 55-9.

9-11-7 FAILURE TO COMPLY AND ILLEGAL DIVISION OF LAND DEEMED MISDEMEANOR – PENALTY.

Those parcels of land which are subdivided contrary to the provisions of this title shall not constitute legal building sites and no permit shall be issued for the installation of fixtures or equipment or for the erection, construction, conversion, establishment, alteration or enlargement of any building, structure or improvement thereon unless and until an identified approval process (9-11-8) is completed, approved, and recorded in full compliance with the LLUPA and provisions of this Chapter. Any person who subdivides or causes to be subdivided land without complying in all respects with the provisions of this title shall be subject to prosecution for a misdemeanor as defined hereinafter. Any offer to sell, contract to sell, sale or deed of conveyance made contrary to the provisions of this title is a misdemeanor, and any person, firm or corporation, upon conviction thereof, shall be punishable by a fine of not more than \$10,000, or imprisonment for a period of not more than one year, or by both such fine and imprisonment.

9-11-8 NONCOMPLYING PARCELS – PROCESSES FOR OBTAINING BUILDING RIGHTS.

The owner, purchaser, or his successor in interest, of a parcel which is the result of a division of land that did not comply with the provisions of Title 9 may utilize the following provisions to bring the parcel/parcels into compliance:

- p. Owner's Certificate – Signature block with approval statement. MUST BE NOTARIZED
- q. Recorder's Certificate
- r. Certificate of Acceptance of Mortgagee, if applicable. MUST BE NOTARIZED

3. Process

Once a completed "Parcel Rectification Plat" application is made the process for approval is as follows:

- i. Staff Review: Any proposed application shall first be reviewed by the Planning Administrator to determine if the application meets the criteria of this Chapter and the intent of the Comprehensive Plan. The Planning Administrator has the discretion to schedule a meeting with the applicant to review possible modifications of the application. Once the Planning Administrator has reviewed the application and finds it does or does not meet the criteria of this Chapter and the intent of the Comprehensive Plan, a letter will be sent to the applicant outlining the findings. If the application does meet the criteria of this section and the intent of the Comprehensive Plan, it will be scheduled on the next available Board of County Commissioner Agenda.
- ii. Board Review: The Board will review staff's findings and the application during a regularly schedule public meeting. The Board will approve, deny, or table the application to another meeting if additional information is needed. Approvals will only be granted if the application meets the criteria found in 9-11-4.
- iii. Survey Review: Once the Board has approved the application, the County Surveyor will review the submitted plat. Any changes needed to the plat will be forwarded to the applicant.
- iv. Recording: Once the plat has been reviewed and approved by the County Surveyor, the following shall be submitted to the Teton County Planning and Building Department for recording:
 - Two mylar copies of the Final Plat with approval signatures
 - At least one paper copy of the Final Plat with approval signatures (for the applicant)
 - Development Agreement, if required
 - DWG format of Final Plat on CDThe applicant is responsible for all recording fees required at the time of recording.

4. Criteria for Approval-

The following criteria must be met in order for the application to be approved by the Board.

- i. The proposed lots must meet the minimum lot size of the underlying zone, exclusive of any public dedicated easements or right-of-ways, either based on the adopted requirements at the time of this application or the adopted requirements at the time the parcels were created through one of the processes identified in 9-11-1.
- ii. The proposed lots must have approved access.
- iii. There must have been a survey recorded with Teton County showing the creation of the parcel(s) prior to 2010.

A. Recordation of no building rights: if the illegal split resulted in two (2) parcels, but there was only one (1) building right and the property owners of the two lots agree that one of the lots will remain unbuildable, they may record an official document clarifying which parcel would receive the building right and which one would not.

B. Retroactive One-Time-Only:

1. Applicability-The parent parcel of the illegal split would be eligible for a One-Time-Only under the existing code.
2. Process- The process for a One-Time-Only split must be followed, and the required fees for that process shall be submitted as well. The property owners of both parcels must sign the application.
3. Criteria for Approval- All requirements and submittals for the One-Time-Only shall be followed.

C. Parcel Rectification Plat:

1. Applicability-The parcel would not qualify for a retroactive One-Time-Only, yet can meet the criteria found in 9-11-8-C-4.
2. Application-

A property owner(s) of parcel(s) receiving a notice of violation, that does not qualify for a Retroactive One-Time-Only can complete and submit the "Parcel Rectification Plat" application provided by the Planning and Building Department. Application to this process does not guarantee approval. In addition to the complete application form, the following is required:

 - i. Fees (Application and Survey/Plat review fee);
 - ii. Narrative outlining how, when, and by whom the parcels were originally created;
 - iii. Approval letter from Eastern Idaho Public Health;
 - iv. Approval letter from Teton County Fire District;
 - v. Acceptance letter from the city for sewer hookup, or from the providing community, if applicable;
 - vi. Plat created by a surveyor, licensed in the State of Idaho which includes:
 - a. Vicinity Map, Date of Survey, and North Arrow
 - b. Map scale adequate to depict all adjusted lots (show Bar Scale)
 - c. Legend with a description for all line weights and symbols used
 - d. All bearings and distances for all property lines. Include Basis of Bearing and CP&F Reference
 - e. All known easements shown with their instrument numbers
 - f. All existing physical access points shown
 - g. Legal access points shown or possibility for future County Road access permits established
 - h. Property Legal Descriptions
 - i. Surveyor's Certification – Signature block with statement
 - j. County Treasurer's Certification
 - k. County Assessor's Certification
 - l. Easter Idaho Public Health Certification
 - m. Teton County Board of County Commissioners Chair Certification
 - n. Fire District – Signature block with approval statement
 - o. Certificate of Survey Review – Signature block with approval statement

iv. No more than two (2) buildable lots are being created through this process.

D. Subdivision Process:

1. Applicability-The parent parcel of the illegal split would be eligible for a subdivision under the existing code.
2. Process- The process for a subdivision must be followed, and the required fees for that process shall be submitted as well. The property owners of all parcels must sign the application.
3. Criteria for Approval- All requirements and submittals for the subdivision shall be followed.

9-11-9 DENIAL OF APPLICATION.

If the application fails to meet the criteria identified above, it shall be denied. Fees paid are not refundable if the application is denied.

9-11-10 APPEAL OF FINAL DECISIONS.

Decisions of the Board of County Commissioners are final. Applicants or affected property owners shall have no more than 14 days after the written decision is delivered to request reconsideration by the BoCC. If still not satisfied with a decision of the Board of County Commissioners, one may pursue appeals to District Court within 28 days of the written decision being delivered.