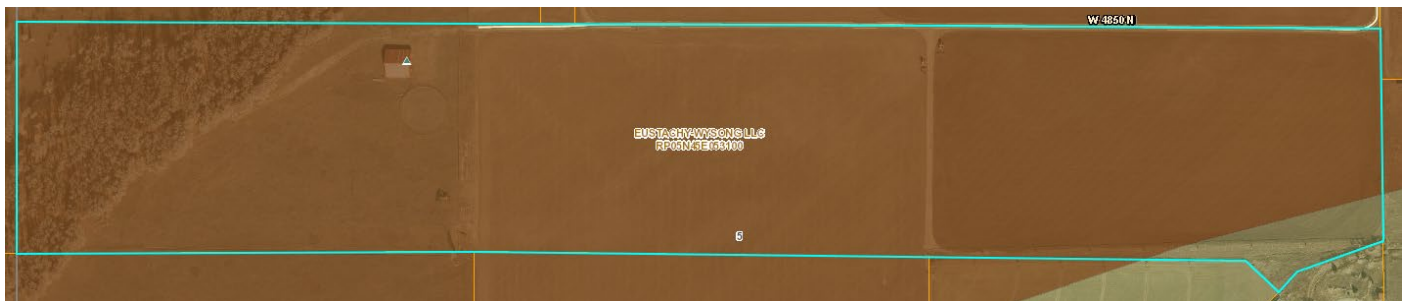
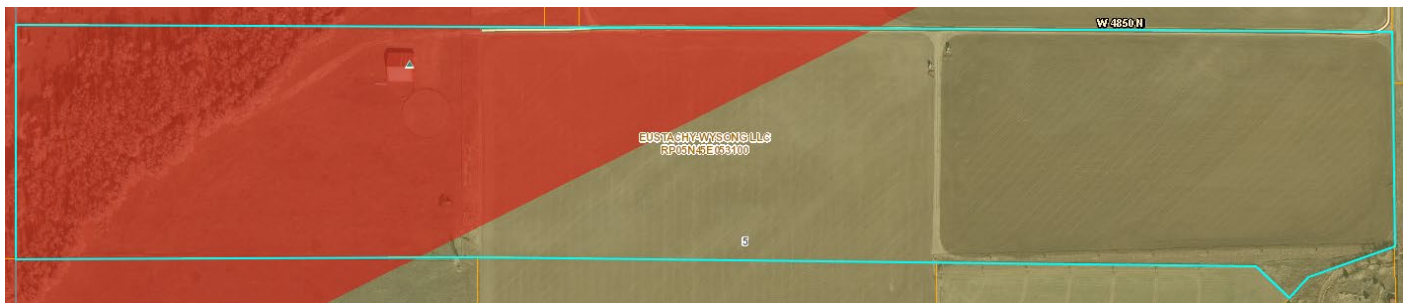


Figure 2. Aerial Image; shows the existing conditions of the property.



Figures 3-6. Natural Resource Overlays

Figure 1. (Image on top) indicates Priority Wetland Habitat- South Leigh.

Figure 2. (Middle image) indicates presence of Songbird/Raptor Breeding and Wintering Habitat.

Figure 3. (Bottom image) Indicates Big Game Migration Corridor and Seasonal Range Overlay covering property.

PROJECT BACKGROUND

A pre-application conference was completed March 28, 2022. The first step in the subdivision process is a Concept Plan Review (9-3-2B).

Concept Review: The Planning & Zoning Commission Reviewed the Concept Plat on July 12, 2022 and was continued to gain more information on the following items (Staff's review of applicant's response is in red/italics below):

1. Title report; (*Applicant provided a deed indicating the shared access easement*)
2. Fire suppression system review; (*a method of fire suppression was indicated on Lot 12 of the revised concept plan*)
3. 2nd required access identified; (*since the revised proposal is for 12 lots, it no longer would require a second access point, so long as the access is less than 2,500 feet – See Teton County Code 9-4-J(2)*).
4. Clarification of water rights; (*Applicant provided water rights documentation*)
5. Clarification of floodplain; (*Applicant has clarified in the narrative that is floodplain present on the property.*)
6. Clarification of utility easements (*No easements exist yet as the property has no sewer, water or power yet, but it will with development*).

PZC reviewed the continued application September 12, 2022:

MOTION: Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) can be satisfied with the condition the developer review the layout of the current lots to increase the sizes of the lots and to reduce impact of those lots on the pivot and the multiple habitat overlays, I move to APPROVE the Concept Plan for Eustachy-Wysong Subdivision as described in the application materials submitted March 14, 2022, and as updated with additional applicant information attached to this staff report.

RESULT:	APPROVED [3 TO 1]
MOVER:	Erica Tremblay, Commissioner
SECONDER:	J.A. Michelbacher, Chairman
AYES:	J.A. Michelbacher, Chairman, Erica Tremblay, Commissioner, Rebeca Nolan, Commissioner
NAYS:	Wade Kaufman, Commissioner
ABSENT:	Timothy Watters, Commissioner, Wyatt Penfold, Commissioner, Lindsey Love, Commissioner

CONSIDERATIONS FOR THE APPLICANT

1. A clustered development might be better suited for this area. Smaller lot sizes are also generally more beneficial and allow for more open space. This could be achieved through a PUD. The revision and variety in lots from its initial Concept Plan, however, are a great improvement.

CONDITIONS OF APPROVAL

1...

LIST OF ITEMS NEEDED BEFORE PRELIMINARY PLAT (in addition to the list provided in the preliminary plat application):

1. Complete studies for the Preliminary Plat that will need to be completed (*As a note to the applicant, all studies must incorporate the potential full build out of the project – meaning ADUs must be considered unless otherwise restricted by the applicant*):
 - Natural Resource Analysis and Wildlife Habitat Assessment
 - Traffic Impact Study
2. Work with EIPH to complete and submit a subdivision application. The EIPH review will be required to submit the Preliminary Plat application.
 - A Nutrient Pathogen Level 1 will also be required.
3. Address Public Works comments

The PZC reviewed the preliminary plat on July 7, 2024 and made the following motion (draft meeting minutes):

MOVER: Wade Kaufman

SECONDER: Tyler Wertenbruch

I move to continue the public hearing for Eustachy Wysong Subdivision in order to obtain additional information from the applicant and other agencies in regard to access from private property in Objective 8; more thorough review of the TIS; review of Lots 5, 6 7 & 8 in regards to the NP study; and address the conditions of approval in the staff report to September 10th.

AYES (5): Tim Watters, Wade Kaufman, James Weber, Tyler Wertenbruch, and Carl Kohut

NAYS: (1): Wyatt Penfold

9. Reviewing lots 5, 6, 7, and 8 not be reviewed in the NRA.

The second paragraph on page 7 of the NRA states,

“Although the Teton County Big Game Migration Corridors and Seasonal Range, Priority Wetland Habitat-South Leigh Forested, and the Songbird/Raptor Breeding and Wintering Habitat overlays overlap the property, the best habitat that would be used by wildlife would include the approximately 14% (8.65 acres) of the western portion of the Property that intersects with South Leigh Creek and its associated riparian forest/emergent wetlands.”

The second line of the first paragraph of Impact Analysis and Mitigation Plan on page 7 of the NRA continues,

“Lots 1-8 range in size from 4.84 to 5.29 acres and are oriented north to south (Figure 3). Those lots are in disturbed agricultural lands and do not contain protected natural resources. Land use south of the Property consists of disturbed agricultural lands and several single-family dwellings. As indicated above, given the previously disturbed condition of the smaller lots 1-8 of the Property, a fence along the southern border of the Property, the presence of free-roaming dogs in the area, and the distance to undisturbed riparian/wetlands, building on these lots would not significantly affect the value of this area as wildlife habitat despite the mapping of the Wildlife Habitat Overlay with the presence of the Big Game Migration Corridors and Seasonal Range, Priority Wetland Habitat-South Leigh Forested, and Songbird/Raptor Breeding and Wintering Habitat overlays.”

Civilize, PLLC

4 | Page

[https://civilize-my.sharepoint.com/personal/bcrowther_civilize_design/Documents/Civilize/Civilize Work/Proj/Eustachy/01-21-0060 Eustachy Ranch/400 Prelim/1000 Civil/Staff Report and Response/Response Staff Report - Eustachy-Wysong 2024-08-19.docx](https://civilize-my.sharepoint.com/personal/bcrowther_civilize_design/Documents/Civilize/Civilize%20Work/Proj/Eustachy/01-21-0060%20Eustachy%20Ranch/400%20Prelim/1000%20Civil/Staff%20Report%20and%20Response/Response%20Staff%20Report%20-%20Eustachy-Wysong%202024-08-19.docx)

Eustachy Wysong
Eustachy-Wysong Subdivision

Response to Staff Report-Preliminary Plat
01-21-0060

While the Applicant respects the comments and suggestions of the P&Z Commission, the scientific analysis conducted by credentialed professionals experienced in natural resources analysis and wildlife habitat assessment are relied upon to evaluate the potential impacts and to recommend mitigation solutions to those impacts. In this case, those individuals indicated in the NRA that Lots 5, 6, 7, and 8 were already disturbed by agricultural activity and had lesser value as wildlife habitat than the westernmost portions of the property on lots 9 and 10.

PZC reviewed the information submitted and continued on September 10, 2024:

MOVER: James Weber

SECONDER: Carl Kohut

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to recommend APPROVAL of the Preliminary Plat for Eustachy-Wysong Subdivision as described in the application materials submitted on May 20, 2024 and additional information attached to the staff report with the conditions of approval 1-6 listed in the staff report.

AYES (4) James Weber, Tim Watters, Wyatt Penfold, and Carl Kohut

NAYS: (1) Wade Kaufman

Staff Comment: Applicant has submitted additional materials related to the conditions: Updates to the CCRs, plat and improvements.

REVIEW & INTER-AGENCY COMMENTS

The County has solicited comments from other agencies and has received comments from the following entities.

ROADS & UTILITIES: The Public Works Director made the following comments:

- Improvement plans do not show any fire protection. *(Staff comment: applicant has submitted a draft of a shared fire pond agreement).*
- Utility Site Plan does not show power or communications. *(Staff comment: applicant has submitted an updated utility site plan within the improvement documents).*
- All Roads between N 3000 W and subdivision will need to meet County Local Road Standards.

FIRE PROTECTION: The proposed subdivision relies on a proposed fire pond on an adjacent property which is being reviewed concurrently for a subdivision. Teton County Fire Marshal generally approved the fire pond configuration. A shared, executed (notarized and recorded) fire pond agreement will be required with final plat application and another option will be required if the Dorothy Gayle Development is not approved or built.

- The access per the easement is currently blocked via farm equipment. Applicant must confirm with the Fire Marshal how this will be resolved.
- Applicant states the center pivot is used to irrigate the property but will be removed after the development is approved. Staff inserted a consideration for the BoCC that the approval of this proposal be expressly contingent upon judicial or other resolution of the access issue (which would incorporate this component).

WASTE WATER TREATMENT: The applicant has coordinated directly with EIPH and received Preliminary Approval in 11/ 2022.

PLANS & STUDIES: Because there is Big Game Migration Corridor & Seasonal Range, Songbird/ Raptor Overlays, and Priority Wetland Habitats on the property, a Natural Resource Analysis and Wildlife Habitat Assessment were required. A nutrient pathogen evaluation was required because the property is within the Wetlands & Waterways Overlay. A traffic impact study was required because the application is for 10 lots.

BOCC PRELIMINARY PLAT JANUARY 31, 2025

The Board reviewed the Preliminary Plat on January 31, 2025. They approved the plat with a number of conditions. Those conditions were addressed in narrative submitted for final plat and are reviewed below.

Conditions of Approval

1. Final application approval shall be contingent upon the Fire Marshall's approval of fire mitigation. To meet that obligation through a shared fire pond agreement with the proposed Dorothy Gayle Subdivision, the Dorothy Gayle fire pond must be constructed, inspected and approved before the final plat of Eustachy Wysong may be recorded. Further, a notarized and recorded legal agreement must be submitted with the final plat application.

A Fire Marshal mitigation approval will be supplied with the final plat application. Along with this approval, a notarized legal agreement outlining the shared fire pond responsibilities will also be submitted to ensure compliance with the required fire mitigation measures.

2. The financial guarantee of 125% of the total cost estimate needs to be provided by the time of final plat application.

A Financial Surety of 125% will be included with the final plat application.

3. Final application approval shall be contingent upon the applicant's provision of documented proof of legal access through judicial or other means, such as an agreement with all easement owners, for an access road built to Teton County Road standards.

A road agreement was established in 2002 with all current easement owners. The road agreement was set up to allow development along with the road agreement.

WHEREAS, Nusbaums are selling parcels 4, 5 and 6 to Kerrs; and

WHEREAS, it is in the mutual interest of the parties to agree on issues regarding roadways, access and maintenance and record the agreement so as to govern not only the rights of the parties but the rights of heirs, issue and assigns who may subsequently own some portion of the above described properties.

· Recorded Road Access & Maintenance Agreement (Recorded June 2002, Instrument #148957)

o This establishes a 60-foot-wide road and utility easement benefiting the subject property.

o Per Section 3 of the agreement, if additional residential parcels are developed, roadways in Exhibit A may be constructed and then substituted for the farm road to ensure adequate access.

o The proposed Eustachy-Wysong road follows the designated roadway in Exhibit A, ensuring compliance with the recorded agreement's access conditions.

· Maintenance Responsibilities (Section 3)

o The agreement states that road maintenance and snow removal costs shall be shared on a per-residence-served basis.

o The proposed Eustachy-Wysong road conforms to Teton County Road standards, ensuring adequate access while maintaining compliance with the terms of the agreement.

3. In the event Kerr or Nusbaum sell off any of their parcels and any residents are build thereon, the new roads (as described in Exhibit a) or an adequate portion thereof, may be constructed and then substituted for the farm road as the primary access for Kerr and the owners of other properties.

· Preservation of Development Rights (Section 5)

o The agreement explicitly states that nothing in this Agreement is intended to limit development rights.

o The proposed road construction aligns with this intent and ensures adequate access while maintaining compliance with all county regulations.

5. Nothing in this agreement is intended to limit development rights. Any owner shall have the privilege of developing their property consistent with the then current subdivision and zoning regulation of the county.

· Deed Transfer from Kerr Family Trust to Eustachy-Wysong LLC

o The recorded deed confirms that Eustachy-Wysong LLC inherited all access rights previously held by the Kerr Family Trust, ensuring that the existing easement remains in effect.

Since the proposed road conforms to the agreed access route, meets the recorded maintenance obligations, and preserves development rights as outlined in Sections 3 and 5, we believe this satisfies the final plat condition for proof of legal access.

Objective: 7. The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from the level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study.

The application did trigger a Traffic Impact Study. The applicant found the following Conclusions:

XI. Conclusions.

After evaluating the proposed development within the context of zoning; projected land use; existing transportation system; background traffic counts for the principal roadways within the study impact area; projected traffic for horizon year's corresponding with project opening, project buildout, and a 20-year horizon year; the findings of the Traffic Impact Study are summarized below. In order to simplify the forecasted traffic conditions as they have progressed through this study, the following three (3) tables were produced. The first table shows the forecasted progression of the roadway segments, the second table shows the intersections, and the third shows the left or right turn lanes.

Table 66- Segment Traffic Conditions Progression Each Horizon Year

Segment 1: 3000W	Northbound V/C Ratio	LOS	Southbound V/C Ratio	LOS
2022 Existing Traffic	0.035	A	0.017	A
2028 Background	0.039	A	0.019	A
2028 Background plus Site Traffic	0.046	A	0.023	A
2048 Background	0.066	A	0.032	A
2048 Background plus Site Traffic	0.072	A	0.035	A

Segment 2: 4000N	Eastbound V/C Ratio	LOS	Westbound V/C Ratio	LOS
2022 Existing Traffic	0.031	A	0.040	A
2028 Background	0.035	A	0.045	A
2028 Background plus Site Traffic	0.038	A	0.052	A
2048 Background	0.058	A	0.076	A
2048 Background plus Site Traffic	0.061	A	0.082	A

Table 6: Intersection Traffic Conditions & Progression Each Horizon Year

Int 1 - 3000W/5000N	Eastbound		Westbound		Northbound		Southbound	
	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS
2023 Existing Traffic	8.7	A	n/a	n/a	0.5	A	0	A
2028 Background Traffic	8.7	A	n/a	n/a	0.5	A	0	A
2028 Background plus Site Traffic	8.7	A	n/a	n/a	2.5	A	0	A
2048 Background Traffic	8.9	A	n/a	n/a	2.5	A	0	A
2048 Background plus Site Traffic	9.1	A	n/a	n/a	2.5	A	0	A

Int 2 - 4000N/3000W	Eastbound		Westbound		Northbound		Southbound	
	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS
2023 Existing Traffic	2.6	A	0.6	A	9.4	A	9.4	A
2028 Background Traffic	2.5	A	0.6	A	9.5	A	9.5	A
2028 Background plus Site Traffic	2.5	A	0.6	A	9.6	A	9.6	A
2048 Background Traffic	2.6	A	0.7	A	10.2	B	10.5	B
2048 Background plus Site Traffic	2.6	A	0.7	A	10.2	B	10.6	B

Int 3 - 4000N/2000W	Eastbound		Westbound		Northbound		Southbound	
	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS
2023 Existing Traffic	1.1	A	0.2	A	9.2	A	9.3	A
2028 Background Traffic	1.2	A	0.2	A	9.3	A	9.3	A
2028 Background plus Site Traffic	1.2	A	0.2	A	9.4	A	9.4	A
2048 Background Traffic	1.2	A	0.2	A	9.9	A	10	B
2048 Background plus Site Traffic	1.2	A	0.2	A	10	B	10.2	B

Int 4 - Hwy 33/4000N	Eastbound		Westbound		Northbound		Southbound	
	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS	Approach Delay	Max LOS
2023 Existing Traffic	13.5	B	14.9	B	0.7	A	0.2	A
2028 Background Traffic	14.8	B	16.5	C	0.7	A	0.2	A
2028 Background plus Site Traffic	15	B	17	C	0.9	A	0.2	A
2048 Background Traffic	32.7	D	49.5	E	0.9	A	0.2	A
2048 Background plus Site Traffic	34.3	D	60.3	F	1	B	0.2	A

The public works director has yet to review but should confirm the HWY 33 and 4000 N intersection findings before a discussion on proportionate share of the development occurs.

Objective: 8. If the application is for land that is not adjacent to a state highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one state highway or a maintained county road, and adequate for anticipated traffic, and will be constructed to County Road Standards.

The project is proposing access from private road W 4850 N through an easement to N 3250 W to W 5000 N. The nearest County Road is N 3000 W. Applicant has provided improvement plans for all roads to N 3000 W which would bring the roads to County Local Road Standards.



Legal access has been contested, similar to the proposal to the south Dorothy Gayle Subdivision.

Staff will recommend to the BoCC that the same condition be placed on this application as Dorothy Gayle Subdivision as it pertains to legal access.

Objective: 13. If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C-3), the application shall meet as many of the criteria as possible.

There is floodplain on the property but building envelopes have been proposed to keep development outside of the floodplain.



There are no steep slopes on the property, nor is it within the Bear Conflict Zone or Wildfire Hazard Overlay. Staff has not identified any other health, safety, or general welfare concerns.

Objective: 14. In addition to the above, for a Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school-aged children anticipated by the development and includes any recommended mitigation measures identified in that study. If the applicant is obligated to pay an impact fee for schools, then mitigation measures identified in the report will not be required.

N/A

Consideration: The application's approval should expressly be contingent upon judicial or other resolution of the access issue.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE

Idaho Code, Title 67, Section 67-6509, and Title 9, Section 3-2-(D-2) of the Teton County Code. The public hearing for the BoCC was duly noticed in the Teton Valley News on May 21 and May 28, 2025. Notifications were sent via mail

to surrounding property owners within a 300-foot radius of the property on May 16, 2025. A notice was also posted on the property on May 30, 2025 providing information about the public.

PUBLIC COMMENT:

Staff received several public comments on this application most of which refer to legal access. All public comments are attached. One new public comment was received for this hearing.

OVERVIEW OF FINAL PLAT APPROVAL (9-3-2-D2):

This phase of the subdivision/PUD process is to present the Board of County Commissioners the completed documentation as required by this Ordinance for a final review before rendering a decision to approve, deny, amend or remand this application. If the Board elects to amend the application, additional findings and reasoning shall be made in writing in accordance with State code. Otherwise the findings and reasoning should be contained in the Master Plan / Development Agreement / and Final Plat. (amd. 06-05)

CONSIDERATION OF APPROVAL:

In conjunction with the decision for approval, approval with conditions, or denial of an application for a subdivision or PUD, the Board shall make written findings with respect to the items required with the submission of the application and the criteria below. Additional written findings are not necessary where the public documents or records of the public hearing already provide a written record.

- i. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.
- ii. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of Title 9 and Title 8 of the Teton County code. (amd. 11-14-08)
- iii. The information required in the application has been verified and is correct.

FINDINGS:

A number of conditions of approval were imposed on the application at the time of Preliminary Plat approval. These were addressed by the applicant included in the narrative above.

STAFF ANALYSIS

Each of these Conditions appear to have been addressed from the perspective of planning staff except for matters related to the access easements (Condition 6). While the applicants have asserted that the access easement documents previously provided to the County sufficiently establish the required easements and resolve any dispute raised by adjacent landowners, Condition 6 specifically required that this issue be resolved either through judicial order or other legal resolution between the affected private parties through signed agreement. No documents have been received that indicate that this resolution has been pursued or reached with neighboring parties and no judicial order or agreement has been submitted. Provision of access to proposed subdivision lots is clearly stated in several instances including the following:

9-4-1 (B) SPECIFICATIONS

Street right-of-way widths, grades, design, and alignment shall conform to the County Road Standards for Teton County, Idaho as amended...

9-4-1(J) ACCESS

Required: Each lot shall have legal and physical access provided and must abut and /or have access to a public or private street or road. Emergency secondary access roads shall not be used to provide the primary means of access to a lot.

IF the Board wishes to approve the application the following conditions of approval shall be considered

CONDITIONS OF APPROVAL:

1. Final technical survey review be completed by public works.
2. The final letter of credit must be provided before recordation of the improvement plans and development agreement.

BOARD OF COUNTY COMMISSIONER ACTIONS

- A. Approve the Final Plat, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve the Final Plat, with modifications to the application, or adding conditions of approval, having provided the reasons and justifications for the approval and any modifications or conditions.
- C. Deny the Final Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.

MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to move to approve or deny the application:

APPROVAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D can be satisfied, I move to APPROVE the Final Plat for **Eustachy-Wysong Ranch Subdivision** as described in the application materials submitted on August 10, 2023 and additional information attached to the staff report. (with the following conditions of approval...)

DENIAL

Having concluded that the Criteria for Approval of a Final Plat found in Title 9-3-2-D have not been satisfied, I move to DENY the Final Plat for **Eustachy-Wysong Ranch Subdivision** as described in the application materials submitted on August 10, 2023 and additional information attached to the staff report, based on the following findings:

The following could be done to obtain approval

1.....

CONTINUATION

I move to continue the public hearing for **Eustachy-Wysong Ranch subdivision** Final Plat in order to obtain additional information from the applicant or other agencies *for the following hearing date and time...*

Joshua Chase, Planning Administrator

ATTACHMENTS:

- | | |
|--------------------------|-----------------------------------|
| A) Application | H) CCRs |
| B) Final Plat | I) Cost Estimate |
| C) Master Plan | J) Draft Letter of Credit or Bond |
| D) Narrative | K) Letter From Moulton Law |
| E) Improvement Plans | L) Public Comments |
| F) Fire Pond Agreement | L) Public Comments |
| G) Development Agreement | |

End of Staff Report