

## TETON COUNTY, IDAHO | Board of County Commissioners

### Written Decision for the Eustachy-Wysong Ranch Subdivision Final Plat

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This is a written decision on the findings for the approval of the Eustachy Wysong Ranch Subdivision Final Plat under Teton County Title 9, Subdivision Regulations revised 05/16/2013, which law applies to this request for Final Plat approval.

HEARING DATES: June 9, 2025 & June 23, 2025

APPLICANT: Larry Eustachy, Michael Wysong

PARCEL: RP05N45E053100 – 60 acres

PROJECT NAME: Eustachy Wysong Ranch Subdivision \_ Final Plat

PURPOSE OF APPLICATION: Obtain Final Plat approval for a 10-lot subdivision.

**Applicable Standards and Criteria for Application Evaluation:** Subdivision Final Plat Review pursuant to Title 9, Chapter 3-2-D, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030)  
Teton County Title 9, Subdivision Regulations

**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)

**CONSIDERATION OF APPROVAL:** In conjunction with the decision for approval, approval with conditions, or denial of an application for a subdivision or PUD, the Board shall make written findings with respect to the items required with the submission of the application and the criteria below. Additional written findings are not necessary where the public documents or records of the public hearing already provide a written record.

- i. Each exception to otherwise applicable restrictions shall be identified and the reasons supporting the exceptions stated.
- ii. The subdivision or PUD is consistent with the public health, safety and welfare of the County and with all applicable provisions of Title 9 and Title 8 of the Teton County code. (amd. 11-14-08)
- iii. The information required in the application has been verified and is correct.

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

Larry Eustachy, represented by Civilize LLC, has submitted an application for a 10 lot subdivision on 60 acres south of W 5000 N. The property is zoned A/RR-2.5. The subject parcel falls within the Big Game Migration Corridor, Priority Wetland Habitat/Wetland & Waterway, and Songbird/Raptor Breeding and Wintering Habitat Overlays.

A pre-application conference was completed March 28, 2022. The first step in the subdivision process is a Concept Plan Review (9-3-2B).

Concept Review: The Planning & Zoning Commission Reviewed the Concept Plat on July 12, 2022 and was continued

to gain more information on the following items (Staff's review of applicant's response is in red/italics below): PZC reviewed the continued application September 12, 2022, and approved the concept plan with conditions.

The PZC reviewed the preliminary plat at a hearing on July 7, 2024 continued to September 10, 2024 when the PZC recommended approval to the Board with conditions.

The BoCC reviewed the Preliminary Plat on November 12, 2024 where they motioned to continue deliberation of the item until December 23, 2024. At the applicant's request the application was re-noticed for additional public hearing on Jan, 31, 2025. The applicant also submitted a request for a time extension to complete the review process for final plat approval on this date. This extension was subsequently granted in a written decisions on March 24, 2025.

The Board of County Commissioners reviewed the Final Plat on June 9, 2025 & June 23, 2025, with the following commissioners present): Brad Wolfe, Michael Whitfield, Ron James. The Board approved the final plat on June 23, 2025.

Applicants and Representatives Present: Brent Crowther (Civilize Engineering),

### **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 and arguments.

Surrounding landowners have presented information throughout the review process challenging the scope of the easements relied upon by the Eustachy-Wysong Ranch Subdivision proposal. The Applicant has repeatedly asserted that the easements at issue do provide sufficient access to the proposed subdivision. The Idaho Supreme Court has explained that a county "Board has no authority to adjudicate easements." *Hawkins v. Bonneville Cnty. Bd. of Comm'rs*, 151 Idaho 228, 234, 254 P.3d 1224, 1230 (2011). Where there are plausible arguments regarding access for a subdivision, Idaho courts have explained that a county must "make the application's approval expressly contingent upon judicial resolution of the access issue." *Shinn v. Bd. of Cnty. (In re Variance ZV2011-2)*, 156 Idaho 491, 496, 328 P.3d 471, 476 (2014). The Board must decide the threshold matter of whether there is a plausible or colorable argument that could negate or impact the required access to this subdivision and, if there is, condition approval on judicial resolution of the access issue.

However, here, the Board does not find that there is a plausible argument that could negate or impact the required access to this subdivision. In other words, the Board found that the applicants for Eustachy-Wysong Ranch Subdivision sufficiently demonstrated that they have a valid easement that satisfies the access requirements for a subdivision under the applicable Teton County Code. Specifically, the Board finds that the Mutual Cross-Access Easement Agreement (recorded in Teton County as Instrument # 269564, and referred to herein as the "Easement Agreement") settles the question of applicant's ability to provide sufficient legal and actual access to this subdivision. Section 10 of the Easement Agreement vacates and terminates all other easements for these properties (which appears to include the applicants and their property that is being subdivided into the Eustachy-Wysong Ranch Subdivision), making this document the sole relevant source of easement access for the proposed subdivision. Sections 3, 2.1, and 2.2 of the Easement Agreement provides that the easements (legally described in Exhibit C to the document) are for access by pedestrians, vehicles, and utilities—but not for parking. Section 6 of the Easement Agreement specifies that it binds both parties and their successors to these properties.

### **MOTION** **APPROVAL**

*Commissioner Ron James made the motion; motion was seconded by Commissioner Brad Wolfe.*

AYES: Brad Wolfe, Ron James,

NAYES: Dan Powers

## **DECISION**

The Board's consideration and deliberation relating to the proposed Eustachy-Wysong Ranch Final Plat was continued to June 23, 2025, to obtain additional information from legal counsel. By that date, the Board had reviewed the legal issues involved with this application.

On June 23, 2025, Commissioner Ron James moved to approve the Final Plat application for the Eustachy-Wysong Ranch Subdivision based on the finding that all of the criteria for approval found in Teton County Code § 9-3-2(D) can be satisfied based on the application materials submitted and additional information attached to the staff report, with the following conditions of approval:

1. Final technical survey review be completed by the County's public works department.
2. The final letter of credit must be provided before recordation of the improvement plans and development agreement.

The motion was seconded by Commissioner Brad Wolfe, and passed with a vote of 2-1 (Commissioners Brad Wolfe and Ron James voting aye, Commissioner Dan Powers voting nay).

## **CONCLUSION**

Having given due consideration to the application and materials presented, and to the applicable review criteria, the Teton County Board of County Commission, for the reasons described above, hereby makes the following conclusions:

The application for FINAL PLAT of the Eustachy-Wysong Ranch Subdivision meets or can meet the requirements of the Teton County Code § 9-3-2(D), and is therefore APPROVED with the following conditions:

1. Final technical survey review be completed by the County's public works department.
2. The final letter of credit must be provided before recordation of the improvement plans and development agreement.

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Teton County Board of County Commissioners, Chair

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

Larry Eustachy [larryeustachy@icloud.com](mailto:larryeustachy@icloud.com)

Michael Wysong [michaelvwysong@gmail.com](mailto:michaelvwysong@gmail.com)

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☐ Mailing

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Clerk