



PRELIMINARY PLAT REVIEW PUBLIC HEARING
BY: AW Engineering
FOR: Clearwater Reserve Subdivision
WHERE: 6705 N 1000 E (Near Tetonia)
PREPARED FOR: Board of County Commissioners
Public Hearing on February 26th, 2024

APPLICANT & OWNER: Kipp and Terri Hill

OVERVIEW: Kipp and Terri Hill have submitted an application for a 2-lot subdivision on 80 acres located at 6705 N 1000 E near Tetonia, north east of the historic Clawson town site. The parcel is zoned ARR-2.5, and the proposed lot sizes are 54 and 25 acres. North Leigh Creek runs through the southern portion of the property, and subsequently the property is within the 100-year Floodplain.

APPLICABLE COUNTY CODE: Subdivision Preliminary Plat Review pursuant to Title 9, Chapter 3-2-C, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030).

LEGAL DESCRIPTION: TAX #6903 SEC 30 T6N R46E; RP06N46E303750

LOCATION: 6705 N 1000 E

ZONING DISTRICT ARR – 2.5 Acre Min. Lot Size

PROPERTY SIZE: 79 acres

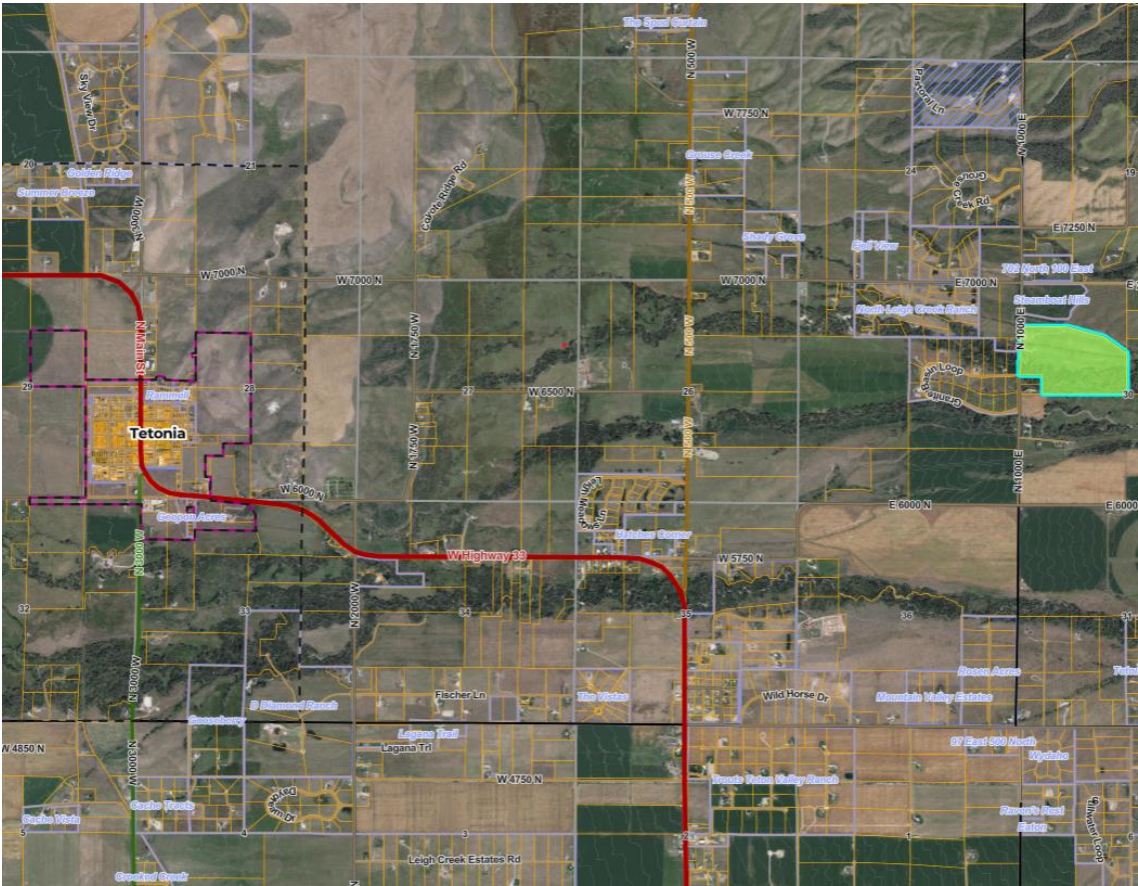


Figure 1. Vicinity Map; green indicates the area for the proposal

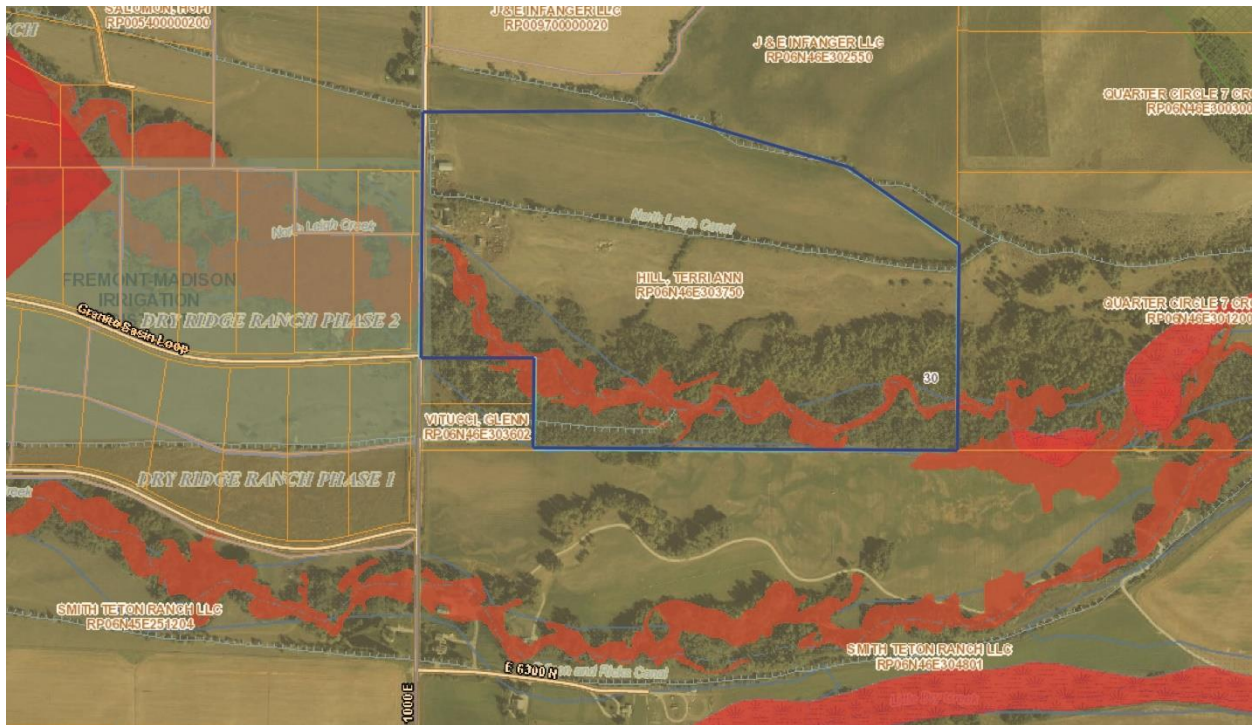


Figure 2: Aerial image of the property

The aerial image above indicates the location of the existing 100-year Floodplain on the southern portion of the property.

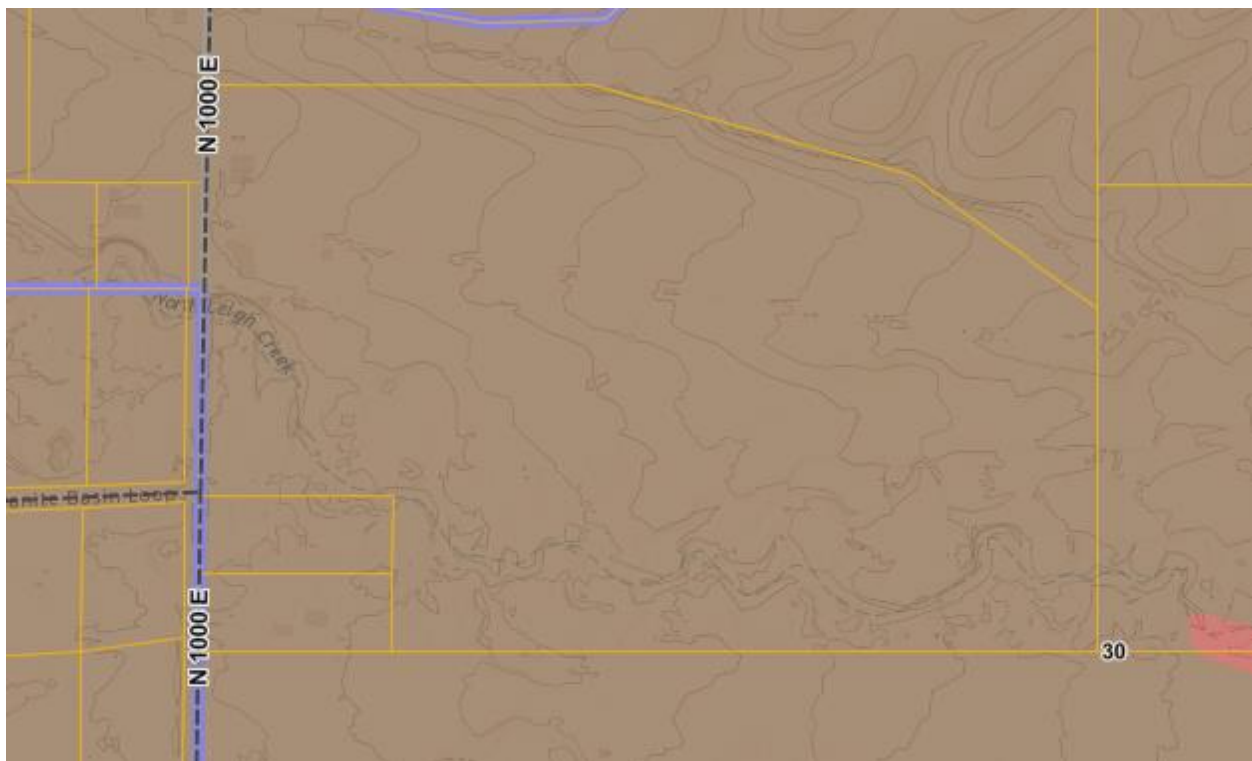


Figure 3. Presence of Big Game Migration Corridor & Seasonal Range (Jan. 2023 update) (Staff comment: 2023 map has been rescinded until further notice; overlay changes with Big Game Migration are not applicable to this application).

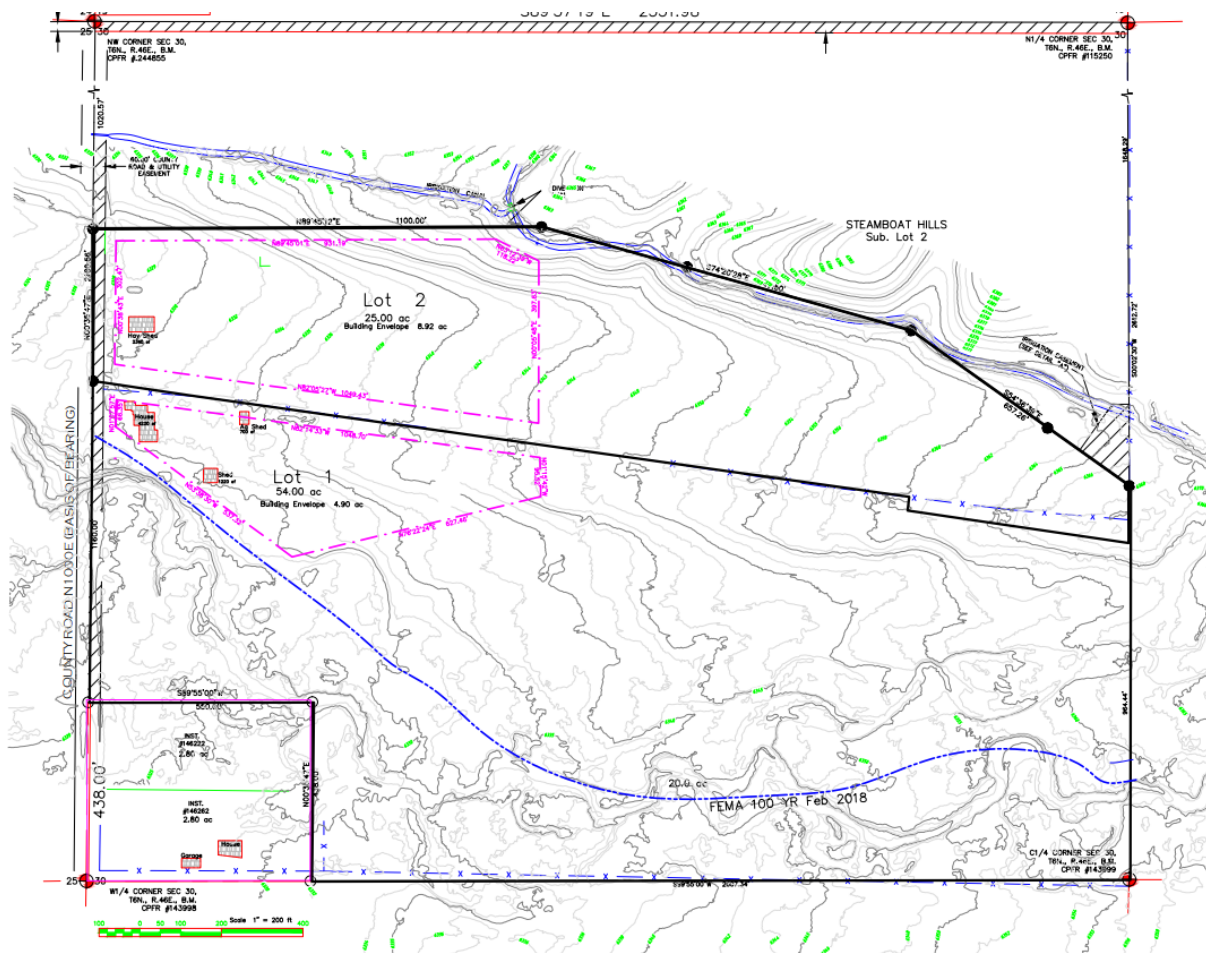


Figure 4. Preliminary Plat – updated to reflect building envelopes keeping future development outside of the floodplain

PROJECT BACKGROUND & REVIEW HISTORY

- **Pre-application:** A review was held on January 5, 2022.
- **Concept Review:** The concept application was originally submitted in January of 2022 and a hearing was scheduled for January 11, 2022; however, it was postponed due to change in family ownership. The proposal changed from a 10 lot subdivision to 2 lots. The Planning and Zoning Commission approved the Concept Plan on October 10, 2023.

OVERVIEW OF PRELIMINARY PLAT APPROVAL (9-3-2-C):

The preliminary plat phase is a two-step process with review by both the Planning and Zoning commission and Board of County Commissioners, where the fact-finding details and specific requirements of the ordinance and law are determined. All of the issues surrounding required infrastructure will be resolved, or have a clear solution acceptable to the County, before scheduling the final plat review.

PZC Preliminary Plat Hearing: The PZC reviewed and approved the Preliminary Plat on January 9, 2024 with the following conditions included in the staff report:

MOTION: *Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) can be satisfied I move to APPROVE the Concept Plan for Clearwater Reserve Subdivision Concept Plan as described in the application materials submitted January 5, 2022 and as updated with additional applicant information attached to this staff report.*

<p>RESULADOPTED [Unanimous] MOVER: James Weber SECONDER: Rebeca Nolan AYES: Lindsey Love, Tim Watters, Wade Kaufman, James Weber, Tyler Wertbruch, Rebeca Nolan</p>
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CONDITIONS OF APPROVAL:

1. Per the NRA/WHA and the Regulatory Floodplain guidelines, building envelopes should be provided on the plat to keep development outside of the floodplain and riparian areas and avoid fragmentation of wildlife corridors, North Leigh Creek and Canal.
 - A. The floodplain overlay requires building envelopes to keep development outside of the floodplain. TCC Title 12 and Title 8.
2. The CCRs should be updated to include the additional wildlife mitigation measures presented in the NRA (wildlife friendly fencing).
3. Provide cost estimate for the second driveway access (the only subdivision improvement)

Staff comment: Applicant has addressed all conditions of approval.

REVIEW & INTER-AGENCY COMMENTS:

The County has solicited comments from other agencies and has received comments from the following entities.

- **ROADS & UTILITIES:** Teton County Public Works Director made the following comments on 10/3/23:
 - The driveway for Lot 1 is existing. Driveway location for lot 2 was approved. No additional access permits will be approved for this subdivision.
- **FIRE PROTECTION:** The Teton County Fire Marshal had the following comments:
 - A two lot subdivision does not meet the threshold for fire suppression.
- **WASTEWATER TREATMENT:** Applicant has received preliminary approval from EIPH (06/29/22).
- **PLANS & STUDIES:** Applicant has provided a wildlife habitat assessment and NRA. The updated NRO maps placed this parcel within the Big Game Migration Corridor; however, the 2023 overlay map is not effective at this time. The presence of North Leigh Creek and regulatory floodplain also triggered the need for a floodplain analysis (also supplied by the applicant).

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 Board of County Commissioners was duly noticed in the Teton Valley News on February 7th, 2024 and February 14th, 2024. A notification was sent via mail to surrounding

property owners within a 300-foot buffer area on January 29th, 2024. A notice was also posted on the property providing information about the public hearing on February 13, 2024.

PUBLIC COMMENT:

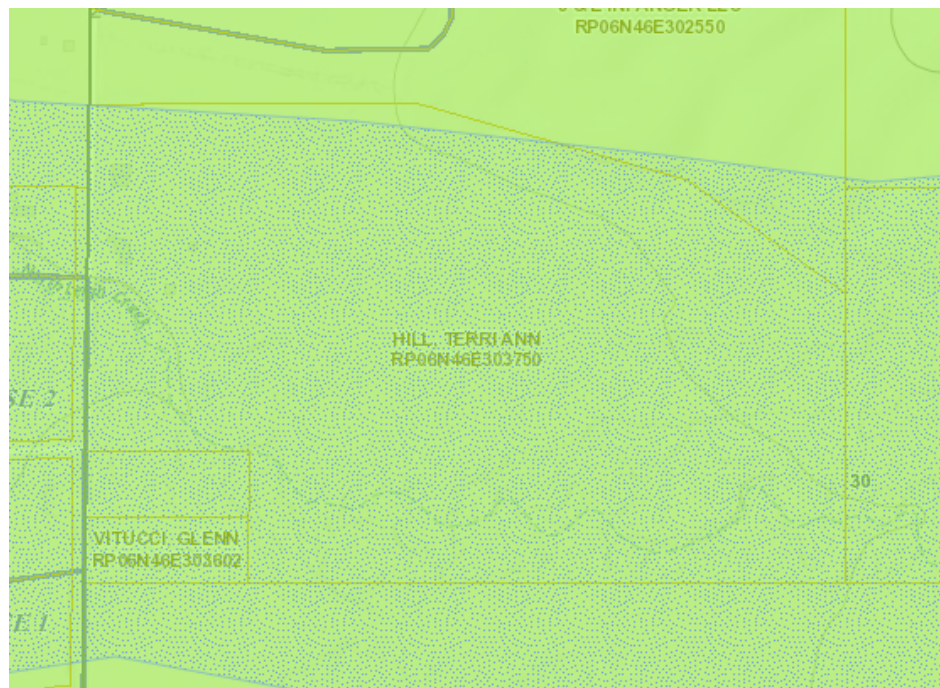
No public comments have been received as of 02/20/24.

CRITERIA FOR APPROVAL

The Board of County Commissioners shall only approve if it finds that all of the following criteria (9-3-2(C-8)) have been met (or if it finds that some of the criteria have not been met, may recommend approval with conditions that would ensure that the proposed development meets the criteria):

Objective: 1. The application is consistent with the Comprehensive Plan.

The 2012-2030 Comprehensive Plan places this in the Wetland & Waterways Corridor and Foothills. A two lot proposal can meet these future land use characteristics with building envelopes (conservation development).



Foothills: The Foothills are located on the eastern and northern slopes of the Big Hole Mountains, the western slope of the Teton Range and the northern slope of the Snake River Range. These areas have rolling or steep topography and harsh wind and weather or are in the wildland/urban interface area. The boundaries of the Foothills areas were generally defined by the toe of the mountain slopes and the edge of heavy forest or vegetation. Due to their proximity to the forested public lands, these areas have high wildfire hazard and wildlife value. Some access to adjacent public land exists and the area is highly visible from the valley floor. Due to their remote location, public water and sewer service is not available in the Foothills. Desired future character and land uses include:

- Low residential densities with provision for clustering/conservation development
- Residential development clustered to respect topography
- Access points to public lands
- Conservation and wildlife habitat enhancement
- Wildland-Urban interface
- Development regulated by overlays and development guidelines to protect natural resources and improve public safety

Waterway Corridors: Waterway Corridors include the land adjacent to the Teton River and its major tributaries. These areas include the riparian areas, wildlife habitat, wetlands and floodplains associated with the streams and are important fish and wildlife habitats. Public access to the Teton River is currently available in limited locations. The majority of the existing parcels in this area are large, although there are a few older, developed subdivisions along the Teton River. Public water and sewer service is not available. Desired future character and land uses include:

- Agriculture
- Low to lowest residential density in the County
- Conservation and wildlife habitat enhancement
- Development subject to all applicable County, State and Federal regulations including USACE wetland regulations and County floodplain development regulations
- Scenic quality preservation
- Public access points for river recreation
- Overlays and development guidelines to protect natural resources
- Little to no (or very limited) commercial activity

Objective: 2. The application complies with all applicable county regulations.

The proposed Clearwater Reserve Subdivision meets the requirements of the current A/RR 2.5 zoning district. The development would be in compliance with the current building codes, meet the required density, fit in with the rural community character, all height, scale and other applicable standards will be met.

Objective: 3. If the application is for a PUD, it complies with any regulations applicable to PUDs under Chapter 5 of Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters. If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by Section 9-3-2(C).

The application is not a PUD.

Objective: 4. The application includes trails and pathways as required by Section 9-4-2(B-4) to the maximum extent feasible.

The property does not appear to fall within any designated pathways per the Recreation Master Plan nor does the project have any trails proposed.

Objective: 5. The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study.

A Nutrient-Pathogen Study was not requested for this project.

Objective: 6. The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report.

Applicant has received preliminary approval from EIPH (10/25/22). Lot will be served by individual private wells and individually permitted septic tanks.

Objective: 7. The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from the level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study.

A Traffic Impact Study was not required for this application. A Traffic Impact Study is typically required for applications with 10 or more lots, or if the PZC, BoCC or Administrator finds the application may have additional impacts on road conditions.

Objective: 8. If the application is for land that is not adjacent to a state highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one state highway or a maintained county road, and adequate for anticipated traffic, and will be constructed to County Road Standards.

Lot one access is existing from County Road N 1000 E, and Lot 2s access has been approved from N 1000 E. No additional access points will be approved by Teton County Road and Bridge.

Objective: 9. If a Natural Resources Analysis is required, the proposed development will avoid all mapped Overlay Areas (except the AV Airport Vicinity Overlay Area), or will minimize any unavoidable impacts to the mapped Overlay Areas to the maximum extent feasible and mitigate any unavoidable impacts. In the case of land located in the WH Overlay Area, the duty to avoid or mitigate impacts on habitat areas shall only apply if the wildlife habitat assessment reveals evidence of an indicator species or the presence of indicator habitat, and shall only apply to portions of the parcel where the evidence or habitat is found.

An NRA/ WHA was required because of the Regulatory Floodplain present on the parcel. *The updated 2023 NROs are not effective on this property; the regulatory floodplain has not been amended.*

Results

There were several signs of (scat, rubbing, bedding, paths) past and current use by mule deer and whitetail deer within the +/- 30 acre forested North Leigh Creek area. However, no actual observations of Elk, Mule Deer and or Moose were observed. Mule deer probably utilize this area seasonally as the habit provides thermal protection and forage in the winter. No other sign and or indicators of additional Big Game species were observed.

Mitigation/Land Management

The 80-acre Hill Parcel proposes a two-lot subdivision (55 and 25 acre lots). There is an existing house, workshop and hay sheds to support the working hay and cow/calf production. The proposed development will consume approximately 2+/- acres for the allowed structures post development.

Mitigation for the loss of 2 +/- acres of habitat will be provided by the existing 78 +/- acres of forested riparian habitat and hay/pasture remaining in natural habitat.

There will be NO,

Fragmentation of wildlife corridors, or North Leigh Creek and Canal,

Development within wetlands or riparian areas,

Development within or near seasonal range habitat along North Leigh Creek.

Additional mitigation efforts include.

Lighting – All lighting within the subdivision shall meet the Teton County, Land Development Code, Section 5-8 Outdoor Lighting and will be designed to be downcast.

Wildlife Friendly Fencing – All fences within the subdivision will be designed as outlined in Teton County Land Development Code, Section 5-4, E.- 4).

NRA/WHA Study (page 5).

Per the NRA/WHA and the Regulatory Floodplain guidelines, building envelopes should be provided on the plat to keep development outside of the floodplain and riparian areas and avoid fragmentation of wildlife corridors, North Leigh Creek and Canal. *Staff comment: Applicant submitted an updated plat to reflect building envelopes that keep development outside of the regulatory floodplain.*

B. (FP) FLOODPLAIN OVERLAY REGULATIONS: The provisions of this overlay district shall apply to those lands shown on the FP Floodplain Overlay map, as defined in Chapter 2 of Title 8.

1. Documentation Required: For any proposed development that is located within a floodplain, the developer shall submit an Application for Permit to Develop in a Flood Plain with a development plan of adequate scales and supporting documentation that will show and explain the following:

- a. Location of all planned improvements;
- b. Location of existing structures;
- c. The location of the floodway and the floodway fringe per engineering practice as specified by the Army Corps of Engineers;
- d. Base flood elevation;
- e. Delineated 100-year Floodplain and Floodway;
- f. The location of the present water channel;
- g. Any planned rerouting of waterways;
- h. All major drainage ways;
- i. Areas of frequent flooding;
- j. Means of flood proofing buildings; and
- k. Means of ensuring loans for improvements within the floodplain.

2. Demonstration of No Hazard: Upon determination that buildings are planned within the floodplain or that alterations of any kind are anticipated within the floodplain area that will alter the flow of water, the developer shall demonstrate conclusively to the Planning Administrator that such development will not present a hazard to life, limb, or property; will not have adverse effects on the safety, use or stability of public way or drainage channel or the natural environment. The applicant's statement shall be prepared and signed by a professional engineer.

3. Increased Flows: No development shall be approved prior to a letter of approval being received from FEMA if the proposed development includes levees, fills, structures or other features that could increase flood flows, heights or damages. If only a part of a proposed development can be safely developed, the Board shall limit development to that part and shall require that the development proceed consistent with that determination.

8-5-2-B-4

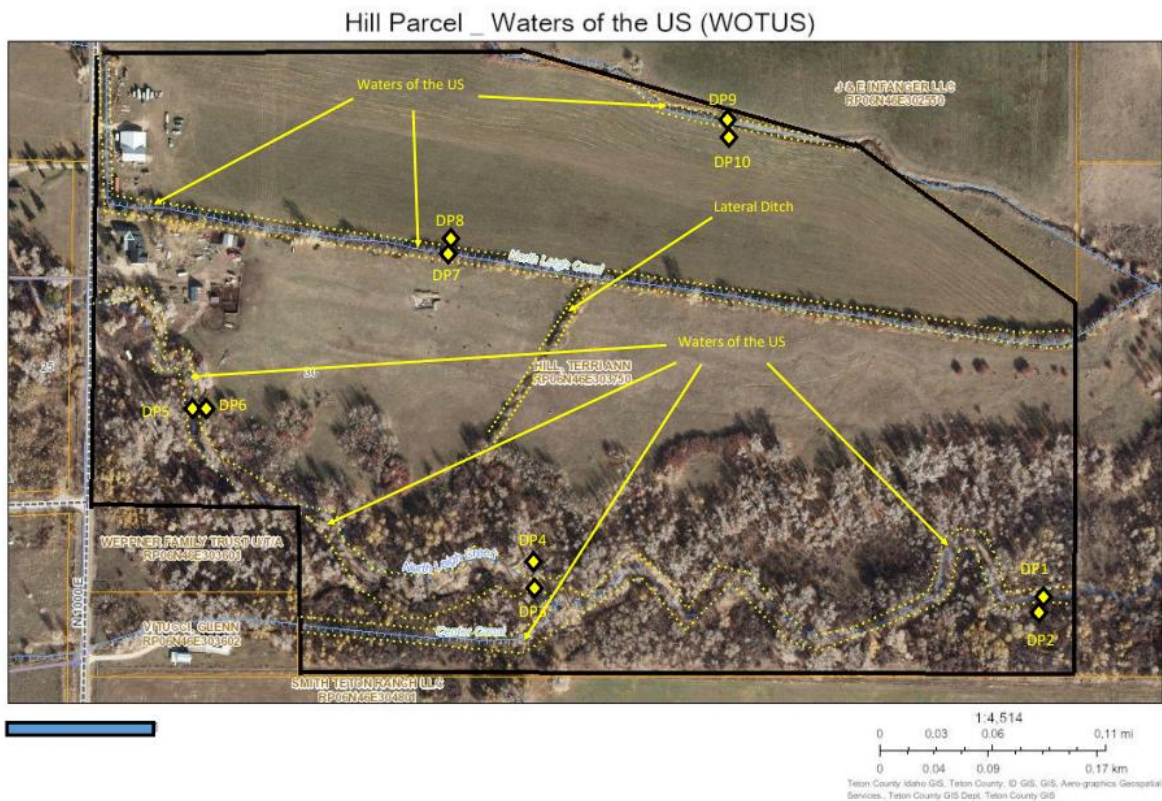
4. Required Assurances: All development shall be reviewed to assure that:

- a. Proposals are consistent with the need to minimize flood damages;
- b. All public utilities and facilities such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages and adequate drainage is provided so as to reduce exposure to flood hazards.
- c. To be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding in accordance with Eastern Idaho Public Health Department policy and regulations and when required by state code or the Department of Environmental Quality.

A. Subdivision Standards

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision preliminary plats/development plans shall include the mapped flood hazard zones from the effective FIRM.
- (3) Base flood elevation data shall be generated and/or provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty lots or five acres, whichever is less.
- (4) All subdivisions shall have at least one access road connected to land outside the Regulatory Floodplain with the surface of the road at or above the FPE whenever possible.
- (5) All building envelopes shall be located a distance of at least twice the regular bankfull channel width of the stream or river channel from the ordinary high water mark (or bankfull location), or out of the SFHA boundary.
- (6) All subdivisions shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (7) All subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (8) The final recorded subdivision plat shall include a notice that part of the property is in the SFHA, as appropriate.

Applicant submitted materials to the Army Corps of Engineers and received a preliminary JD (attached). Below is the map of their preliminary determination:



It appears proposed building envelopes keep any future development outside of the PJD's waters of the US mapping.

Objective: 10. The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County.

A Public Service/ Fiscal Analysis for this proposal was not required because the proposal is for less than 20 lots.

Objective: 11. The application is consistent with any Capital Improvements Plan (CIP) adopted by the County.

All applicable fees based on the Impact Fee Program (2023 CIP) will be assessed at the time of building. The 2008 adopted CIP (the adopted CIP for subdivision review) indicated that this area was appropriate for 30 units per 100 acres or .3 du/acre. The proposal of 2 lots per 80 acres could meet this proposal.

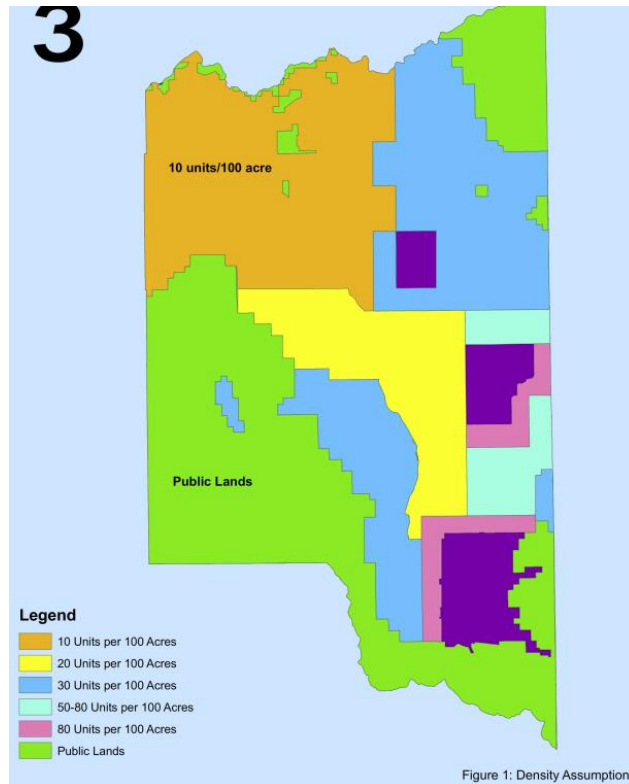


Figure 4. CIP Density

Objective: 12. An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners' association) rather than taxes, the county shall be granted the institutional power to enforce payments of those dues in the event the organization fails to do so.

There are CC&Rs established for this subdivision and they address a number of development and land use restrictions.

Objective: 13. If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C-3), the application shall meet as many of the criteria as possible.

There is floodplain present on the property because N. Leigh Creek runs across the southern boundary. Building envelopes will keep development outside of the floodplain, wetlands, and creek corridor riparian area.



Objective: 14. In addition to the above, for a Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school-aged children anticipated by the development and includes any recommended mitigation measures identified in that study. If the applicant is obligated to pay an impact fee for schools, then mitigation measures identified in the report will not be required.

N/A

CONDITIONS OF APPROVAL:

1. 125% of the cost estimate is required for financial surety at final plat.

BOARD OF COUNTY COMMISSIONERS ACTIONS

- A. Approval of the Preliminary Plat, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approval of the Preliminary Plat, with modifications to the application, or adding conditions of approval, having provided the reasons and justifications for the approval and any modifications or conditions.
- C. Denial of the Preliminary Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.

MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to move recommending to approve or deny the application:

APPROVAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-C can be satisfied, I move to APPROVE of the Preliminary Plat for the Clearwater Reserve Subdivision as described in the application materials submitted on August 4, 2023 and additional information attached to the staff report. (with the following conditions of approval...)

DENIAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2-B have not been satisfied, I move to DENY the Preliminary Plat for the Clearwater Reserve Subdivision as described in the application materials submitted on August 4, 2023, and additional information attached to the staff report, based on the following findings:

...

CONTINUATION

*I move to continue the public hearing for the Clearwater Reserve Subdivision Preliminary Plat **to a specific date in time** in order to obtain additional information from the applicant or other agencies.*

Torin Bjorklund, Associate Planner
Jade Krueger, Planning Administrator

ATTACHMENTS:

- | | |
|-------------------------------------|---------------------------------------|
| A. Application (6 pages) | H. Fire Marshal Review (1 page) |
| B. Preliminary Plat (1 page) | I. CCRs (3 pages) |
| C. NRA (21 pages) | J. Public Works (1 page) |
| D. Improvement Plans (1 page) | K. Narrative (4 pages) |
| E. Floodplain Study (28 pages) | L. Stamped Engineering Costs (1 page) |
| F. EIPH Review (6 pages) | M. PJD Files (10 Pages) |
| G. Development Agreement (16 pages) | |

End of Staff Report