



VARIANCE REQUEST

REASON FOR REQUEST: DEVELOPMENT IN A STREAM OR CREEK 50' RIPARIAN BUFFER SETBACK

LOCATION: SOUTHERN END OF S 1000 W

PREPARED FOR: TETON COUNTY PLANNING AND ZONING COMMISSION

PUBLIC HEARING ON JUNE 10TH, 2025

LANDOWNER: Good Timber Ranch LLC

APPLICANT: Stillwater Design Group

REQUEST: The applicant is requesting a variance to encroach on the riparian setback for Big Spring Creek. The variance would allow approximately 320 square feet or 10 feet 6 inches (at its maximum point) of a deck to extend into the setback.

APPLICABLE COUNTY CODE: Land Development Code 5-4-2 (C).

PARCEL NUMBER: RP03N45E227200

LEGAL DESCRIPTION: TAX #7808 SEC 22 T3N R45E

ZONING DISTRICT: FH-10 Foothills

PROPERTY SIZE: 8.63 Acres



Figure 1. Vicinity Map. Subject Parcel Highlighted Blue. NW of Victor.

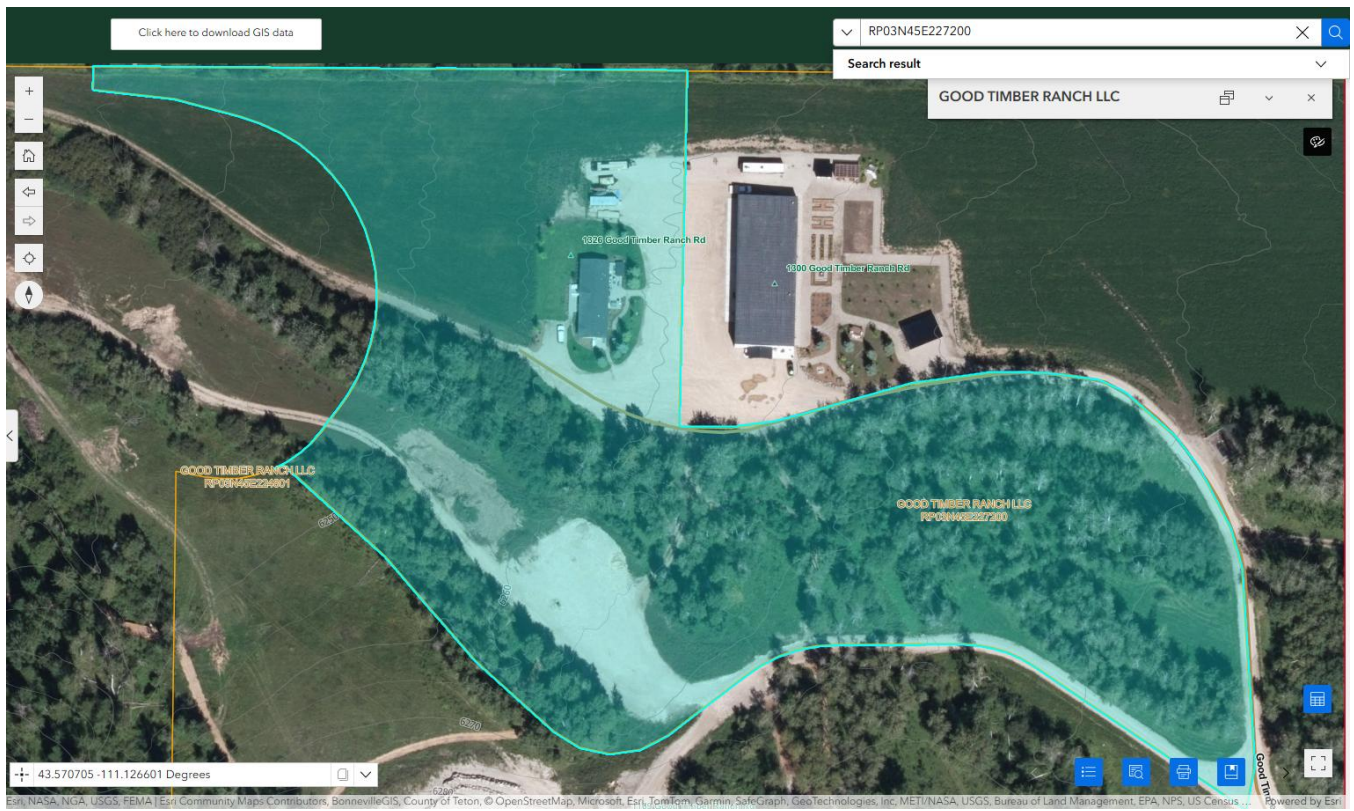


Figure 2. Aerial Image

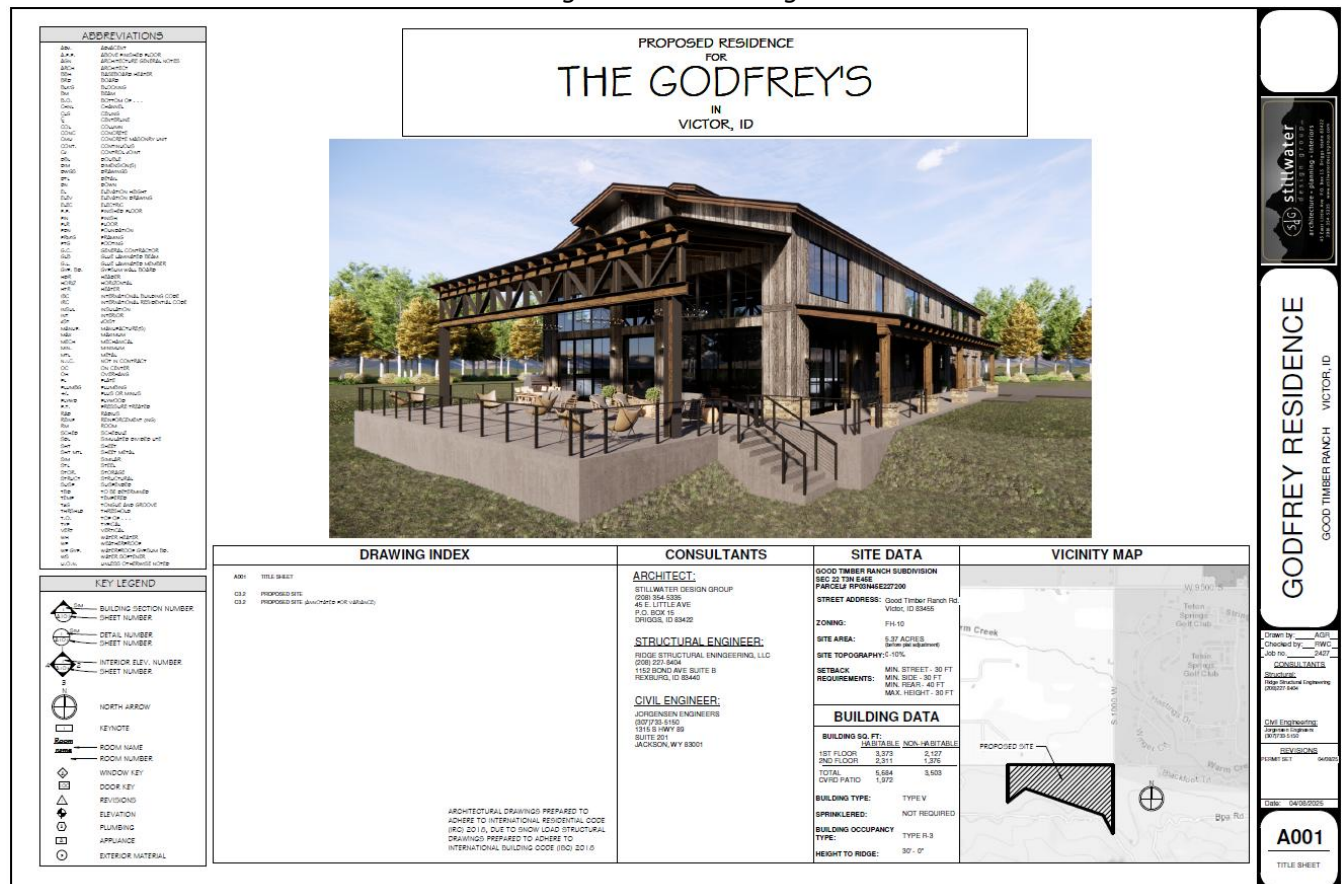


Figure 3. Proposed Residence

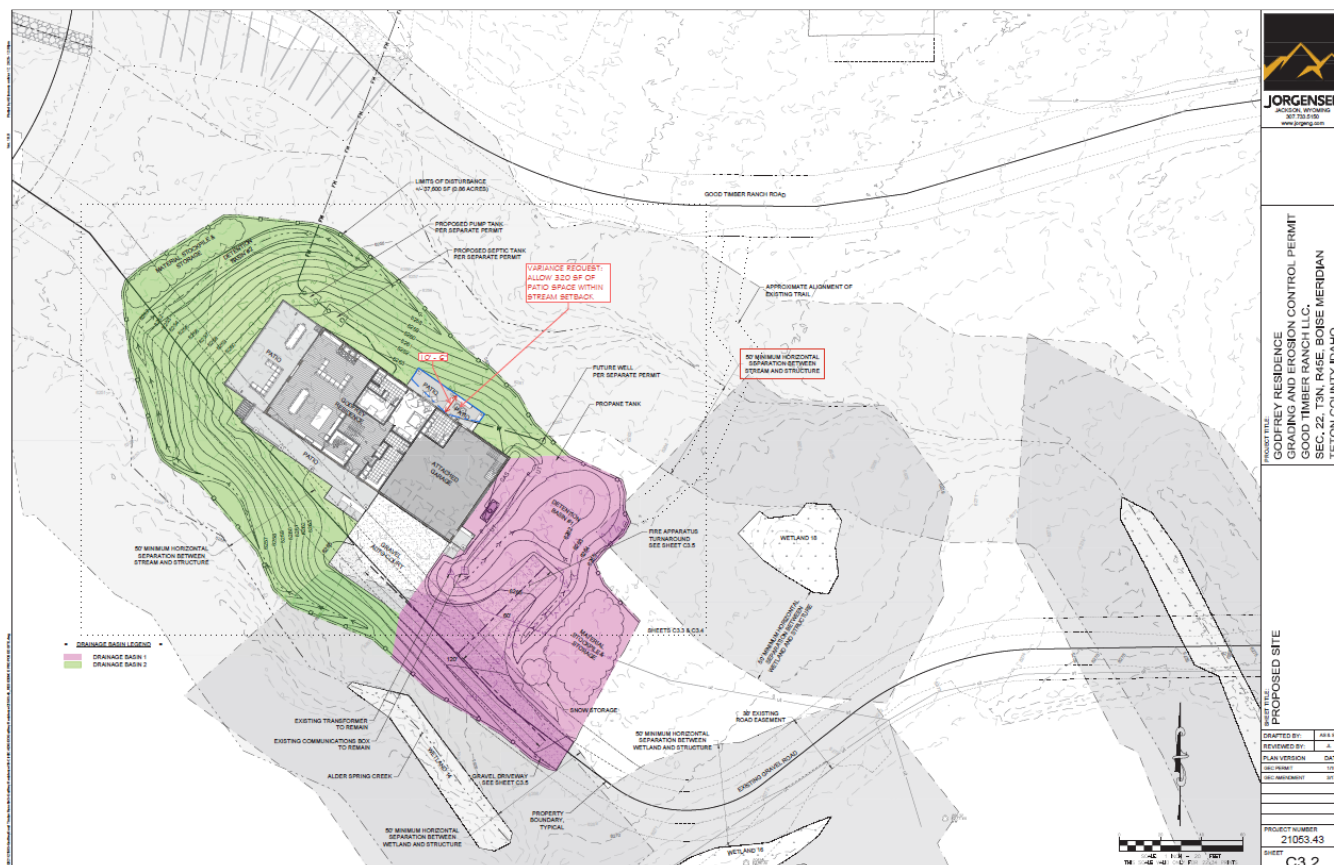


Figure 4. Proposed Site

The Variance request specifically pertains to the following development standards in the Land Development Code:

1. **TCC 5-4-2 (C)** Setback requirement: all physical development and use is required to be set back from specified resources as shown in Table 7.

OVERVIEW OF VARIANCE APPROVAL:

9-4: Variances can only be approved for the modification of the bulk and placement requirements of the LDC as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other LDC provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots, as outlined in Idaho State Code 67-6516. Variances are considered through a quasi-judicial process.

Idaho State Code 67-6516 – “A variance shall not be considered a special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site and that the variance is not in conflict with public interest.”

Review Criteria	Staff Analysis
1. If the variance application relates to a public-school facility, that the subject property is appropriate for development allowed in the proposed Zoning District, including the impacts authorized for review under Idaho Code section 67-6519(3).	Application does not pertain to a public school facility.
2. A literal interpretation of the provisions of the LDC would effectively deprive the applicant of rights commonly enjoyed by other properties of the Zoning District in which the property is located;	A literal interpretation of the LDC standard would not allow development within wetland areas and riparian area setbacks. A 50' setback would be required along streams or wetland areas. A wetlands delineation was completed and there are no wetlands identified within 50' of the proposed building, therefore the only setback considered is a stream setback. The prohibition of development in riparian buffers may constitute an undue hardship due to location of stream channels on the parcel. This should be discussed by the P&Z. The applicant's narrative does not address this criterion.
3. Granting the requested variance will not confer upon the property of the applicant any special privileges that are denied to other properties of the Zoning District in which the property is located; Chapter 4 – Application Procedures 4-71 4.	The applicant's narrative does not address this criterion. This criterion should be discussed by the P&Z.
4. The requested variance will be in harmony with the purpose and intent of the LDC and will not be injurious to the neighborhood or to the general welfare;	The applicant's narrative states that the proposal is in harmony with the intent of the LDC because the encroachment is limited to 320 Sq. Ft. Public comment generally disputes the claim that the variance meets the purpose and intent of the LDC and collectively believe that allowing the variance would negatively impact downstream landowners, primarily in the form of increased sediment from disturbed areas. This is a fairly broad criterion as it considers the intent of the full LDC and neighborhood impacts as well as the broader general welfare.
5. The special circumstances are not the result of the actions of the applicant;	The applicant's narrative does not address this criterion. Although the applicant has made several adjustments to the configuration of contiguous lots under their ownership it is not clear that the current variance request is a result of those changes. The constraints in question are driven by the proximity of existing stream channels.
6. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure;	The applicant's narrative references the small nature of the request, inferring that they believe that the request is the minimum variance that would make possible the proposed residence.

	Public comment collectively referenced the size and location of the proposed structure as being inappropriate and referenced that more appropriate locations exist on adjacent parcels owned by the applicant. Relevant considerations for the P&Z may be whether the proposed construction could occur elsewhere on the specific parcel or be modified in some way in order to meet the setbacks outside of significantly changing the proposal in terms of size or scope of use.
7. The variance does not permit a use of land, buildings or structures, which are not permitted by right in the Zoning District or the LDC, including Chapter 5;	The applicant's narrative does not address this criterion. The full scope of the proposed current or future use of the structure has not been discussed or disclosed by applicant with current planning staff. It is the planning department's understanding that the proposed use is limited to a residential use. The Commission can collect additional information from the applicant if they feel it is warranted and/or stipulate that any approval of a variance will be limited to the uses that are understood by the county or represented by that applicant or are otherwise already permitted in the zone;
8. Granting of the variance is not in conflict with the public interest;	The applicant's state that the variance is not in conflict with public interest. Public comment collectively referenced continued harmful impacts to downstream landowners and tributaries of the Teton River through activity on the broader site and specifically on the
9. The variance does not reduce the lot size below the minimum lot size allowed in the Zoning District, except as provided in section 1-8.	The application is not proposing to modify the site.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE:

Idaho Code, Title 67, Section 67-6509, 67-6511, 67-6512, and Title 9, Section 3-2-(B-2) of the Teton County Code. The public hearing for the Planning & Zoning Commission was duly noticed in the Teton Valley News on May 21 and May 28, 2025. A notification was sent via mail to surrounding property owners within a 300-foot buffer area on May 16, 2025. A notice was also posted on the property providing information about the public hearing on May 27, 2025.

REVIEW & INTER-AGENCY COMMENTS:

All related documents are attached.

- **Email dated May 21, 2025 from Teton County Fire Marshal Earle Giles**
 - Good Timber Ranch, the Variance Request found no fire related issues or concerns and is approved.

PUBLIC COMMENT:

Staff has received 4 public comments (against) on this application as of June 1, 2025. Submissions included drone footage and aerial photography.

RECOMMENDATION:

Planning and Zoning Commission should deliberate if the proposed deck attached to the Godfrey residence encroaching the 50' setback from Big Spring Creek warrants an undue hardship.

CONDITIONS OF APPROVAL

1. The granting of a variance for TCC 5-4-2 (C) does not equate to an approved site plan for a building permit. Applicant will still need to receive a Grading and Erosion Control Permit, Building Permit and all necessary approvals from Teton County.
2. An approved variance expires 1 year after the approval date unless the applicant has filed a complete application for a building permit or made substantial progress towards development that does not require a building permit.
3. All future development will take place outside of the 50' setback from Streams or Creeks will be required to go through the variance process again.

PLANNING & ZONING COMMISSION ACTION:

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

MOTIONS**APPROVAL**

Having concluded that the Review Criteria of a Variance found in Chapter 4-9 of the Land Development Code can be satisfied (with the inclusion of the following conditions of approval, (if any...)), I move to APPROVE the Variance for **TCC 5-4-2 (C)** as requested in the application materials submitted April 14, 2025.

DENIAL

Having concluded that the Review Criteria of a Variance found in Chapter 4-9 of the Land Development Code have not been satisfied in the application materials submitted April 14, 2025 I move to DENY the Variance for **TCC 5-4-2 (C)** as requested, for the following reasons...

Prepared by:

Joshua Chase, Planning Administrator

Dan Leemon, Senior Environmental & Recreation Planner

Attachments:

- A. Staff Report (6 pages)

- B. Variance Permit Application (2 pages)
- C. Variance Permit Narrative (1 page)
- D. Good Timber Ranch Site Plan (3 pages)
- E. Email Fire Marshal Review (1 pages)
- F. Public Comment (72 pages)

End of Staff Report