

Figure 2. Aerial Image indicating presence of Priority Wetland Habitat-NWI Overlay

### **PROJECT DESCRIPTION**

The proposed Irish Acres Subdivision is a 10 lot subdivision on 40.14 acres of land located at W4000N and N2000W, south of Tetonia. The currently property is vacant. The proposed subdivision is within the Priority Wetland Habitat-NWI overlay. As part of the preliminary plat application, a Natural Resource Analysis and Wildlife Habitat Assessment were required. Building envelopes were suggested as proposed action as part of the Wildlife Habitat Overlay. A site plan with building envelopes was submitted and needs to be included in plat.

### **PROJECT BACKGROUND & REVIEW HISTORY**

**Pre-application:** A review was completed May 21, 2021.

**Concept Review:** A concept application was submitted June 30, 2021. The Planning and Zoning Commission approved the application on September 28, 2021 with the following 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 Irish Acres Subdivision as described in the application materials submitted June 30, 2021 and as updated with additional applicant information attached to this staff report with the condition that the required studies are conducted prior to Preliminary Plat submittal.

The Concept Staff report included the following possible condition of approval:

1. Conduct required studies/plans for Preliminary Review: Wildlife Habitat Assessment and Natural Resources Analysis. (Note that the applicants have prepared a 3 page document titled "Preliminary Observations on site-specific Natural Resource Overlays to accompany Concept Plan..." This suggests that a Natural Resources Analysis is still forthcoming. This could be clarified and the Commission could provide feedback to the applicants.

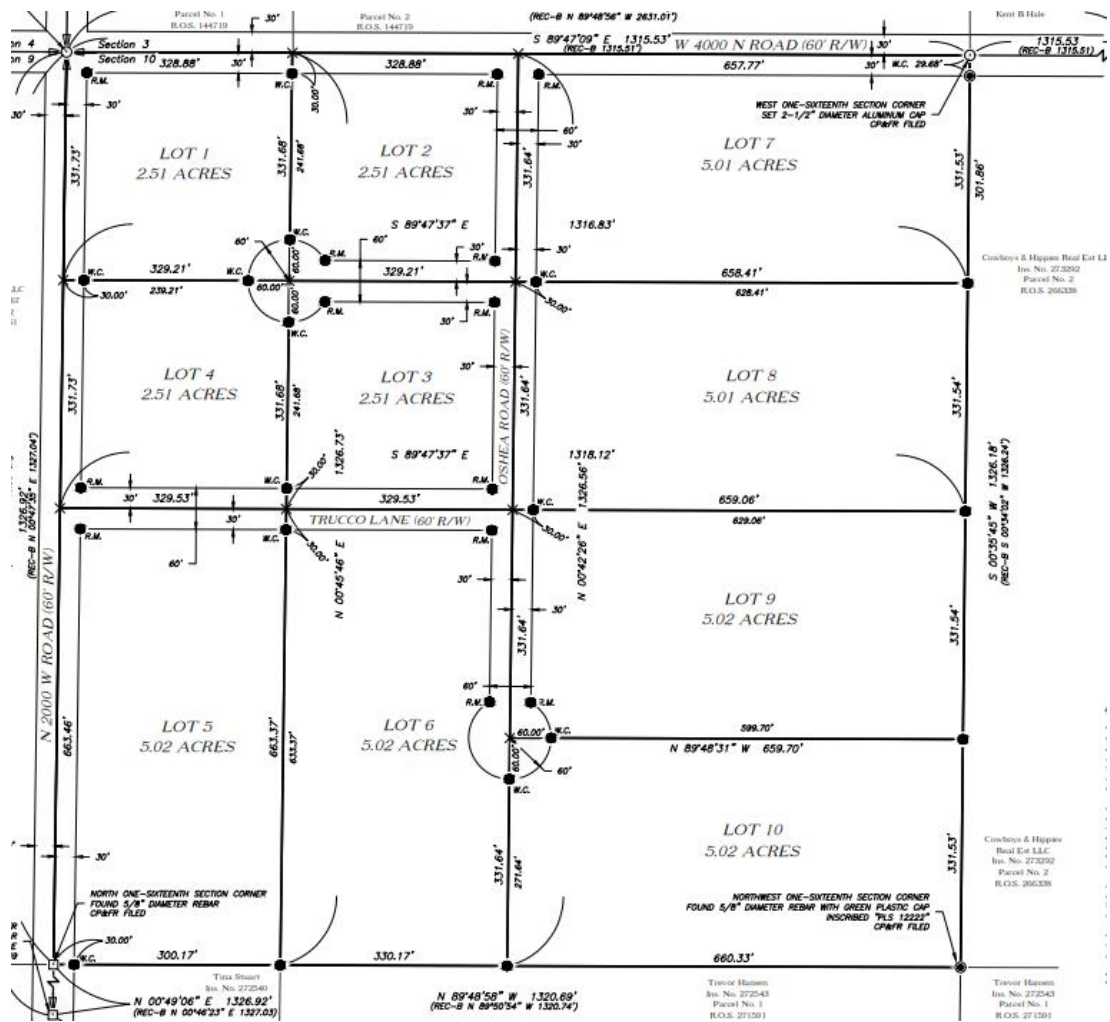


Figure 3. Preliminary Plat

**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.

**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 October 3, 2023:
  - All lots will need to be accessed from interior subdivision roads
  - Alignment of proposed Oshea Road should be lines up with access on other side of W4000N
  - Improvement Plans show 4 inches ¾ “crushed gravel, 4 inches 2” crushed all on compacted existing subgrade. County standards require 4” ¾” crushed, 4” 2” –crushed on 8” imported structural fill will be required.
  - This subdivision meets the threshold for a Traffic Impact Study. Planning may require that a TIS is submitted.
  
- **FIRE PROTECTION:** The fire pond was approved for fire review with no related issues or concerns.

- **WASTEWATER TREATMENT:** Applicant has received preliminary approval from EIPH (06/29/22).
- **PLANS & STUDIES:** Applicant has provided a Nutrient Pathogen Evaluation and a review has been received from Harmony Design & Engineering as well as a response. A Wildlife Habitat Assessment was also submitted.

**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 Planning & Zoning Commission was duly noticed in the Teton Valley News on September 20, 2023 and September 27, 2023. A notification was sent via mail to surrounding property owners within a 300-foot buffer area on September 6, 2023. A notice was also posted on the property providing information about the public hearing on September 25, 2023.

**PUBLIC COMMENT:**

No public comments have been received.

**CRITERIA FOR APPROVAL**

The Planning and Zoning 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.

Under the 2012-2030 Comprehensive Plan Framework, this area falls under the Mixed Agriculture/ Wetlands future character area.



*Mixed Agriculture / Wetland:* Mixed Agriculture Wetland areas are located immediately east of the Teton River on the valley floor and include lands that are classified as wetlands and floodplains as shown on the U.S. Fish and Wildlife Service National Wetlands Inventory and the Federal Emergency Management Agency Flood Insurance Rate Map. These areas have seasonally important wildlife resources, are predominately rangeland and agriculture land, and have high scenic qualities. Desired future character and land uses include:

- Agriculture
- Ranching
- Low density residential development, with provisions for clustering/conservation development to protect natural resources
- Conservation and wildlife habitat enhancement/protection
- Development subject to all applicable County, State and Federal regulations including U.S. Army Corps of Engineers (USACE) wetland regulations and County floodplain development regulations
- Development regulated by overlays and development guidelines to protect natural resources

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

**Staff Comment:** The proposed Irish Acres 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 required for this proposal. The application is within Wetlands & Waterways Overlay. A technical review was also required stating the following:

1. Compliance Boundaries: The evaluation considered several potential compliance boundaries, including the subdivision in it's entirety, and also each lot individually. The analyses do not examine the effects of certain combinations of adjacent lots aligned with the modeled gradient. An example would be a grouping of Lots 7, 2, and 1 as a unit, and apply the corresponding unit parameters in the spreadsheet model.
2. Design Flow: The subdivision proposes 10 lots and 10 homes were included in the evaluation. Each home was assigned the 300 gallon-per-day default parameter value of the model spreadsheet. This equates to a 4-bedroom house. The NP evaluation does not consider a guest house or greater bedroom count, or why the presumed 4-bedrooms per lot is representative of anticipated future development. If guest houses are expected and allowed, or the number bedrooms anticipated may be greater than 4, there should be discussion of how that would affect the evaluation conclusions.
3. Hydraulic Conductivity Estimate: Above Reference Range The hydraulic conductivity used in all model simulations is 100 ft/day. Selection of this hydraulic conductivity value is not well supported. The author describes the 100ft/day value as "conservative" for this use, noting that it is on the lower end of typical values for sand and gravel aquifers. The drilling logs cited and provided in the appendix make frequent mention of significant clay, which can greatly retard flow in porous media . There are several logs that have included pumping test data that could be used to infer a more supported hydraulic conductivity value. Evaluating this kind of existing data seems consistent with the Level 1 Nutrient-Pathogen criteria. Many of these rudimentary tests report production of 1 gallon per minute flow per foot of drawdown. While they lack rigorous description of  $\lambda$  Page 2 methods or results, they should at least be compared with the assumed conductivity rate selected. The two best published estimates of conductivity covering this vicinity are from Nicklin (2003) and Cosgrove and Taylor (2007). Both of these assign values close to 25ft/day for this location.
4. Modeled Hydraulic Gradient Inconsistent with References: The author assumes that that the hydraulic gradient reflects the slope of the ground surface: 0.01 ft/ft. This generalized approximation seems a poor substitute for more specific references provided in mapping by Kilburn (1964), Nicklin (2003), and Cosgrove & Taylor (2007), which indicate that 0.006 is a representative value for this location. These maps do generally agree with this author's assertion that the direction of groundwater flow is east to west.
5. Phosphorus and Pathogen Impacts to Groundwater and Surface Water Not Addressed The report leaves out any meaningful discussion on the impacts of phosphorus and pathogens released in the on-site systems, as DEQ guidance recommends.

All comments were clarified by Y2 Consultants in a response to the technical review. Teton County's consultant must finalize the review on the revisions supplied on 9/22/23. DEQ has reviewed a second time and found they concur with the findings.

**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 (06/29/22). 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 more than 10 lots, or if the PZC, BoCC or Administrator find the application may have additional impacts on road conditions.

At Concept, the Planning Staff present at the time did not indicate a TIS would be necessary. Public Works has requested consideration of this request given the number of lots in this proposal.

**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.

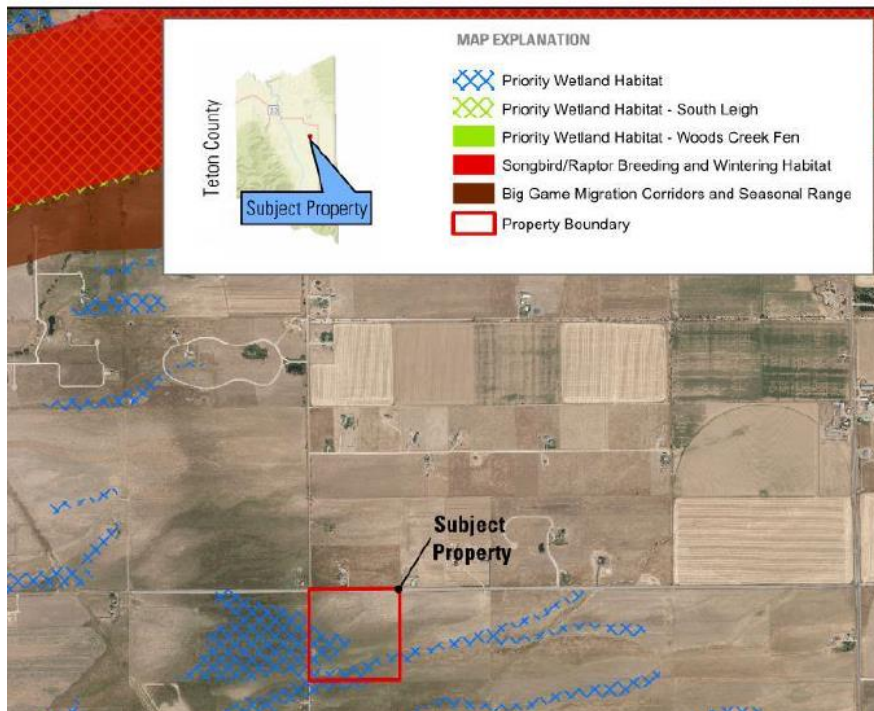
A Road and Bridge permit has been received for Trucco Ln to access subdivision.

**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.

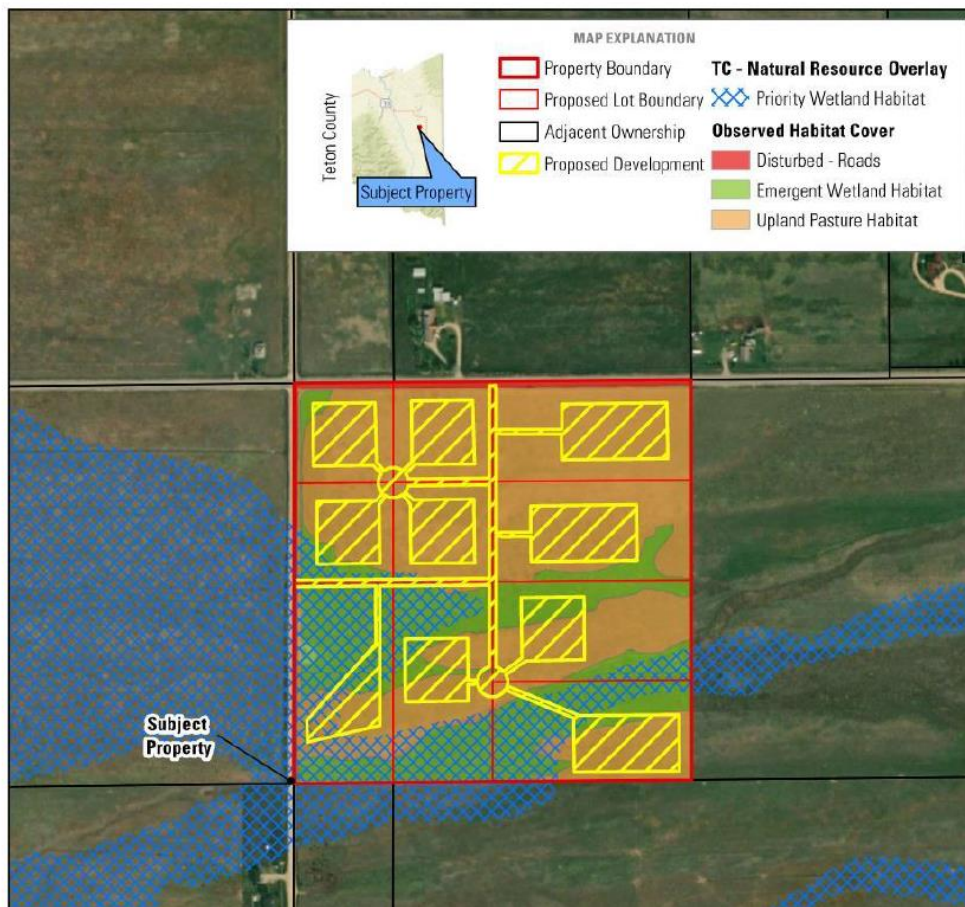
An NRA and Wildlife Habitat Assessment was completed for this proposal. The indicator species found to occur within the project area, per the report, was water birds/sandhill cranes and swans.

## CONCLUSION

This wildlife assessment concludes that the proposed Irish Acres Subdivision may negatively impact indicator species within the project area due to loss and fragmentation of habitat and human presence. This parcel provides wildlife habitat in the form of forage, cover, open space, and connectivity to other important habitats in the surrounding landscape. Construction of dwellings and increased human presence in this area will likely impact songbird and raptor species, and the vegetation, insects, and small mammals they rely on for food. However, through thoughtful design of the subdivision to minimize impacts to wetlands, maximize open space, and maintain habitat connectivity, mitigation actions could be utilized to further minimize or eliminate impacts.



NRA Report – appendix. Figure 3



Wetland mapping – from NRA

The wildlife habitat assessment suggested placing building envelopes which will need to be incorporated into the plat (listed as a condition).



**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

### **CONSIDERATIONS:**

The Planning and Zoning Commission should deliberate if a traffic impact study be required for the proposed 10 lot subdivision.

### **CONDITIONS OF APPROVAL:**

1. Incorporate building envelopes provided in site plan on the preliminary plat. Staff believes all building envelopes can comfortably fit within mapped uplands. Building envelopes should be addressed to reflect minimal wetland disturbance. The building envelopes site plan provided by the applicant use GIS mapping while the NRA presented an uplands map. Lot 10 has a driveway that crosses the wetlands which appears could be avoided with reconfiguration.
2. Address all public works comments:
  - a. All lots will need to be accessed from interior subdivision roads
  - b. Alignment of proposed Oshea Road should be lines up with access on other side of W4000N
  - c. Improvement Plans show 4 inches  $\frac{3}{4}$  "crushed gravel, 4 inches 2" crushed all on compacted existing subgrade. County standards require 4"  $\frac{3}{4}$ " crushed, 4" 2" –crushed on 8" imported structural fill will be required.
3. CCRs should be updated to reflect that h. Setbacks must be adhered to as well as building envelopes on the Plat for the subdivision.
4. Landscaping plan should incorporate generally, what will be utilized to landscape the entrance or perimeter. It should also include the subdivision sign. This should be incorporated into the Cost Estimate.
5. Financial Surety of 125% of the engineer-stamped and dated cost estimate must be provided to Teton County.
6. The Nutrient Pathogen Technical Review required edits, which the applicant has provided on 9/22/23. A second technical review by TCC's consultant still needs to occur. *This must be finalized before a hearing with the BoCC.*

### **PLANNING & ZONING COMMISSION ACTIONS**

- A. Recommend 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. Recommend 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. Recommend Denial of the Preliminary Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future PZC 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 RECOMMEND APPROVAL of the Preliminary Plat for the Irish Acres Subdivision as described in the application materials submitted on September 28, 2021 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 RECOMMEND DENIAL of the Preliminary Plat for the Irish Acres Subdivision as described in the application materials submitted on September 28, 2021, and additional information attached to the staff report, based on the following findings:

The following could be done to obtain approval: ...

1.....

**CONTINUATION**

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

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**ATTACHMENTS:**

- A. Application (6 pages)
- B. Preliminary Plat (2 pages)
- C. Development Agreement (16 pages)
- D. Improvement Plans (12 pages)
- E. CCRs (4 pages)
- F. EIPH Approval Letter (6 pages)
- G. Warranty Deed (2 pages)
- H. Cost Estimate (1 page)
- I. Nutrient Pathogen Study (94 pages)
- J. Technical Review (2 pages)
- K. DEQ Comments (2 pages)
- V. Road and Bridge Permit (5 pages)
- W. Narrative (4 pages)
- L. Narrative (4 pages)
- M. Army Corps Letter (2 pages)
- N. Hazards Report (4 pages)
- O. Landscape Plan (2 pages)
- P. Wildlife Habitat Assessment (37 pages)
- Q. Nutrient Pathogen Response (7 pages)
- R. Building Envelopes (1 page)
- S. Fire Marshal Comments
- T. Habitat and Overlay Map (1 page)
- U. Public Works Comments (1 page)

**End of Staff Report**