



## **TETON COUNTY, IDAHO | Board of County Commissioners**

### **Subdivision Extension Request Written Decision for Blackhorse Ranch Subdivision**

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This is a written decision on the findings for the approval of the Extension Request for Blackhorse Ranch Subdivision under Teton County Code ("TCC") Title 9 Chapter 3 Teton County Subdivision ordinance (revised 5/16/2013)

**APPLICATION DATE:** April 16, 2025

**APPLICANT:** Taylor Cook, Nelson Engineering, Applicant representative

**PROPERTY OWNER:**

**PROJECT NAME:** Blackhorse Ranch 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 5/16/2013)

Under Teton County Code §9-3-2 (A-3), one extension of up to twelve (12) months may be granted by the Board of County Commissioners pursuant to 9-3-2 (D-2-l.ii).

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. The 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.

Specific criteria for approval of an extension are discussed below under staff analysis.

#### **Procedural Background**

As several criteria for an extension focus on whether there were delays or requirements for studies which could affect the review timeframe an overview of the review process is provided below.

#### **Concept**

The concept application was submitted on 1/12/22. The PZC reviewed and approved the concept plan on 7/12/22.





## **Planning and Zoning Commission's Preliminary Hearing on Dec. 13th, 2024.**

The applicants submitted preliminary plat materials on September 7, 2022. PZC reviewed and approved Blackhorse Ranch's Preliminary Plat on December 13, 2022.

The Planning Dept. did not receive required materials for the BoCC Preliminary Plat Hearing until June, 2024, 18 months after the approval of PZC Preliminary Plat. The BoCC Preliminary Plat Hearing was scheduled on July 8, 2024.

## **Board of County Commissioners Preliminary Hearing: The BoCC reviewed Blackhorse Subdivision on July 8th, 2024 – continued for additional information.**

Staff comment: The Nutrient Pathogen Evaluation had a technical review, but edits were not presented back to the planning department until 7/1/24. Items 2,3, 4, and 6 were not addressed.

## **Board of County Commissioners Public Hearing of September 20th, 2024 – continued for legal advice.**

Staff comment: The Nutrient Pathogen Evaluation was revised and a technical review was completed. A fire hydrant agreement has been submitted. The CCRs have been updated. Conditions 2, 3, 4, and 7 were not addressed.

## **Board of County Commissioners Public Hearing of October 7th, 2024 - Approved**

Staff comment: The applicant has since submitted a revised plat with a lot reduction from 6 lots to 5. Lots 3 and 4 were combined to make the new lot 5 and which now has one building envelope. Another revised NP evaluation has been submitted for the new 5 lot proposal. A revised review has not been received.

## **Factual Background**

Under Teton County Code §9-3-2 (A-3), one extension of up to twelve (12) months may be granted by the Board of County Commissioners pursuant to 9-3-2 (D-2-I). **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. The 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.

The concept application was submitted on 1/12/22. However, the application was not signed nor deemed complete by the Planning Administrator until April 14, 2022. Therefore, the application timeline begins on the Planning Administrator's signature date on the concept application establishing and expiration date of April 14, 2025. The PZC reviewed and approved the concept plan on 7/12/22. The three-year timeframe to receive final plat approval per Title 9 expired on April 13, 2025. **The applicant is requesting an extension of an additional 3-6 months to complete the process.** The application was received on April 16, 2025, three days after the expiration date.





## Reasoning and Analysis

The applicant's narrative claims there was uncertainty about when their concept application was considered complete, and points to an email sent on 6/16/22—as a reply to their inquiry about the expected date of the concept hearing—as evidence that this was the official completion date. However, that email merely provided an estimated hearing date based on the standard first-come, first-served scheduling of completed applications in the queue; it did not confirm the date determining the application as complete. Additionally, when the applicant submitted their Final Plat Application, they listed 4/13/2025 as the expiration date, showing they understood the timeline for the platting process and its expiration. An email from the applicant sent on February 25<sup>th</sup> also acknowledges the 4/13/2025 expiration date. Several other emails from County staff were sent as reminders of the upcoming expiration of the subdivision application. Title 9-3-2-D.I.i. Time limitation states. "Limitation for approval: The Master Plan, Improvement Plans, Development agreement, and Final Plat shall be approved by the Board within three (3) years of the date of acceptance of the subdivision/PUD concept application by the Administrator or the entire application is deemed null and void."

The considerations for extension approval, per the Extension Request Application follows:

1. The developer has diligently pursued the completion of final plat approval and the preliminary plat has been approved.

This report shows the timeline of the application review. As noted, there was a significant break of ~18 months in the review process between PZC Preliminary Plat and the initial BoCC preliminary plat review. There were delays in the decision process where additional information was required and legal review sought. The applicant has submitted a final plat application.

2. The application was continued by the commission for special studies, i.e.: Traffic, NP, Wetland, Wildlife etc.

The application was delayed or required multiple revisions because the conditions set for approval weren't fully addressed, particularly when it came to the necessary studies like the NP studies, CCRs and Improvement Plans. The failure to meet these requirements caused the process to stretch longer than anticipated, despite them being clearly outlined in the staff report. The applicant's narrative states:

"Other delays included two continuations from the past Board of County Commissioners during the preliminary plat stages. The BoCC had concerns over the Nutrient Pathogen study which was resolved. These concerns were coming from the County hired private contractor Harmony Engineering, who at that time reviewed NP studies for the county. The other continuation was





due to seeking legal counsel regarding developing in the floodplain. The question regarding the floodplain came from Section V.A (5) of the Teton County Flood Damage Prevention Ordinance, which stated:

“5. All building envelopes shall be located a distance of at least twice the regular bankfull channel width of the stream or river channel from the ordinary high water mark (or bankfull location) or out of the Special Flood Hazards Area.”

There was disagreement with the opinion of the board with that specific language, as we were able to meet the distance of at least twice the regular bankfull of warm creek but the Board interpreted it that they could require us to be located out of the Special Flood Hazard Area. We followed this request even though the language in the floodplain ordinance was unclear with the use of “or” instead of “and”. You can see our build envelope changes in the attached Final Plat map (Exhibit G) which mainly pertain to Lot 5.

We responded by creating further restrictive build envelopes and taking one lot off the plat. We moved forward with 5 lots instead of 6 lots. Access was also another question with the creek crossing to lot 5. We eliminated that crossing and added a secondary access to lot 5 coming off of S 2000 W. This eliminated the need to cross Warm creek to provide access to Lot 5.”

3. The denial of the extension would cause undue hardship to a neighboring property.

The applicant did not assert any hardship to neighboring properties.

4. It is in the public interest.

Not addressed by the application.

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 the year.

Not addressed by the application.

6. Application of Title 9 regulations (as amended November 14, 2008) would not significantly alter the extended subdivision’s design or dedications.

Not addressed by the application.

7. County negotiations for non-required public benefit delayed progress in the project.

Not addressed by the application.





8. Other extenuating circumstance.

The applicants describe that bonds are difficult to obtain. They explain their reasoning as to why the date of a complete application was unclear or why they believe it should be a date other than the one the County had established.

After deliberation the Board found that there was sufficient confusion as to the expiration date based on correspondence with the applicant to determine that the application was timely made. The Board further found that the applicant was diligently pursuing approvals and met criteria related to delays in the timing of review based on the need for studies and additional information resulting from both parties.

**Board of County Commissioners Action:**

1. Approve the Recording Extension Request

**Motions:**

*Approval:*

I move to approve the Subdivision Extension Request for Blackhorse Ranch Subdivision for **three** months for the reasons of additional delays resulting from planning review requirements, and that the prior Board continuing the matter and for the letter of credit required of the applicant. The Board also finds that the date of April 14<sup>th</sup> has been questioned as the actual date of acceptance and the applicant was not informed of that date early in the review. This which would allow the applicant to receive final plat approval on or before August 27<sup>th</sup>, 2025.





Teton County Board of County Commissioners, Chair

Date

#### NOTICE OF APPLICABLE RIGHTS

Applicants have a right to request a regulatory taking analysis of this decision pursuant to Idaho Code § 67- 8003. Further, per Idaho Code § 67-6535, and in accordance with Idaho Rule of Civil Procedure 84, an applicant or an affected person has the right to seek review of this decision.

#### CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of May 2025, I served a true and correct copy of the foregoing document upon the following:

**Taylor R. Cook** <tcook@nelsonengineering.net

☐ Mailing

☐ Hand Delivery

☐ Fax

☒ E-Mail

☐ Overnight Mail

☐ Courthouse Box

\_\_\_\_\_  
Clerk

