



**TETON COUNTY
PLANNING & ZONING COMMISSION
PUBLIC HEARING**

**May 13, 2025
5:00 p.m.
First Floor Commissioners' Meeting Room
150 Courthouse Dr, Driggs, ID 83422**

Members Present: James Weber
Tyler Wertenbruch
Wyatt Penfold
Wade Kaufman
Rebeca A Baker
Carl Kohut
Tom Braun

Staff Present: Joshua Chase
Dan Leeman
Sharon Fox

A. Approval of Minutes

1. Approval of Minutes from April 8, 2025 PZC Meeting

The Minutes were not included in the information packet and will have to be approved at the next meeting.

B. Chairman Business

There was no Chairman business.

C. Administrator Business

Mr. Chase asked for two volunteers to attend a joint Planning Commission meeting. Mr. Wertenbruch and Mr. Kohut volunteered and Mr. Weber offered to be a backup if necessary.

D. Action Items

1. 5:00 PM PUBLIC HEARING: Martin - Darby Meadows Ranch – Variance

Mr. Chase reviewed the application for a Variance in Darby Meadows Ranch Subdivision on two 40 acre parcels requested to cross an area of

wetlands on the northern parcel in order to put in their driveway on the southern parcel and build their home. The Ordinance requires a 50' setback from wetlands and this is not possible on the northern parcel so they are building on the south parcel and they have requested a variance to build their driveway across the wetlands to the southern parcel where they can build their residence .

Ms. Katie Salsbury with Intermountain Aquatic, representing the applicant, commented they did a wetlands delineation on the parcels in 2008 for a previous owner and the parcel was much dryer and had more uplands that are now designated wetlands. She noted that the wetlands are irrigation induced wetlands. She stated the applicant would like to put their home as close to the existing farm access road as possible to minimize the disturbance to the wetlands.

PUBLIC COMMENT:

Ms. Polly Hart, adjacent property owner, felt granting the variance would not be granting a hardship, she felt it would be granting a special privilege. She was concerned because they share the irrigation water with this property and was concerned with the impact of disrupting the wetlands. She felt the applicant has decided not to build in the only place where there is buildable land, that there is no undue hardship, and that the owner knew of the wetlands when he purchased the property.

Mr. Eric Hobday, adjacent property owner, commented he felt this property was in the same situation as the Fraiz property that was denied a variance in a previous hearing. He also commented on the buildable area that is closer to the road but would not require a Variance. He pointed out that the owner of the property bought it knowing the building restrictions.

COMMISSION DELIBERATION:

Mr. Braun was questioned when the two parcels were created and noted that they appear to have been created to separate the wetlands from the buildable area. Mr. Kaufman pointed out that the land has been used to grow hay for years and years which lead to the development of the irrigated wetlands. Ms. Salsbury commented that when she was contacted to do the study by the previous owner there were two parcels and she is not aware when they were created. Mr. Wertenbruch felt the challenge was that it is a separate parcel and the southern parcel has the ability to be built on but the question is the access to reach the buildable parcel. He was concerned with denying the application and therefore preventing the ability to build on an existing parcel.

Mr. Chase suggested re-opening the Public Comment to allow more information from the neighbors.

PUBLIC COMMENT REOPENED:

Mr. Hobday commented the existing road is just a two track going through water and the applicant will have to improve the road to be able to use it year round. He was concerned how it was going to effect the wetlands and his property if it is built up.

Ms. Hart commented the owner knew one of the parcels was unbuildable when he bought it.

APPLICANT REBUTTAL:

Mr. Salsbury commented there is not really a road but more of a dirt track and commented the applicant was not aware that the whole parcel was in the wetlands based on the delineation done in 2008 that they received when they purchased the property. They did not know they would need another one that might have different results.

COMMISSION DELIBERATION:

Ms. Baker commented since the applicant owns both parcels she did not think it is a hardship to build on the northern parcel that has buildable uplands without needing a variance. She was concerned the owner was using the variance process to go across the parcel that has a buildable uplands to get to the southern parcel that will need a variance to get access to it.

Mr. Kohut commented he felt an easement would be appropriate through the northern parcel to get to the southern parcel because it is two parcels and where they are locating the home is as close as possible to not disturb the site any further than necessary with the road. Mr. Kaufman commented he felt the lack of putting an easement on the northern parcel means the northern lot couldn't be sold until an easement was requested. He felt the applicant was just using the northern parcel to get to the upland parcel for his family to have a place to build homes. Mr. Braun wanted to see documentation on how the parcels were formed. Mr. Wertenbruch suggested continuing the application until it can be established how the parcels were formed.

MOVER: Rebeca A Baker

SECONDER: James Weber

I move to continue the public hearing for the John Martin Variance until June 10th in order to obtain additional information from Teton County staff regarding the establishment of the two parcels in questions regarding the access to the site on which the Variance is requested.

AYES (5): James Weber, Tyler Wertenbruch, Rebeca A Baker, Carl Kohut, and Tom Braun

NAYS: (1): Wade Kaufman

Absent (1): Wyatt Penfold

Adopted (5 to 1)

2. 5:15 PM PUBLIC HEARING: Gaudet Wetland Variance

Mr. Chase introduced the new Senior Planner Mr. Dan Leeman, who wrote the report, and was going to do the presentation. Mr. Leeman reviewed the application for a Variance for wetland setbacks of 50' for riparian buffers. He noted there is no longer any area on the property that is not in wetlands and that no public comment had been received.

Ms. Katie Salsbury with Intermountain Aquatics, representing the applicant, commented they have been working with the applicant for some time and they have been working with the Army Corps. to do the mitigation, which they were granted a permit for, but Mr. Gaudet did not build the house yet. They have already added fill to the driveway in order to mitigate the wetlands according to the permit they received from Army Corps. Due to the change in the Code he now needs a Variance. It has received an Army Corps. approval to build his residence and to proceed with mitigation measures.

Mr. Chase noted that there is one existing structure that is a garage that was built before the Code change.

PUBLIC COMMENT:

There was no public comment.

COMMISSION DELIBERATION:

The Commission had no issues with the application because of the approved Army Corps. permit and the mitigation already completed.

MOVER: Wade Kaufman

SECONDER: Carl Kohut

Having concluded that the Review Criteria of a Variance found in Chapter 4-9 of the Land Development Code can be satisfied with the conditions listed in the staff report I move to APPROVE the Variance for TCC 5-4-2 (E) 1 and TCC 5-4-2 (E) 6, as requested in the application materials submitted March 12, 2025.

AYES (6): James Weber, Tyler Wertenbruch, Wade Kaufman, Rebeca A Baker, Carl Kohut, and Tom Braun

Absent (1): Wyatt Penfold

Adopted (6 to 0)

3. 5:30 PM PUBLIC HEARING: K Ranch Subdivision Concept Hearing

Mr. Chase reviewed the application for a 19 lot subdivision on 75 acres located east of Victor in the Victor AOI. He noted that the application was received when the zoning on the parcel was A-2.5, which has now been changed. He discussed the overlays, the WHA that is currently being completed and noted that there is a tall fence that exists on this parcel that prevents wildlife from entering the City of Victor, which this land is adjacent to. He noted the comments from the City of Victor that were submitted when the first hearing was scheduled in 2021 and had the same concerns for this new application.

Mr. Braun wanted to know when the application was deemed complete. Mr. Chase could not verify that date, only the date it was received which was October 28, 2024. Mr. Braun wanted to know due to the new Victor AOI being approved in December and wanted to be sure which code was the appropriate code for review purposes.

Mr. Taylor Cook with Nelson Engineering, representing the applicant, commented that a pre-app was accepted on November 5, 2024 and the application was submitted on October 28, 2024. Staff required a new pre-app after the new application was submitted since the application had changes when it was resubmitted. Regarding access and the length of the road he commented they can adjust the accesses by re-arranging the lots or using a 2nd access. He also commented they have no problem with doing a TIS and will meet the fire suppression requirements at Preliminary.

PUBLIC COMMENT:

There was no public comment.

COMMISSION DELIBERATION:

Ms. Baker wanted to be certain of the time the application was deemed complete before moving forward based on the changes in the Victor AOI. Mr. Braun agreed with Ms. Baker. Mr. Wertenbruch was also concerned with establishing the time the application was deemed complete because of the delay in the approval of the Victor AOI agreement. Mr. Chase felt that the pre-application would have noted if there was a date discrepancy so he felt that it was appropriate to assume it was complete at that time. Mr. Braun wanted to be certain that it was deemed complete prior to the Victor AOI adoption. Mr. Kaufman felt it would have been noted if there were deficiencies in the application and the applicant should not be held up due to staff changes in the Planning Department.

Mr. Cook commented that he had correspondence with staff and he was never contacted to ask for more information and the pre-application was signed and approved prior to the adoption of the Victor AOI.

Mr. Kaufman felt if it cannot be established due to staff changes, and felt that the pre-application date should be sufficient because the staff did not

ask for any additional information. Mr. Kohut also felt that the pre-app confirms the completion for review under Title 9. Mr. Wertenbruch wanted to be sure the completion date was definitive for both the County and the applicant. Mr. Braun wanted to be certain the application was being reviewed under the appropriate code and was not confident at this time on the certainty. Ms. Baker agreed with Mr. Braun.

Mr. Chase commented he felt that the date of the pre-app form was a determination which code the application would be reviewed under and confirmed no additional information was requested at that time.

MOVER: Wade Kaufman

SECONDER: James Weber

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 K Ranch Subdivision as described in the application materials submitted October 28, 2024 and as updated with additional applicant information attached to this staff report with the conditions listed in the staff report and the following additional conditions: 1) That there is a legal review of the timeframe of Title 9; and 2) Locating all building envelopes outside the Conservation Priority area #1 and #2 zone identified in the WHA.

AYES (6): James Weber, Tyler Wertenbruch, Wade Kaufman, Rebeca A Baker, Carl Kohut, and Tom Braun

Absent (1): Wyatt Penfold

Adopted (6 to 0)

4. 5:45 PM PUBLIC HEARING: Morgan Fine Finishes – Special Use Permit Request

Mr. Chase reviewed the request for a SUP to accommodate two employee housing units in a commercial building in Driggs Centre industrial business park. He noted that the primary use of the building was consistent with the uses allowed in the Development Agreement recorded for Driggs Centre so the deliberation is strictly limited to the residential request.

Mr. Quinton Lyons, representing the applicant, offered to answer questions.

PUBLIC COMMENT:

There was no public comment.

COMMISSION DELIBERATIONS:

The Commission had no issues with the applications.

MOVER: Carl Kohut

SECONDER: James Weber

Having reviewed the application materials for Morgan Fine Finishes Special Use Permit for Employee Housing as well as the additional materials provided by staff and other agencies, and having found that the application meets the criteria found Teton County Land Development Code Section 4-8, Section 3-2, and Section 3-9-5, I hereby move to recommend approval of the SUP application with the conditions outlined in the staff report.

AYES (6): James Weber, Tyler Wertenbruch, Wade Kaufman, Rebeca A Baker, Carl Kohut, and Tom Braun

Absent (1): Wyatt Penfold

Adopted (6 to 0)

5. 6:00 PM PUBLIC HEARING: Flag Ranch Subdivision Concept Hearing

Mr. Chase reviewed the application for a 15 lot subdivision on 39.83 acres in the Tetonia AOI. He explained the process for reviewing this application since the Tetonia AOI agreement has not been renegotiated yet. The review process will be done using the new LDC based on the existing agreement with Tetonia and he discussed the parallel review process with the City of Tetonia going forward. He noted the overlays present on the parcel and the studies that would be required as well as the timing of the WHA. The intent is to protect the wildlife corridor that was not being farmed due to the slope of the land in the northeast portion of the parcel. He also commented on the City of Tetonia requirement for 10% open space and felt that the Tetonia Planning Commission will provide input into that requirement. Mr. Chase also noted that there is no threshold in the new LDC for requiring a TIS, but it can be requested by the Commission or the Planning Administrator if it is felt to be necessary.

Mr. Kevin Mayberry, applicant, commented that the WHA requirement timing was not clear when the application was submitted so they have started the study and stated there are some sage that is considered sage grouse habitat so they will address that prior to Preliminary and have planed on protecting those areas. Regarding the elk habitat he stated they would potentially install wildlife friendly fencing in those areas but until the property is surveyed it cannot be presented accurately.

PUBLIC COMMENT:

Ms. Gaylan Hellyer, Tetonia resident on 7000 N, was concerned with the fact that that road is not plowed or maintained by the County in the winter.

She stated she is paying for that herself. She was also concerned if there would be a scenic corridor review when houses are built on the hillside portion of the parcel and with the lighting from all the new homes.

COMMISSION DELIBERATION:

Mr. Weber asked about requirements for improvements on 7000 N. Mr. Mayberry commented they do not have to provide an access on 7000 N and that can be worked into the design if that is the direction of Public Works. Mr. Weber wanted to see some building envelopes or effort to protect big game habitat. Mr. Braun was also concerned with protecting the existing habitat and was hoping to see some redesign of the lots to protect priority habitat. Mr. Kaufman commented he felt there would be changes made throughout the process as this was a only the Concept hearing. Mr. Wertenbruch suggested conditions of approval to help steer the applicant towards potential changes prior to Preliminary.

MOVER: James Weber

SECONDER: Tom Braun

Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in LDC (LDC 4-1) can be satisfied with the inclusion of the following conditions of approval I move to APPROVE the Concept Plan for Flag Ranch Subdivision as described in the application materials submitted July 11, 2024 and as updated with additional applicant information attached to the staff report:

1. Conditions 1 - 6 listed in the staff report with Condition 3 amended to read "Review with Public Works a viable access configuration that mitigates or avoids access from 7000 N"; and

7. Take into consideration maps and studies from the WHA and indicator habitats to shift building envelopes and density to avoid these habitats.

AYES (7): James Weber, Tyler Wertenbruch, Wyatt Penfold, Wade Kaufman, Rebeca A Baker, Carl Kohut, and Tom Braun

Adopted (7 to 0)

6. WORKSESSION: Code Amendment Discussion

Mr. Chase discussed the BoCC potentially changing the Planning Commission members and he noted that the discussion has been put on hold for now and he thanked the existing members for their dedication to the Commission and their in depth discussions to provide input to the BoCC for their hearings.

Mr. Chase thanked the members for their input on amendments. He wanted the Commission to provide input on the scope of proposing changes and priorities. He noted that Mr. Kohut provided some things he

thought were good comments from Victor's ordinance and he felt they were worth considering. He also talked about wetlands and variances and the need to clarify some of that language. Mr. Wertenbruch was concerned with fire protection, wetland and wildlife overlay definitions, and clarity in the LDC language for the applicant and the public. He felt they should be looking at making changes so the public and applicants have a better understanding on the intent of the code and exactly what they need to provide. Mr. Braun was in favor of using graphics in the code to help with understanding the language that can be difficult for those with no background in development.

Mr. Chase wanted to work on the processes and providing clear criteria for how to proceed with an application and what would be required. He also talked about noticing requirements for major LDC changes. Mr. Wertenbruch suggested looking into how people are looking for information on County ordinance changes and other ways to get information out to the public other than signs on the road. Mr. Kohut commented he is not heavily involved in social media and that the signs let him know there is something that should be looked into. He also wanted to see more work done on the variance process relating to wetlands after seeing so many wetland variance requests. Mr. Weber wanted to have more input from legal counsel in advance to a hearing to help reduce the need to continue for more legal input and also suggested that the site posting signs should be the requirement of the applicant to reduce the County staff burden and their time out of the office.

Mr. Chase thanked the Commission for their time and effort in making positive changes to the LDC to improve the application processes.

E. Adjourn

Adjourned at TIME.

MOVER: James Weber

SECONDER: Carl Kohut

MOTION: *Adjourn at 8:45*

AYES (7): James Weber, Tyler Wertenbruch, Wyatt Penfold, Wade Kaufman, Rebeca A Baker, Carl Kohut, and Tom Braun

Adopted (7 to 0)

Cindy Riegel, Chairperson

County Clerk or Deputy

