



# Eustachy-Wysong

2024

Eustachy-Wysong Ranch  
Response to Staff Report-Preliminary Plat



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# Eustachy-Wysong Subdivision

## Supplementary Information

### Application for Subdivision – Preliminary Plat

## Introduction

A staff report was issued on July 8, 2024, reviewing the materials contained in the Preliminary Plat submittal for use by the Teton County Planning & Zoning Commission at the Planning & Zoning Meeting and Public Hearing held on July 9, 2024. While the staff report contains various sections germane to the project for consumption by the P&Z Commission along with a copy of the full Preliminary Plat submittal, this narrative will focus specifically on the section titled Conditions of Approval. The intent is to demonstrate to staff and the P&Z Commission that the Applicant intends conformance with the requirements for approval of the Preliminary Plat by rectifying most, if not all, of the minor comments and discrepancies, providing further elucidation to comments that may need more detailed information, and seeking further explanation from staff where the criteria may not be well understood by the Applicant. The response document will also include a response to the additional conditions of approval incorporated into the motion by the P&Z Commission at the public hearing and project deliberation.

## Response to Staff Report and Review Comments

### Conditions of Approval

1. Plat needs to be amended

a. Include the Floodplain Firm. Not Approximate Floodplain

Idaho statute *Title 50 Municipal Corporation, Chapter 13 Plats and Vacations, Section 1304 Essentials of Plats*, provides the requirements established by the State of Idaho for preparation of land survey plats, including those items necessary for depiction on said plat. The state does not specifically require the floodplain boundary to be depicted on the survey plat for subdivision of land.

Title 9 of the 2011 Teton County Land Development Code, Section 2 – Application indicates the Preliminary Plat, presumably referring to the Preliminary Plat application packet as a whole, not necessarily the survey document itself, lists as a required element, “depiction of any Overlay Areas defined by Title 8 and 9 on the proposed subdivision property.” The same section also stipulates, “The application materials shall include the following as applicable,” whereupon Paragraph a.-Maps, Subparagraph ii describes, “a map showing any Overlay Areas required by Titles 8 and 9 on the proposed subdivision/PUD property, whereupon it proceeds to define the Overlay Areas in Title 9 as the Hillside Overlay and the Wildlife Habitat Overlay. While the Floodplain Overlay is described in Title 8-5-1-B, it is not specifically highlighted in Title 9-3-2-C.2.a Maps. However, Title 9-3-2-C.2.b.i.(a) does specifically identify the floodplain, wetlands, and riparian areas for inclusion in the Existing Conditions Inventory of the Natural Resources Analysis and Title 9-3-2-C.2.b.ii.(c) indicates a requirement for a map showing any Overlay Areas defined by Title 8 and 9 on the proposed subdivision boundary. Section II of the applicable Teton County Preliminary Plat Subdivision/Planned Unit Development Application form provides the checklist of items required on the plan/plat document. The checklist duplicates most of what is required in Idaho Statute 50-1304 but does not include a floodplain boundary as a requirement. However, Section IV of the applicable Teton County Preliminary Plat Subdivision/Planned Unit

Development Application form does include Overlay Areas and Flood Hazard areas be presented in the Maps/Studies/Plans for the proposed subdivision.

It appears the requirement to prepare a map depicting the Floodplain Overlay is clearly a requirement of the Teton County Code, but not necessarily a requirement imposed by the State of Idaho, nor Teton County, for depiction on the survey plat itself. Never-the-less, the approximate floodplain boundary as depicted on FEMA FIRM maps and duplicated on the Teton County GIS system is presented on the Preliminary Plat survey document and appropriately labeled as approximate.

In an attempt to conform with the Teton County Land Development Code, the applicant has included a depiction of the floodplain boundary on the Preliminary Plat survey document, acknowledged the flood hazard area on page 14 of the Supplementary Information Document, and specifically identified the Floodplain Overlay on Page 3 of the Natural Resources Analysis and included a map labeled as Figure 1. While building is clearly allowed under Federal Law in the Flood Fringe as well as the Floodway of the Floodplain; the Applicant eliminated the potential for “loss of human life or significant property damage due to flooding,” by creating building envelopes that limit the construction of habitable structures in the floodplain.

The FIRM maps identify the floodplain affecting the proposed development as Zone A. The FEMA website defines Zone A as follows:

*Areas with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas; no depths or base flood elevations are shown within these zones.*  
(<https://www.fema.gov/glossary/zona>)

FEMA FIRM maps provide approximate locations for the boundaries of flood hazard zones. Typically, the presence of a flood hazard area does not prevent the subdivision of land. Flood insurance is mandated by Federal Law for mortgages backed by Federal Loan Guarantees but does not prevent building within the designated floodplain. However, there are stipulations that apply to construction within a designated floodplain which include Elevations Certificates and Zero Rise documentation depending upon the portion of the floodplain within which the building is proposed.

In this case, we believe we have conformed with Federal Law, State Statute, and local ordinance regarding depiction of the Floodplain Overlay. The floodplain is depicted on the Preliminary Plat survey document and labeled appropriately as Zone A. Contours are also depicted on the Preliminary Plat survey document. The building envelopes for Lots 9 and 10 are clearly outside the floodplain boundary as mapped by FEMA on the FIRM maps. The area encompassed by the building envelope sits higher in elevation than the land within the floodplain boundary by one to four feet. If a structure were proposed in the floodplain, which based on the building envelope cannot be constructed, it would be subject to Federal Law, State Statute, and local ordinance for building within a floodplain and appropriate measures would be implemented to more accurately define the floodplain boundary and base flood elevation in proximity for the proposed structure.

**b. Planning & Zoning Commission Chair is the signature required for PZC review**

The signature label on the Preliminary Plat has been changed to specify the signature is required from the Planning and Zoning Commission Chair. The revised Preliminary Plat signature page is found in Appendix A.

2. A shared fire pond agreement needs to be submitted if the applicant is sharing with Dorothy Gayle Subdivision. Further, another method will need to be utilized if the development is not approved.

A shared fire pond agreement with the Dorothy Gayle Subdivision is attached in Appendix B. If the development is not approved, another method will be utilized, presumably a fire suppression pond designed and constructed within the proposed development.

3. The financial guarantee of 125% of the total cost estimate needs to be fully provided by the time of final plat application. The draft letter provided is adequate for a draft only.

The financial guarantee of 125% of the total cost estimate will be provided by the time of the final plat application.

4. The Nutrient Pathogen Evaluation was submitted successfully and transmitted for review on June 25, 2024. Applicants will need to review and respond before further hearings are scheduled, if necessary

The Applicant has not yet received any review comments from the County's consultant regarding the N-P Evaluation submitted as part of the Preliminary Plat application. The Applicant will review and respond to the evaluation once it is available, if necessary.

5. The CCRs should be updated to include:
  - a. Section G. Dwelling size should match County regulations for ADUs.

The dwelling size restrictions have been updated to restrict the size of the accessory dwelling unit in accordance with the new Teton County Land Development Code. See revised CC&Rs in Appendix C.

- b. Section H. Height maximum for Teton County is 30' unless it is an agricultural building.

Section H Maximum Height has been updated to reflect Teton County Standards of a maximum height of 30'. See revised CC&Rs in Appendix C.

- c. Article 11; Section C. STRs must also adhere to Teton County permitting.

Article 11; Section C has been amended to include permitting requirements for Teton County. See revised CC&Rs in Appendix C.

- d. Land Management Plan items from the Natural Resource Analysis (page 9)

Land Management Plan items are already implemented into the CC&Rs. For example, noxious weeds are addressed in Article 9 Section AA – Noxious Weeds, lighting requirements are described in Article 9 Section Q – Light Pollution, pet control is described in Article 9 Section N – Livestock and Household Animals, bear attractant restraints are described in Article 9 Section V Waste Disposal – Bear Attractants, and fencing requirements are described in Article 9 Section X - Fencing. See revised CC&Rs in Appendix C

6. Address Fire Marshal Comments:
  - a. Fire department access is currently obstructed by farm equipment.

The farm equipment obstructing fire department access is described as the center pivot currently used to irrigate this property as well as three adjacent properties. If the development is approved, the current irrigation method, which is the center pivot, becomes obsolete and will be removed from the property. Thus, any potential conflict related to obstruction of emergency vehicles will be eliminated.

7. Address Public Works Comments
  - a. Improvement plans do not show any fire protection.

Fire protection was provided via joint agreement with Dorothy Gayle Ranch subdivision as described above.

b. Utility Site Plan does not show power or communications.

Power and communication systems are designed by Fall River Electric and Silver Star Communications respectively. The civil engineer often depicts private utilities for informational purposes but does not control the design of private utilities. Often the design of the utility is not provided by the utility provider at this juncture of the project. Rather, the private utilities prefer to conduct their preliminary design work after approval of the preliminary plat by the jurisdiction to avoid unnecessary and speculative work. However, an anticipated, or assumed, location for power and communication has been added to the drawings, a feature that will be revised per the design provided by the selected private utility provider prior to submission of the Final Plat.

c. All Roads between N 3000 W and subdivision will need to meet County Local Road Standards

The design drawings depict roads from N 3000 W to subdivision being improved to county standard. See sheet C-103 note 1 for W 5000 N and N 3250 W and Sheet C-104 note 1 for W 4850 N. See sheet C-SD-01 for cross-section details.

8. The public works director has yet to review the Traffic Impact Study but should confirm the HWY 33 and 4000 N intersection findings before a discussion on a proportionate share of the development occurs.

The Applicant will await response of public works director and looks forward to having a discussion.

## Response to Additional Conditions in the Motion

9. Reviewing lots 5, 6, 7, and 8 not be reviewed in the NRA.

The second paragraph on page 7 of the NRA states,

*“Although the Teton County Big Game Migration Corridors and Seasonal Range, Priority Wetland Habitat-South Leigh Forested, and the Songbird/Raptor Breeding and Wintering Habitat overlays overlap the property, the best habitat that would be used by wildlife would include the approximately 14% (8.65 acres) of the western portion of the Property that intersects with South Leigh Creek and its associated riparian forest/emergent wetlands.”*

The second line of the first paragraph of Impact Analysis and Mitigation Plan on page 7 of the NRA continues,

*“Lots 1-8 range in size from 4.84 to 5.29 acres and are oriented north to south (Figure 3). Those lots are in disturbed agricultural lands and do not contain protected natural resources. Land use south of the Property consists of disturbed agricultural lands and several single-family dwellings. As indicated above, given the previously disturbed condition of the smaller lots 1-8 of the Property, a fence along the southern border of the Property, the presence of free-roaming dogs in the area, and the distance to undisturbed riparian/wetlands, building on these lots would not significantly affect the value of this area as wildlife habitat despite the mapping of the Wildlife Habitat Overlay with the presence of the Big Game Migration Corridors and Seasonal Range, Priority Wetland Habitat-South Leigh Forested, and Songbird/Raptor Breeding and Wintering Habitat overlays.”*

While the Applicant respects the comments and suggestions of the P&Z Commission, the scientific analysis conducted by credentialed professionals experienced in natural resources analysis and wildlife habitat assessment are relied upon to evaluate the potential impacts and to recommend mitigation solutions to those impacts. In this case, those individuals indicated in the NRA that Lots 5, 6, 7, and 8 were already disturbed by agricultural activity and had lesser value as wildlife habitat than the westernmost portions of the property on lots 9 and 10.