



FINAL PLAT REVIEW PUBLIC HEARING
FOR: DANIEL HIGHLANDS
WHERE: S 5000 W & W4000 S
PREPARED FOR: BOARD OF COUNTY COMMISSIONERS
JUNE 9, 2025

APPLICANT & OWNER: Mr. Jeff Sholl, Highland Ranch LLC
ENGINEER/SURVEYOR: Harmony Design & Engineering

OVERVIEW: Jeff Sholl, represented by Harmony Design and Engineering, has submitted an application for a 10-lot subdivision on a total of 100.15 acres located off of the corner of S 5000 W and W 4000 S on Ballhead Drive. Lots range from 2.67 to 49.43 acres in size. At the time of application the property was zoned A/RR-2.5 with an eastern portion of the property lying within A-20 zone. Currently there is a single-family residence and several agricultural accessory buildings on the property. Roughly half of the parcel is forested hillside, and the other half is flat pastureland. A small portion of the property lies within Waterbird breeding, migration, foraging, and wintering habitat. A large portion of the parcel lies within the Hillside Overlay. The parcel lies entirely within the Bear Conflict Zone and Wildfire Hazard Overlay. There appears to be an ephemeral stream crossing through the NE corner of the property. Surrounding land includes large residential/agricultural parcels around 20 acres each and Forest Service lands to the south and west.

APPLICABLE COUNTY CODE: Subdivision Final Plat Review Title 9, Section 9-3-2-D, Teton County Zoning Ordinance, (revised 05/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030).

PARCEL NUMBERS: RP04N44E136601

LEGAL DESCRIPTIONS: SE4SW4, SW4SE4, S2SE4SE4 SEC 13 T4N R44E

LOCATION: Corner of S 5000 W and W 4000 S on Ballhead Drive

ZONING DISTRICT: A/RR-2.5 & A-20

PROPERTY SIZE: 100.15 Acres

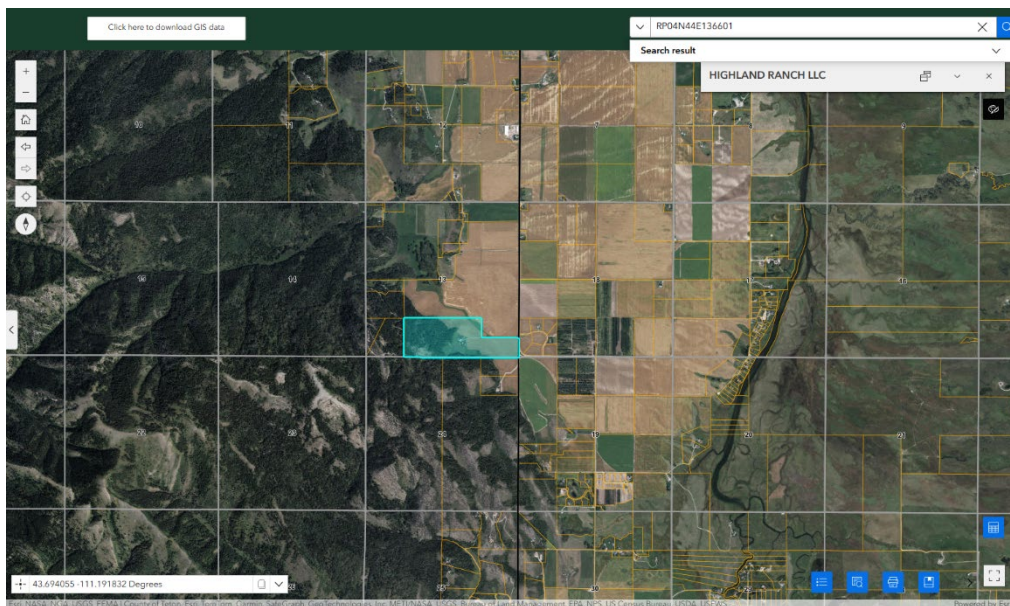


Figure 1. Vicinity map; Subdivision highlighted Blue – SW of Driggs

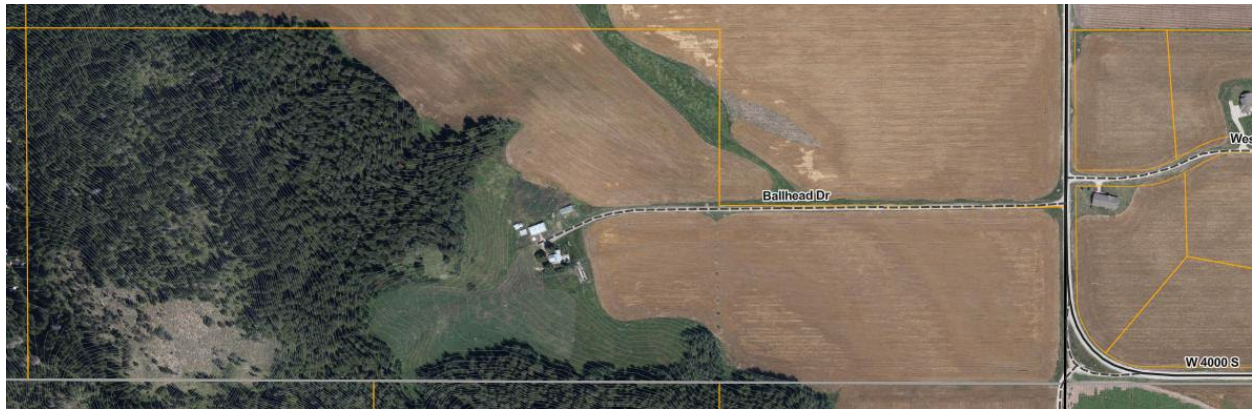


Figure 2. Aerial Image

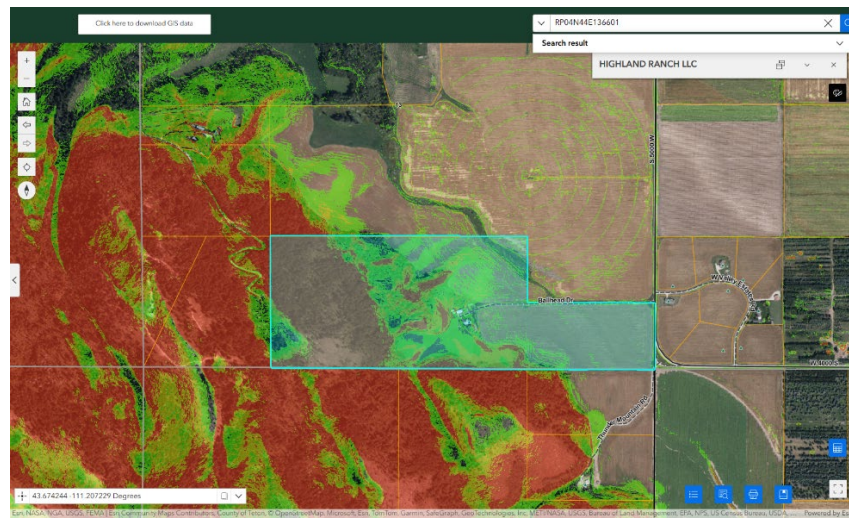


Figure 3. Overlays; Slope % Overlay, slopes over 30% are indicated in red



Figure 4. NRO (Waterbird) (N side of the parcel)



Figure 5. Hydrography/Irrigation (Ephemeral Stream- NE Corner of the parcel)

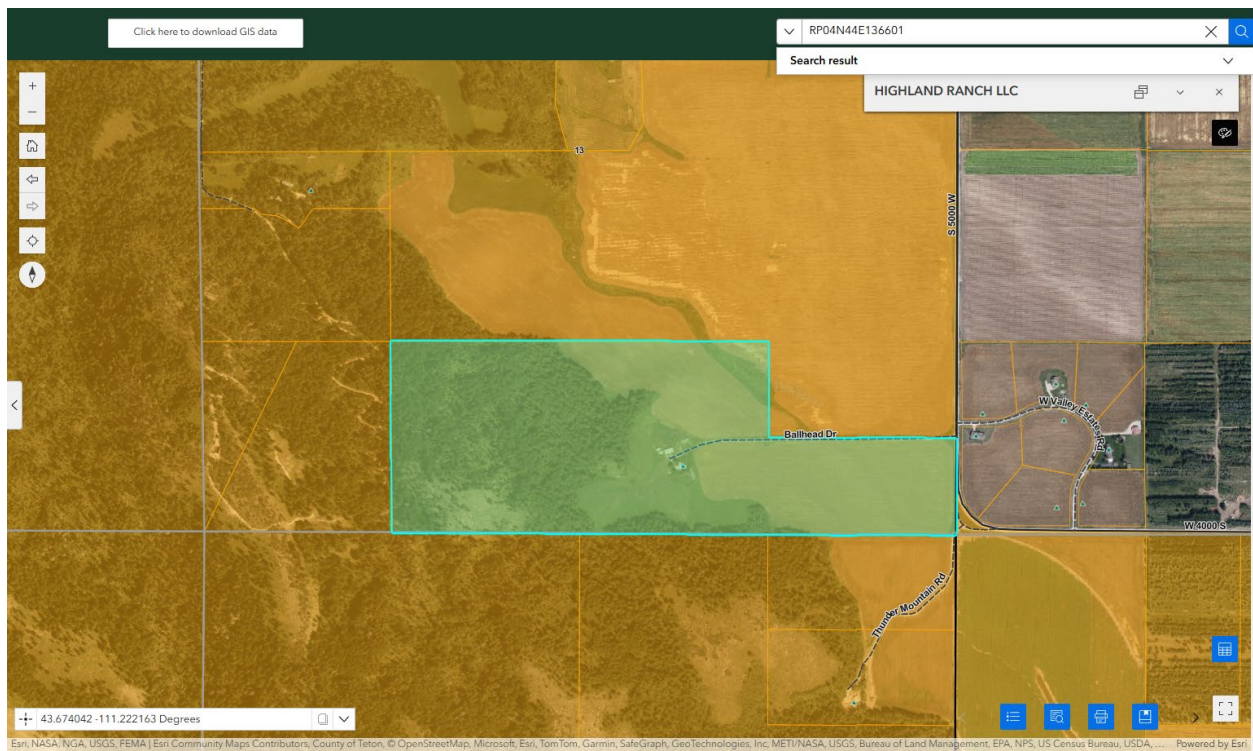


Figure 6. Bear Conflict Zone

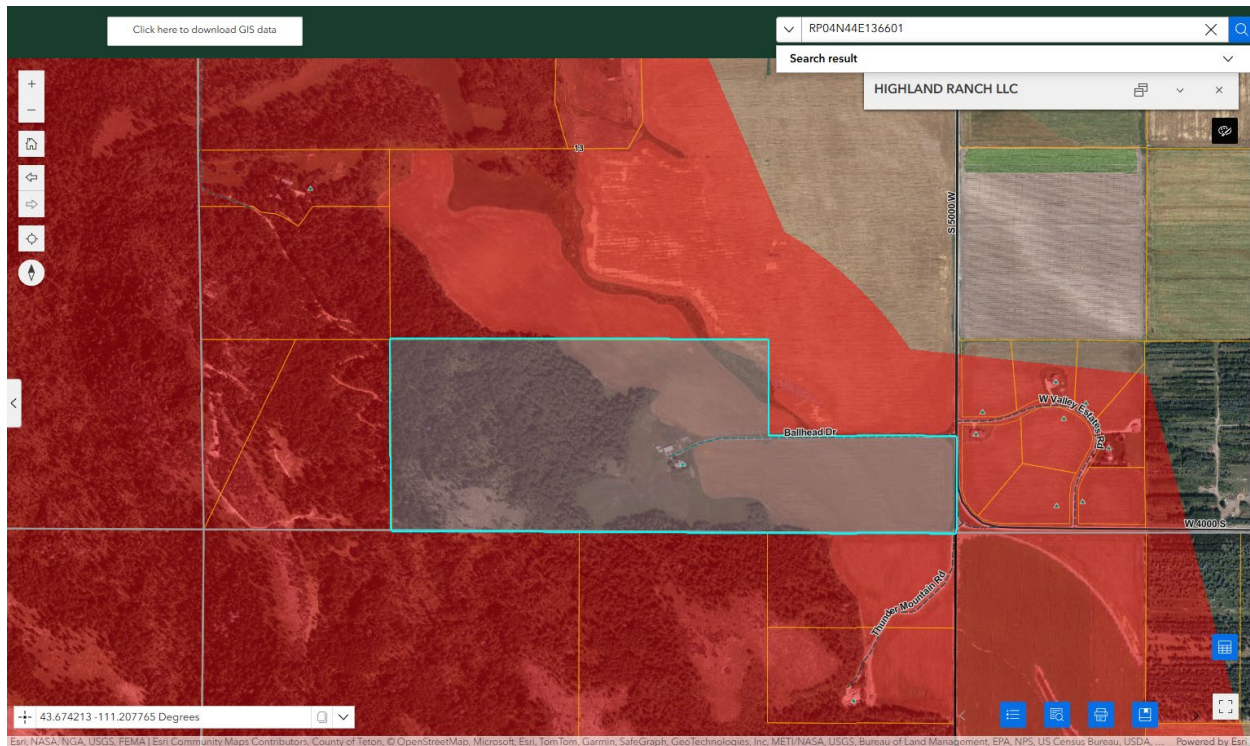


Figure 7. Wildfire Hazard Overlay

PROJECT BACKGROUND & REVIEW HISTORY

Concept Plan: The application was received on June 28, 2022. The application was considered complete and accepted on July 5, 2022 after a review by Planning Administrator Jade Krueger.

Pre-application: A pre-application conference was held with previous planning staff on October 15, 2021

Planning & Zoning Commission Review – Concept Public Hearing:
On October 11, 2022 the PZC reviewed the application.

PUBLIC COMMENT:

Mr. Tom Hill, adjacent property owner on the north, commented he has been leasing the property to farm in the past and was concerned with the proposed location of the road because portions of it are on his property. He wanted clarification of the prescriptive easement that is in place and the change in use for that easement. He wanted to see the road on the applicant's property.

Mr. Ray Hinchcliff, property owner in the area, was concerned with the migration corridor disturbance and the strain on the water table that 10 lots with the option of 10 ADU residences could cause.

APPLICANT REBUTTAL:

Ms. Kissel commented the road will be built within the constraints of the easement and will mostly be located on the applicant's property. She also noted that the applicant was asking for less density than would be allowed based on the zone.

COMMISSION DELIBERATION:

The Commission wanted to have the easement clarified prior to Preliminary Plat application. Ms. Nolan was also concerned with the wildfire overlay and the potential impact of the subdivision on the adjacent BLM land and wanted to see the 300' setback from the BLM land to protect it. Mr. Kaufman agreed that there should be mitigation measures to protect the forest land and would like to see larger lots. Ms. Love was also concerned with fire mitigation on lots adjacent to the BLM land.

MOTION: Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) can be satisfied, I move to APPROVE the Concept Plan for Daniel Highlands Subdivision as described in the application materials submitted June 28, 2022, and as updated with additional applicant information attached to this staff report with the inclusion of the following conditions of approval: 1) Address Fire Marshal Comments prior to Preliminary Plat application ; 2) Confirm the road access easement location is resolved prior to Preliminary Plat application; and 3) Forest Service letter and their recommendations be included in the Preliminary Plat submittal.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	J.A. Michelbacher, Rebeca Nolan
SECONDER:	Wade Kaufman, Wyatt Penfold
AYES:	Wade Kaufman, Commissioner, J.A. Michelbacher, Chairman, Timothy Watters, Commissioner, Wyatt Penfold, Commissioner, Rebeca Nolan, Commissioner, Lindsey Love, Commissioner
EXCUSED:	Erica Tremblay, Commissioner

Conditions from the Staff Report

1. Address Fire Marshal comments before submitting for Preliminary Plat.
2. Work with EIPH to complete and submit a subdivision application. The EIPH review will be required to submit the Preliminary Plat application.
3. Prepare all studies required for preliminary plat (with the anticipation of full build-out, meaning including Accessory Dwelling Units):
 - a. Traffic Impact Study
 - b. Natural Resource Analysis and Wildlife Habitat Assessment
 - c. All requirements for the Hillside Overlay (see Teton County Code 9-3-2(C-2-c-HS)
 - d. Lots will require building envelopes, including Lot 6.
4. Address all Public Works Director comments.

PRELIMINARY PLAT REVIEW: The Preliminary Plat Application was submitted on October 1st, 2024.

Planning & Zoning Commission Review – Preliminary Plat Public Hearing:
On November 12, 2024 the PZC reviewed the application.

Adopted (6 to 0)

3. 5:30 PM PUBLIC HEARING: Daniel Highlands Preliminary Plat Hearing



Mr. Bjorklund reviewed the application for a 10 lot subdivision on 102.5 acres located north of CR W 4000 S and 5000 W. He reviewed the applicable ordinance compliance, the topography of the site, and studies submitted. He also discussed overlays, inter agencies comments, and suggested conditions of approval.

Ms. Lindsey Kissel with Harmony Design, representing the applicant, addressed the conditions of approval. Regarding the ag buildings she stated the applicant is not wanting to move those buildings into the building envelopes or demolish them. Part of the land will still be used for ag purposes. She stated they had no issues with the additional information to be added to the CC&Rs, and as for Lot 9 she stated they wanted to maintain the proposed 50' setback from wetlands for the building envelope. She also stated they will not be building on any slopes that are 20% or steeper.

Mr. Penfold pointed out the buried irrigation line and wanted to see an easement over the line in case of future need for maintenance and a letter from the Canal Company.

Ms. Kissel felt that applicant would have no issues with that.

Public Comment:

There was no public comment.

Commission Deliberation:

The Commission has no issues with the applications based on the conditions of approval. Mr. Kaufman wanted to see another review from the Fire Marshal as well.

Mr. Bjorklund commented that would be part of the process for the next hearing.

MOVER: Tyler Wertenbruch

SECONDER: Wyatt Penfold

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 Daniel Highlands Subdivision as described in the application materials submitted October 1st, 2024 and additional information attached to the staff report. With the 7 conditions of approval listed in the staff report and additional conditions: 8) Request an approval letter from Mahogany Canal Company; and 9) Add an easement for buried irrigation line.

AYES James Weber, Tyler Wertenbruch, Tim Watters, Wyatt Penfold, Wade
(6) Kaufman, and Carl Kohut

Adopted (6 to 0)

CONDITIONS OF APPROVAL

1. Septic maintenance should be included in the CCRs. a. Example: Septic permitting shall be approved through the County and EIPH process. Adequate septic tank maintenance is required per current DEQ and EIPH recommendations.
2. The building envelope on Lot 9 has been shifted but needs a measurement showing that it is located 100 feet from the potential wetlands.
3. Lots 5 and 6 are within the Hillside Overlay. It appears steep slopes are avoided by the building envelopes, but a grading and erosion control and contours map should be submitted for access and development of those lots.
4. A plat note be added indicating that EIPH may require individual site evaluations for septic permits.
5. The access and maintenance agreement for the road be executed and recorded by the timing of final plat application.
6. The improvement plans and cost estimate shall be updated to include the landscaping and subdivision sign.
7. Any comments or issues from the Fire Marshal are to be addressed before the BoCC Preliminary hearing.

Board of County Commissioners Review - Daniel Highlands Preliminary Plat Hearing:

On March 10, 2025, the BoCC reviewed the approved application with conditions.

Assoc Planner Torin Bjorklund presented the staff report for the Daniel Highlands Preliminary Plat hearing. Lindsay Kissel, representing the applicant stated that the applicant is amenable with the conditions of approval with the exception of 2, 3 and 7. The applicant's attorney found no existence of the Mahogany Canal Company. The Board discussed how to handle the condition that the Canal Company submit an approval letter given that the Canal Company may or may not exist.

Public comment was opened at 1:52 PM. No one present wished to speak.

Public comment was closed at 1:52 PM.

Board deliberation. The Board had no further deliberation.

MOVER: Michael Whitfield SECONDER: Ron James

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 Daniel Highlands Subdivision as described in the application materials submitted October 1, 2024 and additional information attached to the staff report.

With the following conditions of approval:

1. Regular Septic maintenance should be included in the CCRs.
2. The building envelope on Lot 9 has been shifted but needs a measurement showing that it is located 50 feet from the potential wetlands.
3. Lots 5 and 6 are within the Hillside Overlay. It appears steep slopes are avoided by the building envelopes, but a grading and erosion control and contours map should be submitted for access and development of those lots at the time of building permit application.
4. A plat note be added indicating that EIPH may require individual site evaluations for septic permits.
5. The access and maintenance agreement for the road be executed and recorded by the timing of final plat application.
6. The improvement plans and cost estimate shall be updated to include the landscaping and subdivision sign.
7. Obtain and submit an approval letter from Mahogany Canal Company with the Final Plat application if it has been determined that such company exists prior to final plat.
8. Add an easement for buried irrigation line.
9. Development Agreement needs to have the exhibits attached before Final Plat hearing.
10. Financial surety of 125% of the stamped and dated cost estimate is required.
11. A plat note be added to require no further subdividing of lots.
12. Existing buildings will be allowed to continue to stand until the point in time when the lots are developed.

AYES (3): Michael Whitfield, Brad Wolfe, and Ron James

REVIEW & INTER-AGENCY COMMENTS:

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

1. **ROADS & UTILITIES:** Letter from the Public Works Director (Dated November 4, 2024):
 - Ballhead Drive will need to be improved to County Local Road Standards as proposed in improvement plans.
 - All utilities must be installed to the subdivision. The developer needs to provide evidence that power and communication exist on the subdivision side of 5000W.
 - Traffic Impact Study should include long-range evaluation 5-10 years beyond the proposed build out and include anticipated future development in the area.

- Traffic Impact Study growth rate used is 2%. This is a very minimal growth rate projection. However, I do not think an increased growth rate would change the LOS A conclusion.
- It should be noted on the final plat that all lots are to be accessed from interior subdivision roads. No individual access from S5000W will be permitted.

- 2. Bureau of Land Management:** The Upper Snake Field Office provided comment on the proposed subdivision given that the proposal borders BLM land. The main points raised by the BLM include:
 - a. Any future fencing between private and public land is the responsibility of the private land owner.
 - b. The adjacent BLM land has no designated motorized routes. Cross county motorized traffic is prohibited.
- 3. FIRE PROTECTION:** Teton County Fire Marshal, made the following comment on January 28, 2025: No fire-related issues or concerns for access or the proposed water source for suppression.
- 4.** A letter, dated September 4, 2022, from Jay Pence, District Ranger of the Teton Basin Ranger District, addressed to the Teton County Planning and Zoning office. It outlines the U.S. Forest Service's concerns regarding the proposed Daniel Highlands Subdivision, which is adjacent to National Forest System land.

Key Points:

Fire Risk and Prevention:

- The subdivision borders the National Forest and lies in a wildfire-prone area.
- The Forest Plan prescribes firewise construction and vegetation management to reduce fire risk.
- Pence recommends mandatory firewise practices (e.g., using fire-resistant materials, creating defensible space) before lot sales.
- He urges for proper ingress/egress, safety zones, and fuel breaks to ensure firefighter safety.
- A 300-foot setback from the forest boundary for all structures is advised to reduce taxpayer burden and the need for heavy vegetation treatment on forest land.

Wildlife Impact:

- The area is previously undeveloped and development may impact wildlife and increase recreational pressure.
- Pence defers detailed wildlife concerns to Idaho Fish and Game but notes potential issues for National Forest land.

Administrative Access:

- The Forest Service requests administrative access for fire suppression, inspections, and vegetation management near the subdivision.

Public Access and Unauthorized Trails:

- The subdivision currently has no authorized public access to the forest.
- Unauthorized trails are a concern; construction of such trails without permits is prohibited.
- Pence suggests subdivision regulations (CCRs) include language to monitor, prohibit, and remediate unpermitted trails.

- 5. WASTE WATER TREATMENT:** The applicant has received preliminary approval from EIPH on a letter dated August 29, 2022. The following comments will need to be followed by the applicant:
 - Drainfields should not be placed in lowlands as they are drainages for precipitation.
 - Drainfield trenches should follow the contour of slope.
 - Each lot may require a site evaluation depending upon structure placement to determine best location for a drainfield.

- Small wetlands are apparent on the property and appear to be old irrigation ditches which hold accumulated water from pivot irrigation. There was little standing water, but these areas should also be avoided for use as drainfield areas.

PLANS & STUDIES: This application has been submitted with a complete traffic impact study and a natural resource analysis and wildlife habitat assessment.

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 did not receive public comment on the final plat application.

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)

FINDINGS:

No exceptions to applicable restrictions were identified. No conflict with provisions of County Ordinances have been identified. No errors have been identified in the application. Previous conditions of approval from concept and preliminary plat have been met.

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'S 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.
- E. Table to a future BoCC meeting with reasons given for the continuation or need for additional information.

MOTIONS

The following motions could provide a reasoned statement if a commissioner wanted 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 **Daniel Highland Subdivision** as described in the application materials submitted April 28, 2025 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 **Daniel Highland Subdivision** as described in the application materials submitted April 28, 2025 and additional information attached to the staff report, based on the following findings:*

CONTINUATION

*I move to continue the public hearing for **Daniel Highland Subdivision** Final Plat in order to obtain additional information from the applicant or other agencies to the following hearing **date and time**...*

Prepared by:

Dan Leemon, Senior Planner

ATTACHMENTS:

- A. Staff Report (10 pages)
- B. Revised Development Agreement (22 pages)
- C. Draft Road Easement (9 pages)
- D. Hill (adjacent parcel) Easement Approval
- E. Fire Chief Review (3 pages)
- F. Road Easement Exhibit (1 page)
- G. Road Easement Exhibit Map (1 page)
- H. Subdivision Improvements Probable Cost (1 page)
- I. Final Plat Part 1 (1 page)
- J. Final Plat Part 2 (1 page)
- K. CCRs (26 pages)
- L. Final Plat App (3 pages)
- M. Conditions of Approval (2 pages)
- N. Development Agreement (22 page)
- O. EIPH Wastewater (9 pages)
- P. Letter of Authorization (1 page)
- Q. Final Improvement Plans (6 pages)
- R. Letter of Credit (1 page)

End of Staff Report