



STAFF REPORT

To: City Council
From: Leanne Bernstein, Planning & Zoning Administrator
Report Date: April 10, 2024
Meeting Date: April 16, 2024
Project: City of Driggs Area of City Impact – Negotiations with Teton County, ID
Action: Public Hearing and Final Decision

The Area of City Impact (AOI or AOI), is an identified area of unincorporated County land, outside of city limits. This area is defined and agreed upon by both the City and the County. This area is under the County’s jurisdiction; however, specific plans and ordinances are agreed upon by both the City and County that dictate annexations and other planning and zoning procedures. The County enforces the applicable code in the AOI, although for some applications a joint city-county review process is followed. [Idaho Code §67-6526](#) dictates the negotiation and adoption procedures for creating and updating the AOI. This section of state code has recently been amended. Details about these changes are included below in Section II of this report.

REPORT CONTENTS:

- I. Process
- II. Legislative Update
- III. April 16 Meeting & Public Hearing Summary
- IV. Project History
- V. Planning & Zoning Commission Recommendation
- VI. UPDATES SINCE PLANNING & ZONING COMMISSION HEARING AND RECOMMENDATION
- VII. County Planning & Zoning Commission work session update and request
- VIII. Public Comments
- IX. Deliberation
- X. Motions

- I. **PROCESS:** [Idaho Code §67-6526](#) dictates the negotiation and adoption procedures for creating and updating the AOI. However, this section of state code has recently been amended. A discussion of these amendments can be found in Section II. As such, a public hearing was conducted by the Driggs Planning & Zoning Commission (Driggs PZC) on March 13, 2024. The Driggs PZC ultimately made a recommendation on the AOI update, which is detailed below in Sections V and VI. Driggs City Council will conduct another public hearing, and consider Driggs PZC’s recommendation and any public comments. If the Council is ready to move forward with the proposal, it will be forwarded to the Teton County Planning & Zoning Commission (County PZC) for consideration at a public hearing, where the County PZC may provide a recommendation to the Board of County Commissioners (BoCC). The BoCC will also conduct a public hearing and consider making a final decision. The BoCC ultimately holds the authority to adopt an AOI ordinance.
- II. **LEGISLATIVE UPDATE:** On March 28, Governor Little signed [Senate Bill 1403](#) which will become effective on July 1, 2024. This bill made amendments to State Statutes [67-6509](#) and [67-6526](#) and has

significant implications for the Areas of Impact. This bill lays out the following criteria to be considered in defining the AOI: (1) anticipated commercial and residential growth; (2) geographic factors; (3) transportation infrastructure and systems, including connectivity; (4) areas where municipal or public sewer and water are expected to be provided within five (5) years; and (5) other public service district boundaries. It goes on to state that AOIs shall not exceed the areas that are very likely to be annexed to the city within the next five (5) years and that the AOI shall not extend more than two (2) miles from existing city limits. The amendment clarifies that the County's Comprehensive Plan and Code should be adopted in the AOI, although special provisions can be included. There are also some changes to the process for adopting or amending the AOI, **notably that the County will pass an ordinance for the AOI, and not the City.** It is stated in the Bill that AOIs must be in conformance with these changes by December 31, 2025. Please note that this is a very simplified summary of this bill. Please review the entire amended code section in the link above. **City staff finds that the current proposal is generally in conformance with this new legislation. Council should review the updated statute and discuss the current AOI proposal in the context of the updated requirements. Decision-makers to consider. Staff also notes that this Bill will change the process for adopting the AOI. The City is no longer required to pass an ordinance. Only the County will pass an ordinance.**

III. APRIL 16 MEETING & PUBLIC HEARING SUMMARY: The Driggs City Council will conduct a public hearing during their regular meeting on April 16 at 6pm. The agenda item will begin with a presentation from staff on information regarding the AOI, the proposed update, and the Driggs PZC recommendation. Council will have the opportunity to ask staff questions. Members of the public will then have the opportunity to ask questions about the AOI update. Then Council will open the public hearing, which is the appropriate time for the public to make statements *in favor of, neutral to, or opposed to* the AOI update. Councilmembers will then deliberate and may decide to make a final decision or may request more time and information. Proposed motions can be found below.

IV. PROJECT HISTORY: The first AOI Agreement between the City of Driggs and Teton County was in 1995. More recently, the City of Driggs adopted Ordinance #325-11 on October 4, 2011, which adopted the boundary and legal description of the Driggs Area of City Impact and specified the plan, zoning regulations, and subdivision regulations in effect in the Driggs Area of City Impact. Teton County also adopted the AOI agreement via Ordinance in 2011. In 2017, the Area of Impact was amended by both the City and County to include the Airport Overlays and regulations. *Current* State Statute §67-6526 requires that the governing boards review the AOI agreement at least every 10 years to determine if renegotiations are in the best interest of the citizenry. As such, City Council formally requested that the City of Driggs and Teton County mutually begin the process of renegotiating the AOI Agreement, by letter dated December 29, 2020. Teton County responded, affirming the effort to renegotiate the AOI Agreement via letter on April 1, 2021. The Driggs PZC began discussions about an updated AOI agreement in 2021 and into 2022. Due to other demands on staff and review requests in front of the Commission, the update process had slowed down. However, the Driggs PZC and staff were able to prioritize the project again beginning this past July. Since July 2023, the Commission has been working on this topic during work sessions each month in their regular meetings. A summary of those meetings is included as Attachment H. In February,

the PZC acknowledged that they were ready to move forward with a formal recommendation. As such, a public hearing was scheduled and noticed for March 13.

OPEN HOUSE SUMMARY: On February 8, 2024, city staff hosted a public open house at city hall. In addition to city staff and the mayor, county planning staff and a County Commissioner attended the meeting. In total we spoke with eight members of the public. Conversations were primarily focused on answering questions and clarifying the AOI generally and about the current proposal, as well as about what zoning will be assigned to areas if they are no longer in the AOI.

V. PLANNING & ZONING COMMISSION RECOMMENDATION: On March 13, 2024, during the Driggs Planning & Zoning Commission's regular meeting, the Commission held a public hearing on this matter. Minutes from this meeting are included as Attachment F. Over sixty members of the community attended the meeting in person or via zoom. The Commission and staff fielded many questions about the AOI process and proposal and there were a handful of formal comments. Written comments were also received prior to the Commission meeting and are included in Attachment G.

The Commissioners ultimately made the following recommending motion with all four Commissioners present voting in favor:

"Having found that the following conforms with Idaho State Statute and will encourage orderly development, and I move to recommend the adoption of the following provisions in the Driggs Area of Impact: the AOI Boundary and Zone Map included as Attachment B [Attachment C of this 4/16 report], the Land Development Code as edited in Attachment D [Attachment E of this 4/16 Report], including comments and considerations discussed during the Commission's deliberation, and including Appendix A: Design Review Standards and Guidelines, the Driggs Transportation Plan as adopted in 2019, the Teton County Idaho Comprehensive Plan as adopted in 2012, and the Driggs Airport Overlays as shown in the Airport Master Plan adopted in 2022."

The comments and considerations on the drafted code were as follows:

- A. Regarding the review process for land use applications in the AOI, the Commission was open to the idea of a separate review for the City P&Z Commission and the County P&Z Commission, but there was a preference for continuing the Joint P&Z Commission procedure.
- B. Staff should more closely compare the requirements for lighting in the County LDC versus City LDC and the Commission recommends that the more strict standards should be adopted in the AOI.
- C. Staff should more closely review/compare *Sec. 6-5 Conservation Areas* in the County's LDC (and included in the proposed draft in Attachment D) and Council should consider adopting the City's Parks requirement (Art. 12.4 City LDC) in place of the Conservation Areas requirement.
- D. Staff should prepare more clear information about what non-conforming uses might be created with the zoning and code changes and how non-conforming uses will be dealt with, and clarify how non-conforming lots will be dealt with and make clear what rights are preserved for non-conforming lots. Staff will make this information available to the public and for Council consideration.

A more detailed summary of PZC's decisions is included at Attachment B.

VI. UPDATES SINCE PLANNING & ZONING COMMISSION HEARING AND RECOMMENDATION: After this public hearing, staff more closely reviewed the listed items and presents the following recommendations for consideration by Council:

- A. Regarding review process: Staff amended the drafted Code to reflect a Joint Planning & Zoning Commission review process. In this scenario, whenever the code calls for review/recommendation/decision by "the Planning & Zoning Commission," this shall mean a "Joint Planning & Zoning Commission" made up of 3 Driggs PZC members and 2 County PZC members. **Council to consider.**
- B. Regarding outdoor lighting: Staff compared the outdoor lighting requirements in the Driggs LDC against the County LDC and recommends that the language from the County LDC regarding outdoor lighting requirements be adopted in the AOI. This is reflected in the draft code in Attachment E. **Council to consider.**
- C. Regarding Conservation Areas and Park Space: Staff reviewed these sections and provides the following context - There are two elements of the County's LDC that relate to this topic: *Section 6-5 Conservation Areas* and *Section 5-4 Natural Resource Protection*. *Section 6-5* is within Chapter 6 regarding Subdivision Development Standards. *Section 6-5* applies to proposed subdivisions which include "conservation values," such as riparian corridors, wildlife habitat, agriculture, scenic resources, and recreation/access. The section outlines requirements that subdivisions must be planned in such a way to maximize conservation areas, and "avoid decreased conservation value due to size, isolation, or fragmentation." In sum, this Conservation requirement would essentially require a proposed subdivision to leverage clustering in order to decrease impact on valuable areas. The Natural Resource Protection provisions in *Section 5-4* apply to all new development that has significant wildlife habitat per the County's adopted natural Resource Overlay map. This section requires that all new development avoids or mitigates impacts to indicator species and habitats to the extent practical. If impacts cannot be avoided then habitat is required to be restored, as prescribed. The Parks requirement in Art. 12.4 of the City's Land Development Code requires that all subdivisions that result in 10 or more dwelling units shall provide parks space using the following formula: $P = x \text{ multiples by } 0.028$, where x equals dwelling units and the product (P) is acres. This article also details requirements for certain parks amenities based on the size of the park. **Given this comparison, staff recommends that the City's Park requirement be adopted in the AOI.** First, it appears that the county's requirements rely on the ability to cluster development. The proposed AOI Zone 1 has a minimum lot size of 2.5 acres, so may not lend itself to clustering very effectively. Second, areas identified in the AOI are anticipated to be annexed in the future and become part of the city. As such, it is important to create park space as areas are subdivided in order to protect access to parks for the future. This change has been added to the Draft AOI Code in Attachment C. Changes from the City's original code text have been made to address differing maintenance responsibilities. The original language for Natural Resource Protection remains in *Section 5-4* of the draft. **Council to consider.**
- D. Regarding non-conforming uses and lots: Staff presented this information to Council during a work session on April 2.

Staff also recommends the following amendments be considered, which were not reviewed by the PZC:

1. Adopt code changes that are currently being considered by the County in their County-wide code update. These changes are being proposed by county staff and are primarily clarifications. These proposed amendments are shown in the drafted code in green text. City staff recommends that these changes be included. **Council to consider.**
2. Staff added language in the Airport Overlay – Object Free Area Section (1-4-A-5-c) to clarify that wildlife fences up to 9.5 feet tall are allowed in this overlay zone. Staff changed a reference in Sections 3-9-10 and 3-7-1 to refer more generally to “the City of Driggs.”

VII. COUNTY PLANNING & ZONING COMMISSION WORK SESSION UPDATE: The County Planning & Zoning Commission (County PZC) held work sessions on February 13 and April 9. During the April 9 work session, the County PZC indicated that they would like a recommendation (however general it may be) regarding zoning for the areas that are proposed to be taken out of the AOI. **Council to consider.**

VIII. PUBLIC COMMENT: This hearing was noticed in the Teton Valley News (3/27 & 4/3), mailed to over 900 property owners within the AOI and within 300ft of the current AOI boundary, and posted around the AOI boundary. As of the date of this report comments have been received from the following individuals and are included as Attachment A.

- Chris Appelhans
- Evan Howard
- Kelley Rabjohns

Written public comments were also received prior to the PZC public hearing and are included in Attachment G. Comments received by the Commission during the public hearing are included in the minutes from that meeting.

IX. DELIBERATION: Staff recommends that the Council consider this list of topics in their deliberation:

- ❑ Confirm agreement on the proposed AOI boundary, including the reasoning provided by PZC. (Refer to map in Attachment C)
- ❑ Confirm agreement on the proposed zoning districts in the AOI. (Refer to map in Attachment C)
- ❑ Confirm compliance with new amendments to State Statute.
- ❑ Confirm request that the County adopt the Airport Overlays in the AOI. Confirm request that the County consider implementing the Airport Overlays. (Refer to overlay map in Attachment D)
- ❑ Confirm proposed amendments to the Code to be adopted in the AOI. (Attachment E)
 - Confirm PZC’s recommendation (red text)
 - Confirm city staff’s proposed changes (based on PZC recommendation) (purple text)
 - Confirm amendments currently pursued by County (green text)
- ❑ Confirm agreement on adopting the County’s Comprehensive Plan in AOI (Note Legislative changes notes in Section II)
- ❑ Consider discussing a recommendation for zoning for areas that are proposed to be taken out of the AOI, per County PZC request.
- ❑ Any other items the Commission wishes to examine further and/or deliberate on.

X. POSSIBLE MOTIONS:

APPROVE: Having found that the following conforms with Idaho State Statute and will encourage orderly development, and I move to recommend the adoption of the following provisions in the Driggs Area of Impact: the AOI Boundary and Zone Map included as Attachment C, the Land Development Code as edited in Attachment E and including Appendix A: Design Review Standards and Guidelines, the Driggs Transportation Plan as adopted in 2019, the Teton County Idaho Comprehensive Plan as adopted in 2012, and the Driggs Airport Overlays as shown in the Airport Master Plan adopted in 2022.

TABLE: I move to table consideration of the Driggs Area of Impact recommendation to the [DATE] meeting and request the following information... *[to be determined by Council]*

ATTACHMENTS:

- A – Public Comments (received after P&Z Commission hearing)
- B – Detailed Summary of Driggs Planning & Zoning Commission recommendation
- C – Drafted AOI Map, including AOI Boundary and proposed zoning
- D – Shifted Airport Overlays
- E - Drafted Red-line Code
- F – P&Z Commission meeting minutes, March 13, 2024
- G - Public comments (received prior to P&Z Commission hearing)
- H – Driggs Planning & Zoning Commission project history