

# TETON COUNTY, IDAHO | Board of County Commissioners

## Written Decision for the Denial of the Variance Request on Appeal for Brian Fraiz

This is a written decision on the findings for the denial on Appeal of the Variance Request for Brian Fraiz (the "Variance") under Teton County Land Development ("LDC") adopted August 2, 2022, which law applies to this request for an appeal to a denial of this Variance.

APPEAL APPLICATION DATE: February 24, 2025

APPLICANT: Brian Fraiz

PARCEL: RP04N4E290050 – 40 acres

PROJECT NAME: Fraiz Property – Variance Appeal

PURPOSE OF APPLICATION: An appeal of the denial of a variance request under sections 4-15 (Appeals), 4-9 (Variances), and 5-4-2 of the LDC as it relates to wetland area setbacks.

### Applicable Standards and Criteria for Application Evaluation: Land Development Code (LDC) – Chapters 4 and 5

#### 4-15 Appeals and Reconsideration

##### A. Applicability

1. In addition to the remedies described in Section 1-7 of the LDC, this section provides the remedy of appeal from and requests for reconsideration of final decisions made by the Administrator, PZC, BoCC, or other County official.
2. An applicant or an affected person may avail themselves of these administrative remedies in accordance with this section.
3. An appeal of a decision will be reviewed by the PZC or BoCC, as specified in the table in Section 4-1.
4. Appeals and requests for reconsideration must be filed with the Administrator within fourteen (14) calendar days of the date of a written decision.
5. Any applicant or affected person seeking judicial review of a written decision must first request reconsideration of the final decision as provided here.

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##### D. Procedures for Appeals and Requests for Reconsideration

1. Following notice and a hearing, as required by law, the reviewing official or body may affirm, reverse or modify the original decision after verification of compliance with applicable procedural and LDC standards.
2. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the completed appeal or request for reconsideration.
3. Where no written decision on a request for reconsideration is issued to the applicant within sixty (60) days of receipt of the completed application, the request for reconsideration is deemed denied, without further action by the applicant or the County.

#### 4-9 Variances

##### A. Applicability

1. 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.

2. A variance is not a right or special privilege and may be granted only upon a showing of:
  - a. Undue hardship because of characteristics of the site; and
  - b. That granting of the variance is not in conflict with the public interest.

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#### E. Review Criteria

The recommendation of the Administrator and decision of the PZC of whether the applicant has made a showing of lawful Undue hardship, will be based on the following criteria:

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).
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;
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;
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;
5. The special circumstances are not the result of the actions of the applicant;
6. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure;
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;
8. Granting of the variance is not in conflict with the public interest; and
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.

### **Procedural Background and Project Summary**

Brian Fraiz submitted an application on October 4, 2024, for a wetland setback variance on a 40 acre parcel (RP04N45E290050). The project specifically sought relief from LDC § 5-2-3 Stormwater Management Standards and LDC § 5-4-2 Riparian Buffers. The variance from the setbacks and development standards within wetland buffers would allow the applicant to develop a home, guest home, driveway, and other improvements in the wetlands by encroaching the 50-foot setback from delineated wetlands.

On November 12, 2024, the Teton County Planning & Zoning Commission (PZC) held a public hearing for the Variance Request for Brian Fraiz. This hearing was continued to allow PZC to obtain legal review on variance criteria. The Planning and Zoning Commission subsequently denied the variance on January 14, 2025, and approved the language for a written decision on February 11, 2025. The applicants timely filed a request for an appeal on February 24, 2025.

APPEAL HEARING DATES: April 14, 2025; April 28, 2025; and May 1, 2025.

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 Board of County Commission was duly noticed in the Teton Valley News on March 26<sup>th</sup>, 2025 and April 2, 2025. A notification was sent via mail to surrounding property owners within a 300-foot buffer area on March 21, 2025. A notice was also posted on the property providing information about the public hearing on April 8<sup>th</sup>, 2025.

Board of County Commissioners present (at initial public hearing and each subsequent meeting): Brad Wolfe, Michael Whitfield, Ron James

Applicants and Representatives Present: Brian Fraiz (Applicant); Braden Olson (Nelson Engineering), Kathy Spitzer, and Tim Grimes (Houseplant Designs)

Joshua Chase, Planning Administrator.

Staff presented a staff report. Written public comments which were not included in the staff report were allowed to be read into the record during the hearing. The applicant and their representatives presented the appeal request. They focused on the location of the proposed homes being driven largely by the location of the permitted septic system as guided by the Eastern Idaho Public Health District, and the bearing capacity of the soils impacting the design of the structure. The public hearing was opened. One individual spoke in the neutral position. It was determined that the project was not near the commenter's parcel. Another person spoke in the neutral position and cited state statute related to undue hardship and public welfare aspects of a variance.

One person spoke in opposition representing a nearby landowner. They stated that the proposal did not meet the finding that the request was the minimum variance needed. The comments focused on the points that the planning and zoning commission deliberated on in finding the request did not meet the requirements for a variance and that the PZC identified specific actions that could result in an approval. Much of the discussion focused on underutilization of the area delineated as "upland 1" in the variance application. A letter in opposition was read into the record by planning staff which focused on potential impacts to water quality and the need to have local government oversight to protect these resources. Another person spoke in opposition and focused on the potential impact to the water resources of the community. Braden Olson spoke as a representative of for the applicant affirming the square footage area of upland areas but reaffirming that the buildable portion of the upland area is limited when subjected to setbacks. Another adjacent landowner spoke in favor of the application stating that the proposed restoration or mitigation work would improve wildlife habitat values. In rebuttal, the applicant addressed use of "uplands 1" which needs to remain undisturbed to be available for a replacement drainfield and addressed that the location of the home is tied to the approved septic system.

The Board closed the public hearing and began deliberation. During their deliberation the board asked clarifying questions related to the constraints on construction on the site related to wetlands. The Board had specific questions related to legal considerations of the review criteria of a variance. The board indicated that they understood the consideration that required proximity of the home construction to the location of the approved septic system drainfield but also believed that the location of the proposed homes could be moved further out of wetlands or reconfigured to be less impactful to wetlands. The board indicated that they believed some variance would be necessary but the building plan that was proposed did not demonstrate adequately that this was the minimum variance necessary to complete the project. The board continued the application for legal clarification of at least two variance criteria referring to criterion 6 and 8 of LDC § 9-4(E).

On April 28, 2025, the Board took the matter up again. At that time, additional public comment had been received questioning whether new information had been introduced and the board deliberated on whether they believed new information was considered in the Board's deliberation and ultimately in their decision. The board continued the application to May 1<sup>st</sup>, 2025, to obtain legal counsel as to whether new information had been heard that warranted reopening the public hearing.

On May 1<sup>st</sup> 2025, the Board continued their deliberation on the appeal. The board made statements that their decisions were based on and limited to the information presented in the public hearing held on April 24<sup>th</sup>, 2025, and were not based on information subsequently presented in letters or comments made after the public hearing, therefore they did not believe it was necessary to re-notice and reopen the public hearing. The bulk of the discussion focused on whether the applicant's request represented the "minimum variance that will make possible the proposed use of the land, building, or structure" as well as whether the proposal was in conflict with the public interest. Following the deliberation the Board voted unanimously to uphold and affirm the denial of the variance by the Planning and Zoning Commission.

### **Reasoning and Analysis**

The Board has acted without any effect on their decision by any information presented after the close of the public hearing in this matter. Based on the facts presented at the above-described public hearing and in the written record of this matter, which include conflicting facts, the Board finds the following facts true, accurate, and relevant to the decision of this matter:

1. The 40-acre property is currently in a conservation easement with the Teton Regional Land Trust. This conservation easement has a designated 2.5-acre building envelope in the NE corner which constrains the

location of development. This is a private agreement with a third party and is recognized but not enforced by the County.

2. The property is zoned LA-35.
3. The area including and surrounding the site is largely undeveloped, with substantial water resources including streams and springs throughout. The property directly abuts conservation easements to the west, south and east. To the north is a parcel held by Idaho Fish & Game. There are no homes or residential structures for over half a mile in any direction.
4. An Aquatic Resource Inventory was conducted by the Applicant (See attached exhibit 1). It identified two significant upland areas within this building envelope, while the remainder of the land in the building envelope was identified as wetland.
5. Approximate Size of Upland 1: 12,704 sf to edge of road, 11,368 sq feet not including the road right of way, and 8,052 sq. ft. after removal of property setbacks.
6. The majority of the property was is identified as wetland; Foster's Slough, Fox Creek, and an un-named tributary traverse property.
7. The property also falls within the Teton County Natural Resources Overlay. The entirety of the property is identified as Priority Wetland Habitat and also Waterbird Breeding, Migration, Foraging and Wintering Habitat. Sections of the property outside of the building envelope also include Songbird/Raptor Breeding and Wintering Habitat.
8. The applicant stated the proposed main house was intended for a family of 5.
9. The proposed main house is single story.
10. Footprint of proposed main house in Site Plan: 3,473.5 sf. with a gross floor area of 3,811 sf
11. Height of proposed main house in Site Plan: 24' - 7 1/4"
12. In the Site Plan, the proposed main house is located beginning at 244 feet back from the northern boundary or the property and extends to 405 feet from the northern boundary of the property.
13. The detached proposed guest house is single story.
14. Footprint of proposed guest house in Site Plan: 735 sf
15. The proposed guest house is located beginning at around 167 feet back from the northern boundary of the property.
16. Distance between proposed main house and proposed guest house: 46' - 9"
17. Combined total footprint of proposed main house and proposed guest house: 4,208.5 sf
18. Total lot coverage with imperious surfaces in Site Plan: 12,046 sf
19. Length of proposed driveway: approximately 375 feet long and 16 feet wide
20. Length of proposed driveway portion extending beyond Upland 1 into the wetlands: 120.4 feet
21. Two water lines are proposed to run lengthwise under the driveway to the house and guest house.
22. Because of the challenging nature of the location for septic systems, the design was changed to a proprietary Eljen enhanced system.

23. The primary and secondary leach field are depicted on the Site Plan as approximately 1,680 sf each.
24. Site Plan proposed two separate septic lines, one leaving from the proposed guest house and the other from the proposed main house.
25. The sewer line from the proposed guest house is planned to traverse under the length of the driveway, and run approximately 215 feet to the primary leach field.
26. There will be a lift station approximately 135 feet from the proposed guest house; it is located entirely in wetlands.
27. The primary leach field is located in Upland 3. The replacement leach field in Upland 1.
28. The aquatic resource inventory identified soils wet at the surface in the sample area where the main house, guest house, septic line, and lift station are proposed.
29. As stated in the Applicant's appeal narrative, the LDC requires setbacks from all wetlands (i.e. without consideration of wetland type or quality).

The PZC initially denied the applicant's request for a variance for the reasons previously stated in a separate written decision (the "Original Decision"). It is that decision that the current appellant, Brian Fraiz, now asks the BoCC to reconsider on appeal.

The applicant's primary arguments focused on three points. The first was that the location of the homes (*i.e.*, the main house and the guest house) need to be in proximity to the EIPH septic system drainfield located on "uplands area 3" to reduce strain on the pump required to move the wastewater to the drainfield. However, no information was provided on the maximum distance feasible to pump the water, but applicant implied that closer is better for pump performance. The board acknowledged that they understood this as a constraint for building on the site and recognized that some level of variance was inevitable to construct what was proposed.

The second argument is that the "uplands area 1" could not accommodate any additional part of the proposed development as it only included somewhat over 200 square feet of area after considering the needed undisturbed space for a replacement septic system drainfield, propane tank, other utility connections and proposed driveway, and after applying other required setbacks. This argument may overlook provisions in the LDC which allow for underground utilities including a septic system drainfield to encroach into required property line setbacks. See LDC § 1-10(1)(2)(e) ("Structures below and covered by the ground may encroach into a required setback"). It also ignores the potential to request variance from these property line setbacks through the same variance process pursued for the project seeking the variance from wetlands setbacks. While reserving uplands area 1 for a replacement septic system may be a worthwhile precaution, the utter lack of its utilization for anything proposed in association with this variance raises a serious question about whether another arrangement of this project could require less of a variance under LDC § 4-9(E)(6). Ultimately, the board did not find that the applicant had demonstrated they could not utilize more of the uplands area 1 through a different site plan or re-arrangement of the proposed construction, but again acknowledged some level of variance was likely inevitable and would be granted on showing the minimum variance was being requested.

The applicant's last argument is that the requested variance should be viewed through a narrow lens of a setback requirement. The argument made was that as the U.S. Army Corps of Engineers ("USACoE") has authorized development within the wetlands, and that as a result the county has no jurisdiction related to the placement of the home relative to the wetlands so long as the resulting construction is setback from a wetlands edge, including a modified or artificial edge based on fill placed over wetlands. Applicant asserts that the county should only consider a setback from the edge of a wetlands and constructed uplands area rather than from the existing natural delineated wetland and should not consider the extent to which the proposed homes placed on fill extend into the existing wetlands. With this line of reasoning the applicants asserts that he is *not* building within in the wetlands because it would be placed upon USACoE approved constructed uplands. This asserts that the USACoE controls and authorizes wetlands disturbance, therefore the county has no jurisdiction in relation to wetlands.

The argument the County Commissioners considered was whether this narrow view addressed the intent of the ordinance. While the Board acknowledges the USACoE's jurisdiction and authority over wetlands, the LDC governs development in Teton County and

includes provisions relating to wetlands that are separate from the USACoE's rules. The Board's reads its Land Development Code broadly in relation to wetlands and the riparian corridors/buffers. This is supported in several locations in the LDC, including:

LDC § 1-4(A)(1)(c) ("Development in areas with key riparian, wetland, or fish/wildlife resources, as identified by the NRO, shall be clustered to provide meaningful open space **and limit impacts on these natural resources.**" (emphasis added);

LDC § 5-4-1(E) (requiring the location of proposed development to: (a) "Reduce fragmentation of functional, intact areas of native vegetation and indicator habitat. Priority habitats shall include: Lower Teton River canyonlands including lower Badger and Bitch Creeks; forested foothills along the public land boundary (Teton Front, Horseshoe Canyon, Northeast foothill, etc.); Teton River corridor (valley reach); fluvial cottonwood corridors; **and large wetland complexes on the east side of Teton River;**" (b) "**Avoid locations that affect landscape elements such as** unique rock formations, sheltered draws, drainage ways, **or riparian corridors;**" and (c) "Maintain connectivity among fish and wildlife habitats and protect sensitive fish and wildlife habitats use for travel, foraging, reproduction, shelter, and security." (emphasis added)); and

LDC § 5-4-2:

**A. Intent**

Riparian areas are located along the banks and margins of rivers, streams, creeks, ponds, and other water bodies. Riparian zones and the plant communities within them provide habitat for wildlife, shading for fish, areas to attenuate floods, and water quality enhancement. **The intent of this Section is to protect and maintain riparian areas in Teton County.**

**B. Applicability**

This Section applies to new development and development activity on sites that contain riparian features. **This includes riparian areas associated with wetlands,** the Teton River, tributary streams and creeks, and lakes and ponds.

**C. Setback Requirement**

**All physical development,** development activity and use, except those specified in Section 5-4-2- D, **is required to be set back from specified resources as shown in Table 7. The area within the setback is defined as the Riparian buffer.**

(Emphasis added throughout)

Another consideration from the LDC related to the measurement of setbacks from sensitive areas specifically states that "Wetlands setbacks are measured from the edge of the boundary line established by the National Wetland Inventory Map, **or the line established by a detailed site-specific delineation approved by the U.S. Army Corps of Engineers.**" LDC § 1-10(F)(3) (emphasis added). This language does not support creation of a new artificial wetlands edge based on the placement of USACoE approved fill.

A broad view of protection of wetlands and associated riparian zones, which by definition includes the setback area within 50 feet of the wetlands, would suggest that the intent includes reducing the intrusion of development into these areas and not merely meeting a setback which could be artificially established through placement of fill. The interpretation being that intent of a development set back from the wetland resource is to avoid construction within that resource, or that even if the setback was varied it would still be the intent to stay as far away from or intrude into the wetland as little as possible. The view that artificially creating uplands through placement of fill, and then extending the uplands area by placing additional fill until you hit a distance of 50' from the edge of a home in order to create an artificial setback for development, placed over the top of existing wetlands, seems inconsistent with the intent expressed in several areas of the ordinance. These sections of ordinance also touch upon the broader public interest element of these shared and interconnected water resource including wetlands, which have potential impacts on water quality, can attenuate flooding, and maintain intact habitat for fish and game resources.

This perspective also relies on the County Land Development Code being applied in a layered fashion which allows the county to impose higher standards beyond those imposed by other agencies or regulatory entities. LDC § 1-1(C)(4) ("If any condition or requirement imposed by the LDC is more restrictive than a condition or requirement imposed by any other law, rule, or regulation, the more restrictive condition or requirement governs, unless preempted or otherwise prohibited by law."). Further, "[i]f any condition or

requirement imposed by the LDC contains an actual, implied, or apparent conflict, the more restrictive condition or requirement controls.” LDC § 1-1(C)(5).

In this application for a variance, despite the applicant’s arguments otherwise, the PZC’s Original Decision appears correct in finding that the proposed variance is not the “minimum variance that will make possible the proposed use of the land” (LDC § 4-9(E)(6)) and it is “in conflict with the public interest” (LDC § 4-9(E)(8)).

The applicant makes that argument that the “minimum variance” element must be evaluated solely in light of the specific proposal by the landowner seeking a variance. This cannot be the correct reading of LDC § 4-9(E)(6), which requires the Board to evaluate whether the “variance requested is the minimum variance that will make possible the proposed *use* of the land, building or structure.” (Italics omitted, emphasis added). Thus, the requested variance is compared to whether there is another option that would accomplish the same “use” of the land. It cannot mean, as applicant argues, only that the requested variance is compared to what else could be requested for this specific proposal—such a reading of this element would analyze only whether an applicant is seeking more than he/she requires in order to complete their project as designed; not (as the wording of the ordinance indicates) analyzing whether an applicant is seeking more of a variance that he/she requires to make the “proposed use” of the land outlined in the variance application.

Here, the Board finds that the Fraiz application for variance shows that the applicant wants to make residential use of this property for a single family home, along with an accessory dwelling unit (as allowed for residences under the LDC). However, in order to make that proposed use of the land, Fraiz could do so while making more of an actual use of upland area 1, rather than only reserving it for a (potential) replacement septic system. Doing so would allow this same residential “proposed use”, while requiring less of a variance. Therefore, this variance request is not the “minimum variance that will make possible the proposed use of the land” required by LDC § 4-9(E)(6). The conclusion in the PZC’s Original Decision in this regard was correct.

Further, as evinced repeatedly throughout the LDC, the public has a substantial interest in the wetlands within Teton County. The public generally, and Fraiz specifically, has an interest in developing property within Teton County and in providing residential development. Thus, the “public interest” is not a one-dimensional fact, but is a multifaceted consideration. Weighing these conflicting public interests, the Board finds that the variance sought by this application undervalues wetlands (and the public interest therein), in part because it does not make full use of non-wetland land (such as upland area 1, which is reserved for a future potential use), and in part because the large footprints of both the proposed main house and the proposed guest house are placed entirely within the mapped wetland habitat. The proposed layout also places long stretches of septic line away from the buildings, necessitating a lift station within the mapped wetland. Potential failure of the system is a concern, and given the interconnected nature of the ground and surface waters in the area, the Board could not make a finding that the current plan did not conflict with the public interest in these wetlands. Therefore, this Variance does conflict with the public interest, meaning it does not satisfy the requirement of LDC § 4-9(E)(8). The conclusion in the PZC’s Original Decision in this regard was also correct.

There are other options that would minimize the necessary variance and reduce the disturbance to wetland habitat. For example, more infrastructure could be placed into upland area 1 by reducing the length of the driveway and reorienting the proposed home sites. The guest house could also be attached to the main house, or be placed in other arrangements in order to reduce impermeable surfaces and cause intrusion into the wetlands and minimize septic risks that are particularly poignant in this wetland area. The overall size of upland area 1 may be large enough to accommodate a significantly shortened driveway as well as both the primary and reserve septic leach fields. In addition, underground infrastructure components are permitted to encroach into property line setbacks. Optional septic system designs could result in eliminating wastewater lines placed entirely within the wetlands where there is potential for failure and contamination during freeze/thaw cycles. A shortened driveway could also reduce the overall square footage of impermeable surfaces. In addition, a “southerly extension” of the house could be re-oriented to point east to minimize its reach into the wetlands.

The Board recognizes that a variance may very likely be required in relation to this property, but believe the variance proposed in the present application is not the minimum necessary to protect wetlands and accomplish the proposed use, nor is this proposal in the public interest.

#### **MOTION**

For these reasons, on May 1, 2025, the Board passed a verbal motion as follows:

Having concluded that the Review Criteria of a Variance and other code found in the Teton County Land Development Code, Sections 4-9, 4-15, 5-2-3, 5-4-1, and 5-4-2, cannot be satisfied, the Board AFFIRMED the Planning and Zoning Commission's Original Decision to DENY the Variance for Brian Fraiz as requested in the application materials submitted October 4<sup>th</sup>, 2024, for the following reasons:

1. The proposed variance does not meet criterion 6 [*i.e.*, LDC § 4-9(E)(6)] as it is not the minimum variance required
2. The proposed variance does not meet criterion 8 [*i.e.*, LDC § 4-9(E)(8)] as it is not in the public interest.

The Board encouraged the applicant to return with an updated site plan that places as much of the infrastructure as feasible to minimize disturbance of the indicator habitat - the wetlands.

*Commissioner Mike Whitfield made the motion; motion was seconded by Commissioner Ron James.*

AYES: Brad Wolfe, Michael Whitfield, Ron James

## **CONCLUSIONS**

Having given due consideration to the application and materials presented, and to the review criteria in Teton County Land Development Code 4-9, for the reasons described above, the Teton County Board of County Commission hereby makes the following conclusions:

1. The review criteria numbers 6 and 8 in the LDC § 4-9(E) for the proposed variance were not satisfied. The application was properly denied as presented by the Teton County Planning & Zoning Commission.

- a. Review Criteria Items not satisfied:

LDC § 4-9(E)(6): "The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure"

LDC § 4-9(E)(8): "Granting of the variance is not in conflict with the public interest."

- b. Basis for finding Review Criteria not satisfied:

The BoCC did not consider matters related to previous wetlands approvals from other jurisdictions or wetlands mitigation, which is not within the scope of the County's review of this application. Likewise, the BoCC did not consider the conservation easement existing on the subject property, which is a private matter between the landowner (applicant here) and the easement holder (a third party). While the background information relating to these matters was helpful for the BoCC to understand, it was not relevant to the BoCC's determination of this application. The BoCC affirmed that the basis for their decision was limited to information provided at the public hearing and did not rely on information presented following the hearing. The Board's decision relied on language from the LDC which presents a broad perspective of wetlands protection in its intent rather than a narrow perspective focusing only on the letter of the setback requirement.

Given the constraints of the 50-foot wetland setback (required by LDC § 5-4-2-C), this application seeks, at points, to almost entirely negate the setback and would place the proposed structures entirely within the delineated wetlands. The BoCC finds that there may be other options and changes to this design that could result in less of a variance than what is sought in this application. Thus, this cannot be considered the minimum variance that makes this proposed use possible.

2. The proper legal requirements for advertisement of the public hearing have been fulfilled as required by Idaho Code, Title 67, Sections 67-6509, 67-6511, and 67-6512, and the Teton Land Development Code Section 4-2-D..



3. Therefore, the Board DENIES the appeal filed by Mr. Fraiz and AFFIRMS the PZC's Original Decision to deny the application for this Variance filed by Mr. Fraiz.

Teton County Board of County Commissioners, Chair

Date



5/27/25

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 27 day of May 2025, I served a true and correct copy of the foregoing document upon the following:

Brian Fraiz

brianfraiz@gmail.com  Mailing

Hand Delivery

Fax

E-Mail

Overnight Mail

Courthouse Box



Clerk

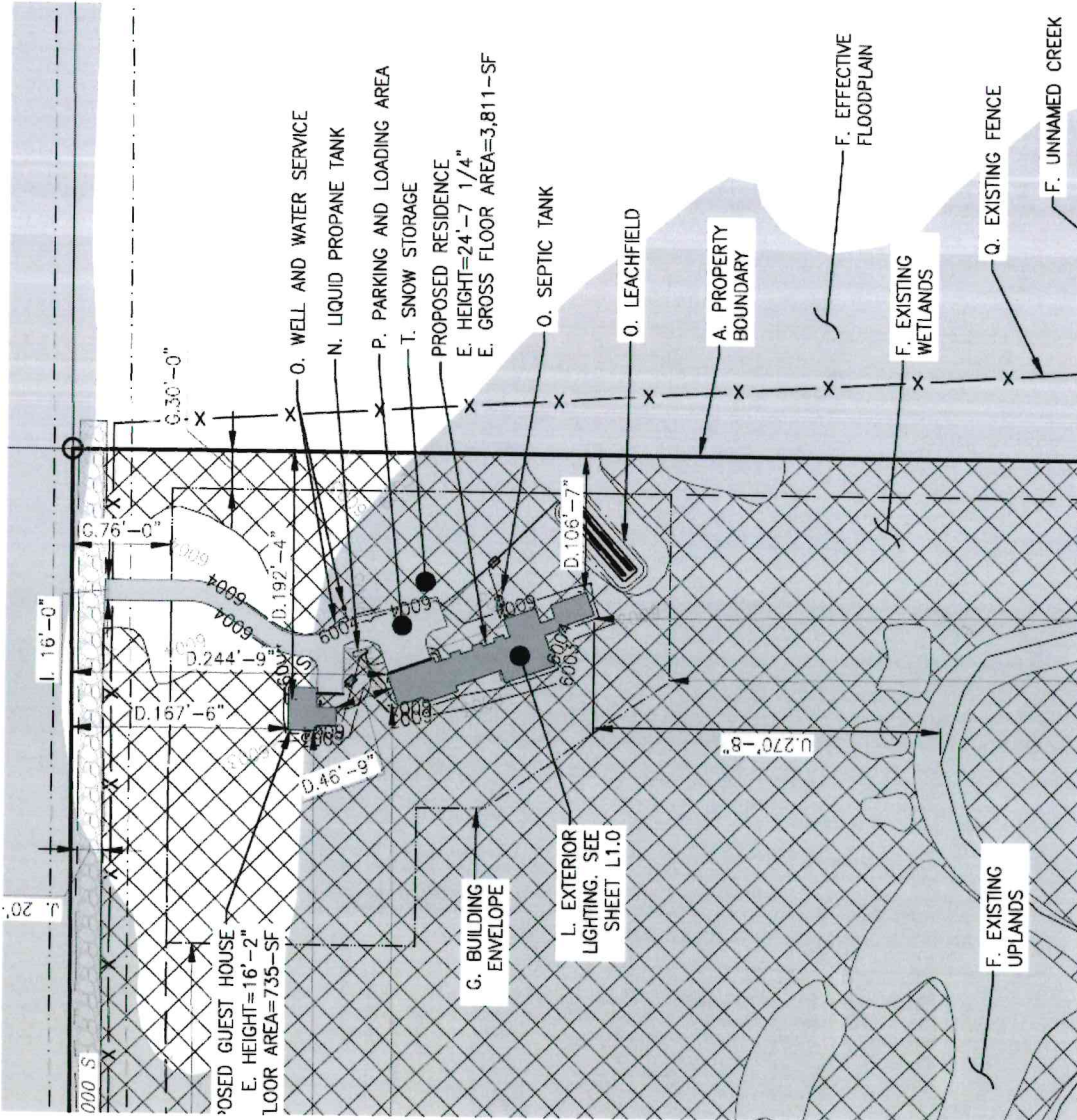


Attachments



Map of Wetland Features delineated 2022

Exhibit 1 from Intermountain Aquatic's Aquatic Resources Inventory, October 6, 2022.



**SITE PLAN REQUIREMENTS**

- A. PROPERTY LINES
- B. LOT AREA = 400 ACRES
- C. LOT COVERAGE = 100%
- D. LOT AREA = 100%
- E. LOCATION, SIZE, HEIGHT, AND GROSS FLOOR AREA OF EXISTING AND PROPOSED STRUCTURES
- F. EXISTING AND PROPOSED MATERIAL AND MANMADE FEATURES, SUCH AS WETLANDS, STREAMS, STREETS, STREETS, OTHERS, AND STRUCTURES
- G. SETBACKS FROM PROPERTY LINES
- H. EXISTING AND PROPOSED ELEVATION
- I. DRIVE APPROACH AND ACCESS POINT WITH DIMENSIONS AND GRADE SHOWN
- J. LOCATION AND WIDTH OF INTERNAL CIRCULATION ROADS
- K. LOCATION AND TYPE OF RETENTION AND LEAKAGE WATERPANS AND BUFFERS
- L. EXTERIOR LIGHTING
- M. DISTANCE BETWEEN DRIVEWAYS AND ADJACENT EXISTING DRIVEWAYS
- N. LOCATION OF EXISTING AND PROPOSED BELLOWS AND ABOVE GROUND UTILITY
- O. LOCATION AND SIZE OF WELL AND SETTLE TANKS AND LINES
- P. PARKING AND LOADING AREAS, INCLUDING DIMENSIONS AND A SUMMARY OF EXISTING AND PROPOSED FEATURES
- Q. EXISTING AND PROPOSED FENCE LINES
- R. ADJACENT AREAS, ALLEYS, OR OTHER ACCESS ADJACENT PROPERTY WITH ROAD NAMES IDENTIFIED
- S. LOCATION AND SIZE OF EXISTING AND PROPOSED SEWER
- T. DISTANCES FROM PROPERTY LINES, PROPOSED STRUCTURAL AND LAND USE OF SPACES, STREAMS, OTHERS, AND STRUCTURES
- U. LOCATION AND TYPE OF RETENTION AND LEAKAGE WATERPANS AND BUFFERS
- V. IDENTIFICATION OF LINES AND STRUCTURES LISTED ON STATE AND NATIONAL REGISTER OF HISTORIC PLACES OR ON LAND HISTORIC SITES INVENTORY

Exhibit 2. Detail from Nelson Engineering Site Plan, March 15, 2024.