



Teton County, Idaho | Board of County Commissioners

**Amended Written Decision Reversing the Denial
of an Extension Request for Osprey Landing Subdivision**

This is a written decision on the findings for reversing the previous denial of the Extension Request for Osprey Landing Subdivision under Teton County Code ("TCC") Title 9, Chapter 3, Teton County Subdivision Ordinance (revised 5/16/2013)

APPLICATION DATE:	August 29, 2024
RECONSIDERATION REQUEST:	January 6, 2025
APPLICANT:	Sadek Darwiche, Bidache Inc Represented by Megan Nelms
PROPERTY OWNER:	Bidache Inc
PROJECT NAME:	Osprey Landing Subdivision
PURPOSE OF APPLICATION:	To receive an extension request for a subdivision application nearing the expiration date

Applicable Standards and Criteria for Application Evaluation:

- Title 9 Teton County Subdivision Ordinance (Revised 5/16/13)

Procedural background

SUBMISSION AND SCHEDULING: The application for a subdivision extension request was submitted on August 29, 2024. Extension requests are reviewed by the Board of County Commissioners ("BoCC") at a Public Meeting.

The applicants submitted a concept application for a subdivision on June 30, 2021. However, it was not signed and formally deemed complete by the Planning Administrator. Therefore, the application timeline under Title 9 of Teton County Code began September 28, 2021 when the application was reviewed and approved by the Planning and Zoning Commission (PZC).

The applicants submitted preliminary plat materials on February 23, 2024. The application was reviewed, deemed materially complete and scheduled for the May 14, 2024 PZC agenda. The PZC reviewed and recommended approval of the preliminary plat. August 29, 2024, the applicant requested to be scheduled for preliminary plat review with the BoCC and in addition, submitted the Subdivision Extension Request application. The application was scheduled for the October 7, 2024 public meeting, and was denied by the BoCC, having found that none of the extension request considerations were applicable or met by the applicants Narrative. December 23rd, 2024, The BoCC approved a Written Decision for the Denial of an Extension Request for Osprey Landing Subdivision.

An Appeals and Reconsideration application was received by Teton County January 6, 2025. The Reconsideration Application was scheduled for the February 24, 2025 public meeting.





NOTICE: No legal notices are required for a request for reconsideration. The item was posted for the public meeting of February 24, 2025.

MEETING DATE: February 24, 2025.

The following commissioners were present: Brad Wolfe, Ron James, and Michael Whitfield

County Staff Dan Reyes was present

The applicant was represented by Jeff Bower of Givens Pursley LLP.

Factual Background

Teton County Code 9-3-2 (D-L):

- I. Time Limitation:
 - i. Limitation for Approval: The Master Plan, Improvement Plans, Development Agreement and Final Plat shall be approved by the Board of County Commissioners within three (3) years of the date of acceptance of the subdivision/PUD concept application by the Planning Administrator or the entire application is deemed null and void (amd. 2011-03-17).
 - ii. Subdivision Extension Request: The applicant may request in writing prior to the expiration date an extension of time for final approval of up to twelve (12) months from the Board of County Commissioners. The narrative must include specific reasons why an extension is requested, address the criteria in the Subdivision Extension Application, and the extension fee. This fee is non-refundable. No further requests for this time extension shall be deemed accepted or granted. An extension request shall be adjudicated under the ordinance in effect at the time of the request for extension.

Per Teton County Code, the application for the Osprey Landing Subdivision would expire on September 28, 2024. The Subdivision Extension Application was submitted before this date, on August 29, 2024.

The Subdivision Extension Request Application states the burden is on the applicant to provide a detailed narrative explaining their reason(s) for consideration. The following are listed as considerations for extension approval:

1. The developer has diligently pursued the completion of final plat approval, and the preliminary plat has been approved.
2. The application was continued by the commission for special studies (traffic, wetlands, wildlife, etc).
3. The denial of the extension would cause undue hardship to a neighboring property.
4. It is in the public interest.
5. Delays have been the result of federal, state or local agency demands, lengthy/unusual review agency timeframes or required studies that can only occur during a limited time(s) of year.
6. Application of Title 9 regulations (as amended November 14, 2008) would not significantly alter the extended subdivision's design or dedication.





7. County negotiations for non-required public benefit delayed progress in the project.
8. Other Extenuating Circumstance

Staff presented the request for reconsideration, outlining the request and application dates and hearing dates. The Applicant's representative presented their application.

The applicant's narrative states there was delay after submitting preliminary plat materials on February 23, 2024. They state they also updated materials in between the PZC review and recommendation and going in front of the BoCC. Staff acknowledged in the staff report that the applicant did submit some additional analysis related to the Traffic Impact Study per the recommendation from the PZC on May 14, 2024.

The applicant's narrative also suggests confusion about the floodplain on the property, all of which was given to the applicant during the Concept Review on September 28, 2021.

The applicant stated in their request for reconsideration that in March of 2023, they were informed of changes to the County's Natural Resource Overlay (NRO) and that they would be required to prepare Natural Resources Analysis (NRA). They claim that, "Field work for natural resources analysis needed to be completed in summer months for proper data collection, which delayed submission of preliminary plat application".

The BoCC then entered into deliberation.

The BoCC found that at least one of the extension request considerations were applicable or met by the applicant's narrative, the most applicable being line item 5 below:

1. The preliminary plat had not been approved as of October 7, 2024, the date the extension request was seen by the BoCC.
2. The commission did not continue the application - the concept staff report and conditions of approval outlined the necessary studies required for preliminary plat submission.
3. The denial of the extension request would not affect neighboring properties;
4. It is not within the public interest to extend this application;
5. Delays resulted from the changes to the County's Natural Resource Overlay changes.
6. Application of Title 9 regulations would not alter the design or dedication;
7. There were no county negotiations for non-required public benefits;
8. No other extenuating circumstances were presented.

Motion

motion to approve the Recording Extension Request for Osprey Landing Subdivision for Twelve months for the reasons listed in the materials submitted on August 29, 2024 which would allow the applicant to receive final plat approval on or before September 28, 2025.





Vote: Brad Wolfe aye
Michael Whitfield nay
Ron James aye


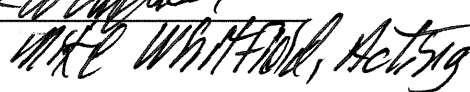
Conclusions

Having given due consideration to the application and materials presented, the Teton County Board of County Commissioners hereby makes the following conclusions:

The application meets at least one of the criteria for a subdivision extension request and therefore is approved. The application for Osprey Landing Subdivision has been granted extension until September 28, 2025 to receive final plat approval.

March 6, 2025

Board of County Commissioners:


Brad Wolfe (Chair) 

Notice of Applicable Rights

Applicants have a right to request a regulatory taking analysis of this decision pursuant to Idaho Code § 67 8003.

Certificate of Service

I hereby certify that on this 6 day of March, I served a true and correct copy of the foregoing document upon the following:

Sadek Darwich sadekd@gmail.com	<input type="checkbox"/> Mailing
Megan Nelms (Y2 Consulting) megan@y2consultants.com	<input type="checkbox"/> Hand Delivery
Jeff Bower jeffbower@givenspursley.com	<input type="checkbox"/> Fax
	<input checked="" type="checkbox"/> E-Mail
	<input type="checkbox"/> Overnight Mail
	<input type="checkbox"/> Courthouse Box



Clerk

