

August 10, 2023

**VIA USPS AND EMAIL**

Teton County Planning & Zoning  
c/o Jade Krueger  
150 Courthouse Drive Rm. 107  
Driggs, ID 83422  
[jkrueger@co.teton.id.us](mailto:jkrueger@co.teton.id.us)

**RE: Request for Takings Analysis - Idaho Code Sec. 67-8003  
Trestles I, II, and Wildflower Developments**

Dear Ms. Krueger,

I write to you today on behalf of Liberty, LLC ("Liberty") as developers of the Trestles I, II, and Wildflower Developments (the "Developments"). Specifically, I am submitting this written request on behalf of Liberty, demanding that Teton County prepare a regulatory takings analysis pursuant to Idaho Code Sec. 67-8003.

If you recall, you/Planning & Zoning/Teton County (collectively as the "County") are requiring that Liberty construct substantial improvements and turn lanes on Highway 33 as part of the permitting process of the Developments. However, within the traffic study submitted by Liberty, the Developments are forecasted to only increase traffic on Highway 33 by four percent (4%). Moreover, the need for improvements to Highway 33 significantly predated Liberty's proposed Developments.

As pointed out in the traffic study, the Idaho Department of Transportation ("ITD") scheduled to construct the turn lanes beginning in 2022 but paused the project at the last moment due to rising costs. Currently, ITD lists the improvements to Highway 33 within its current draft of the "FY2024 - 30 Idaho Transportation Investment Program" ("ITIP"). By its own terms, ITIP follows the federal requirements of the "Infrastructure Investment and Jobs Act" which provides federal funding for transportation projects. As a result, the improvements to Highway 33 are already earmarked for state and federal funding.

Based on the foregoing, the County is imposing monetary exactions upon Liberty and the Developments, constituting an unconstitutional taking under the US Supreme Court Cases of *Nolan/Dolan* and their progeny. Importantly, requiring that Liberty covers all the cost to construct certain turn lanes on Highway 33 is "not roughly proportional to the impact of the proposed [Developments]." Accordingly, Client requests that the County prepare a regulatory takings analysis on the conditions placed upon the Developments pursuant to Idaho Code Sec. 67-8003.



**MOULTON LAW OFFICE**

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If you have any questions concerning this matter, please feel free to contact me via email at [wfischer@tetonvalleylaw.com](mailto:wfischer@tetonvalleylaw.com). Thank you.

Sincerely,

A handwritten signature in black ink that reads "Forrest Fischer". The signature is written in a cursive style with a large, stylized "F" at the beginning.

W. Forrest Fischer  
MOULTON LAW OFFICE