



**A REQUEST FOR A CONCEPT PLAN REVIEW APPROVAL**  
**BY:** Peacock Properties LLC  
**FOR:** Mountain Legends Ranch Subdivision  
**WHERE:** NE of Driggs, along N. Stateline Rd.  
**PREPARED FOR:** Planning & Zoning Commission  
 Public Hearing of July 12, 2016

*Staff Report updated on 7-1-2016 (Key Issues, Considerations of Approval, Public Comments attached) & 7-5-2016 (Inter-Agency Comments, Public Comments attached)*

**APPLICANT & LANDOWNER:** Peacock Property LLC, represented by Arrowleaf Engineering

**REQUEST:** Peacock Property LLC is proposing a 76 lot subdivision on two parcels of land (approximately 197 acres) north of Driggs. The lots will be 2.5 acres, with approximately 100 acres in open space easements. These parcels are zoned A-2.5.

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

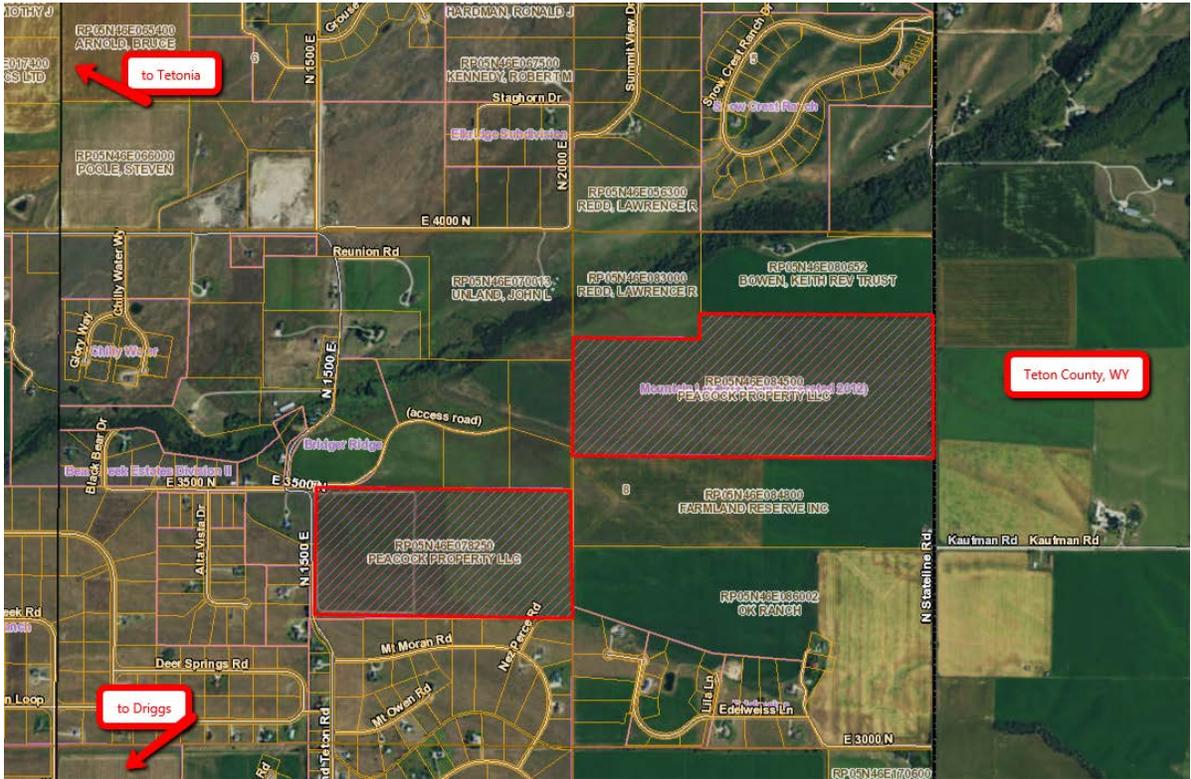
**LEGAL DESCRIPTION:** RP05N46E084500 - TAX #6485 SEC 8 T5N R46E FKA Mountain Legends Ranch;  
 RP05N46E078250 - TAX #6484 SEC 7 T5N R46E FKA Mountain Legends Ranch

**LOCATION:** Northeast of Driggs, Southeast of Tetonia, along N. Stateline Road

**ZONING DISTRICT:** A-2.5

**PROPERTY SIZE:** 197.05 acres

**VICINITY MAP:**



**PROJECT DESCRIPTION:**

Peacock Property LLC is proposing a 76-lot subdivision on 197.05 acres. This property does not include any overlay areas. This proposal only includes residential lots, which will be 2.5 acres. This proposal includes building envelopes on each lot, with open space easements throughout the subdivision (Attachment 4). The open space easements will be reserved for agriculture, wildlife habitat, and pedestrian use (Attachment 2). This subdivision will have two access points – N. Stateline Road and N 1500 E. The two parcels are connected through an access easement. The subdivision road is proposed as a private road. This development proposes that each lot owner would be responsible for an individual well and septic system. This development is also proposing an onsite fire pond for its fire suppression system.

**PROJECT BACKGROUND:**

These parcels were platted as the Mountain Legends Ranch Planned Unit Development in 2008 (Inst. #196611, 198374, 198375). This was a 99 lot PUD with 99.75 acres of open space. The PUD was vacated in 2012 (Inst. #223993).

**OVERVIEW OF CONCEPT APPROVAL:**

A concept review with the Planning Administrator or Planning and Zoning Commission is the required first step in the development process. The purpose of this review is to:

1. Acquaint the applicant with the procedural requirements of Title 9
2. Provide for an exchange of information regarding applicant’s proposed development ideas and the regulations and requirements of Title 9, the Master Plan, and other subdivision requirements
3. Advise the applicant of any public sources of information that may aid the applicant or the application, and identify policies and regulations that create opportunities or pose significant restraints for the proposed development
4. Review the sketch plans, if any, and provide the applicant with opportunities to improve the proposed plan in order to mitigate any undesirable project consequences
5. Review the compatibility with nearby land uses, either proposed or existing
6. Provide general assistance by County staff on the overall design of the proposed development

It is not to determine the exactness of each item required in the checklists of the preliminary and final plat processes.

**KEY ISSUES:**

*Lot Area & Number of Lots*

As part of Title 9, Lot Area is defined as the “area of any lots shall be determined exclusive of street, highway, road or other rights of way.” This application was originally submitted to include 78 lots. However, the road rights of ways were included in the lot areas. As part of the Development Review Committee meeting, the applicant was told that the road rights of way had to be taken out of the lot areas. This includes the two public roads that border the subdivision (N. Stateline Rd. and N 1500 E). The subdivision road will be considered private; however, the applicant was told that the road surface (22 feet wide) of the subdivision road could not be counted as part of the lot areas. The rest of the right of way could be designated as a snow storage and utility easement (19 feet on each side of the road surface), which could be included in the lot areas.

A new plan was submitted on June 21, 2016 to adjust the lot areas with the road right of ways removed. On the updated plan, the subdivision road surface was removed from the lot areas, which reduced the proposed number of lots from 78 to 76. The N. Stateline Road and N 1500 E right of ways are not shown on the plan as being removed from the lot area. N. Stateline Road is shown as an existing easement, but it is included in the lot areas. This right of way must be removed from the lot areas. The right of way for N 1500 E is not shown on the plan. Looking at the aerial images, it appears that some of the N 1500 E right of way may not be located on the property. The applicant should show this right of way in its entirety, so it is clear how much, if any, of this right of way is included on the property so it is removed from the lot areas.

**Roads & Addressing**

In the concept drawings provided by the applicant, there is one main subdivision road that runs through the development from N. Stateline Rd. to N 1500 E. With this design, several lots share a driveway. There is also a portion of the development near N 1500 E that has several lots accessed by the same driveway.

The Teton County Highway and Street Guidelines require that a driveway that accesses three or more parcels has to meet local road standards. Because of this requirement, the road must be extended, with the road surface area being removed from the lot areas. The parcels shown in Figure 1 below have the potential to access from different locations, so both should be designed as a local road, or a restriction should be added stating where the parcels are accessed from. However, at least one of the easements identified in Figure 1 has to meet local road standards because 3+ lots are being accessed.

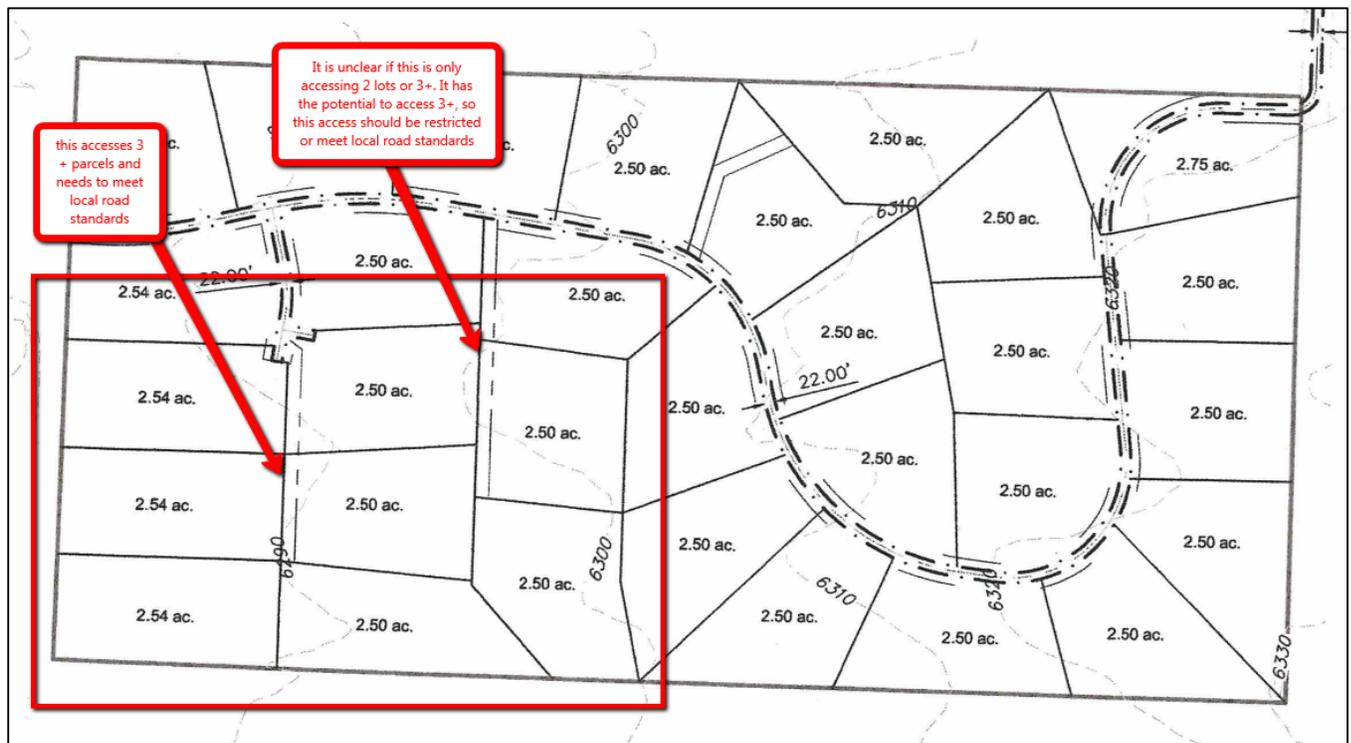


Figure 1: South parcel - Driveways that must meet local road standards or could be required to meet local road standards

Another concern with this design is the impact it will have on addresses. Title 13: Street Naming and Addressing Ordinance requires that “every existing, proposed, or constructed public road, private road or drive that provides, or will provide access to two (2) or more build-able lots shall have a street name assigned regardless of the length.” Because there are several shared driveways in this design and access is not clearly defined for each lot, there is potential that this development could be required to have several different street names for addressing purposes.

Assuming that every lot in the development that fronts the main subdivision road would access directly from the main road, there are 4 shared driveways that would require a unique street name for addressing purposes. One of these could be required to meet local road standards. There are two additional driveways that could provide access to two parcels, which would require a street name. Restrictions could be identified to only access one parcel, but because they are not, it is assumed they have can access two lots. This means there are 6 additional street names that would be required for this development. There is a seventh driveway easement that would access more than two parcels, but I did not include it, as I identified it above as needing to be a local road.

In Figures 2 and 3, the red arrows indicate parcels accessed by a driveway easement that would access at least two parcels. These would require a street name. The green arrows indicate a potential second parcel that could be accessed from the shown easement, which would then require a street name. The parcels with green arrows have another access option, so a restriction on the access location could clarify this and reduce the number of street names required. If the parcels that front the main subdivision road are not required to access from that road, the potential for more street names would increase significantly.

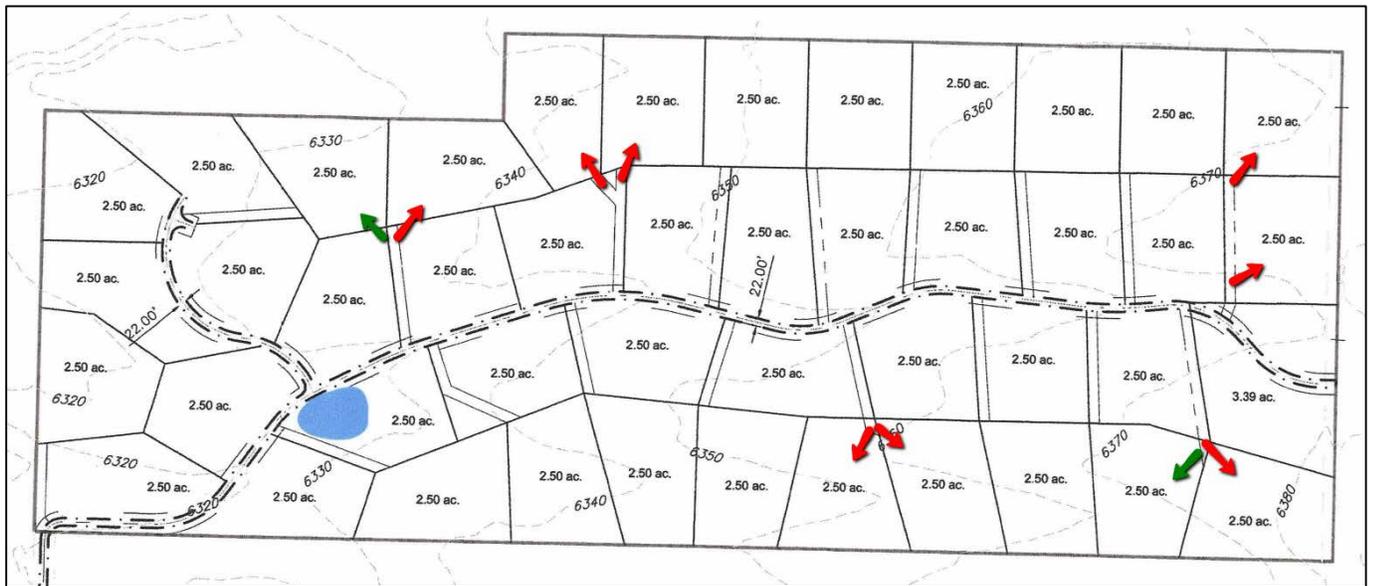


Figure 2: North parcel - shared driveways

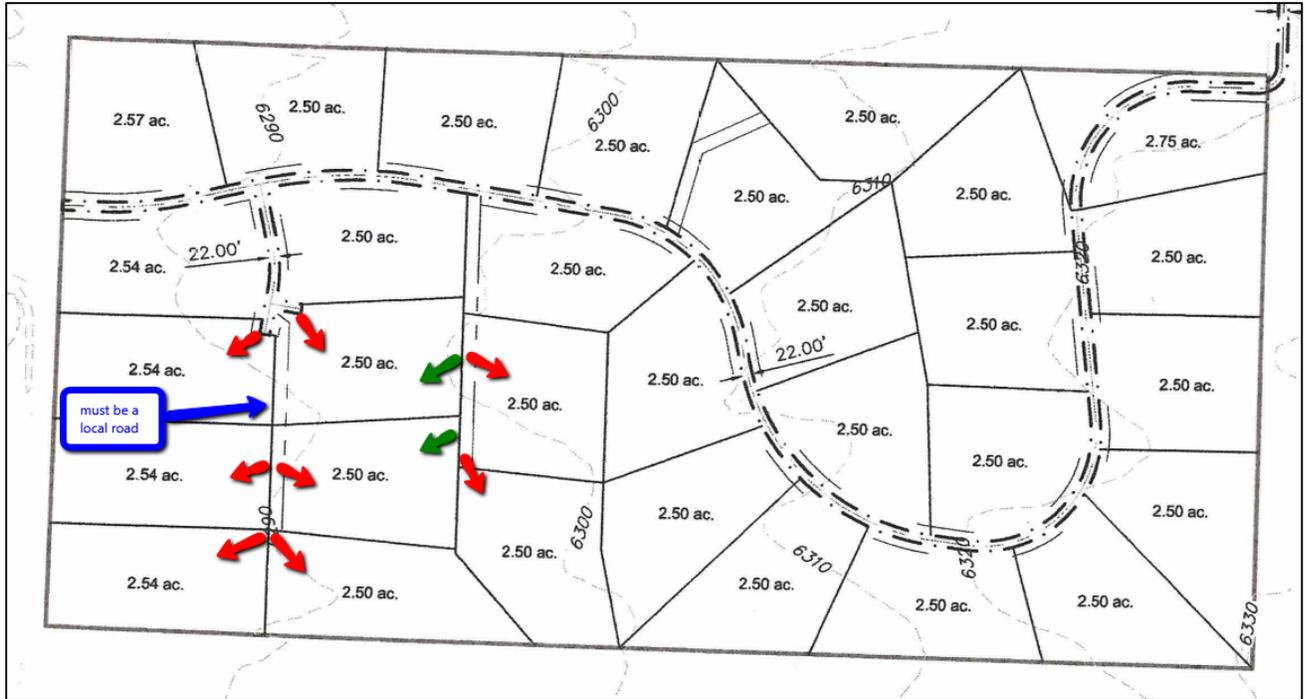


Figure 3: South parcel - shared driveways

### Phasing

In the applicant's narrative, phasing is mentioned when identifying when the fire pond will be constructed. This is the only reference to phasing that I noticed. It is unclear whether the development will actually be phased, and if so, how are the phases being identified? This should be clarified by the applicant.

### Studies/Plans Required to Preliminary Plat Application

After Concept Review Approval, the applicant may begin the Preliminary Plat application process. As part of this process, Teton County may require several different studies to better understand the impacts of a development. The following studies have been identified as being required for Preliminary Plat based on the concept application information.

- Landscape Plan
  - A Landscaping Plan is required for all subdivisions. This shall include a vegetation/revegetation plan identifying locations where vegetation will be installed in order to replace existing vegetation or revegetate disturbed areas, a plan for weed management, a stabilization plan to cover any disturbed slopes, and a plan to provide screening from neighboring properties or from State Highways 31, 32, 33 or Ski Hill Road 9-3-2-C-3-a).
- Public Service/Fiscal Analysis
  - Due to the impact that a larger subdivision may have on public facilities, utilities, services and finances, the applicant for a proposed subdivision containing more than twenty (20) lots shall submit a public service/fiscal analysis.

- Traffic Impact Study
  - Due to the impact that a subdivision may have on traffic levels, congestion levels, and levels of service on roads, the applicant for a proposed subdivision containing more than ten (10) lots shall have a traffic impact study prepared by a professional engineer.

The following studies have been identified as possibly being required for Preliminary Plat based on the concept application information.

- Nutrient Pathogen Evaluation
  - There are 5 conditions that would trigger the NP Evaluation.
    1. The proposed development that lies wholly or partially within the WW Wetland and Waterways Overlay Area (Section 8-5-1-D of Title 8); or
    2. There is evidence that ground water, at some time of the year, comes within ten feet of the ground’s surface at any location on the proposed development parcel; or
    3. There is evidence that soil depth to fractured bedrock is ten feet or less anywhere on the proposed development; or
    4. The development application includes a food service, a commercial facility, or an industrial facility generating 600 gallons or more of wastewater per day; or
    5. The proposed development is within an area where the concentration of nitrate-nitrogen in ground water is five (5) mg/L or higher.
  - Based on the aerial images, it appears that a corner of the property does lie within the Wetland and Waterways Overlay Area. Field measurements may be different than those based on the aerial image, but at this time, staff would consider this part of the WW Overlay. When staff met with the applicant for the Development Review Committee Meeting, it was initially thought that the property was outside of the overlay, but Dry Creek is in fact identified as part of the overlay area. Title 8 & 9 define the Wetlands and Waterways Overlay as:

(WW) Wetlands and Waterways Overlay: Includes all lands defined and regulated as wetlands through the federal clean water act as administered by the U.S. Army Corps of Engineers and the streams listed below. Because the existing WW Overlay as mapped does not accurately identify all such areas, the WW will be applied to: (1) all wetland areas identified on the U.S. Fish and National Wetland Inventory Maps, unless a jurisdictional determination is secured from the U.S. Army Corps of Engineers (USACE) indicating the area as uplands; (2) all areas delineated as wetlands and verified as such by the USACE; and (3) **those areas lying within 300 feet of the high water mark of the following waterways:**

Badger Creek	<b>Dry Creek</b>	Darby Creek
Mahogany Creek	South Leigh Creek	Packsaddle Creek
Bear Creek	Fox Creek	Drake Creek
Milk Creek	Spring Creek	Patterson Creek
Bitch Creek	Game Creek	Warm Creek
Moose Creek	Teton Creek	Little Pine Creek

Bull Elk Creek	Grouse Creek	Henderson Creek
North Leigh Creek	Teton River	Twin Creek
Trail Creek	Grove Creek	Horseshoe Creek



Figure 4: 300' from bank of Dry Creek - extends to Peacock Property LLC parcel

- Natural Resource Analysis
  - If the proposed subdivision contains any lands included in any of the Overlay Areas defined in Title 9 or in any of the overlay areas defined in Title 8, except the AV Airport Overlay Area, the applicant shall have a qualified professional approved by the Planning Administrator prepare a Natural Resources Analysis for the entire application parcel. This includes the Wetlands and Waterways Overlay. Unless determined otherwise, staff would consider this property to include the WW Overlay Area, which would trigger the Natural Resource Analysis. However, there are not Wildlife Habitat Overlays on this property, so the Wildlife Habitat Assessment would not be required.
- Phasing Plan
  - A phasing plan is only required if the development will be phased. It is still unclear if the development will be phased or not.

**INTER-AGENCY AND DEVELOPMENT REVIEW COMMITTEE COMMENTS**

*DRC Meeting:* On June 16, 2016, we had a DRC meeting with Arrowleaf Engineering (Sarah Johnston), Peacock Property LLC (Harry Statter), Herb Heimerl, Teton County Public Works Director (Darryl Johnson), Teton County Prosecutor (Kathy Spitzer), and Teton County Planning Administrator (Kristin Rader). Eastern Idaho Public Health (Mike Dronen) and the Teton County Fire District (Earle Giles) emailed comments instead of attending the meeting. From this meeting, the following items were identified (more information can be found in Attachment 6).

- Roads & Utilities: Roads need to meet the County’s Adopted Road Standards; The road rights of ways cannot be factored into the acreage of the lots – this includes the two public roads that

border the subdivision and the road surface area of the private subdivision road; Include in the Development Agreement and/or plat and the CC&Rs that the County may make the subdivision roads public in the future.

- Fire Protection: This project does require Fire Protection.
- Sewer/Septic: This proposal requires an EIPH subdivision assessment application and review.
- Plans & Studies: The following plans and studies were identified as being required/possibly required during the preliminary phase: Landscaping Plan, Traffic Study, Public Service/Fiscal Analysis, and Nutrient Pathogen Evaluation.

*Teton County, WY:* On July 5, 2016, I spoke to the Teton County, WY Engineer (Sean O'Malley). Teton County, WY is responsible for maintain this portion of Stateline Rd. He said he was interested in the impacts this subdivision would cause to Stateline Rd., so he would like to see a Traffic Impact Study. This application will require a Traffic Impact Study as part of the Preliminary Plat application.

**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 Zoning Ordinance. The public hearing for the Planning & Zoning Commission was duly noticed in the Teton Valley News. A notification was sent via mail to surrounding property owners within a 300-foot buffer area, as well as all property owners in subdivisions that intersect with the 300-foot buffer. A notice was also posted on the property at both access points (Stateline and N 1500 E) providing information about the public hearing.

**COMMENTS FROM NOTIFIED PROPERTY OWNERS & PUBLIC AT LARGE:**

At the July 5 deadline for public comment to be included in the Planning Commission packet, staff received 29 written public comments (Attachment 8).

**CONSIDERATION OF APPROVAL:**

For approval of Concept Review of a proposed subdivision (9-3-2(B-4)), the County shall consider the objectives of Teton County Title 9, application materials, and in a general way, at least the following:

<b>1. The conformance of the subdivision with the comprehensive plan.</b>	
Applicant Comments	The property is within the Rural Neighborhood area on the Framework Map. See Attachment 2 for the list of Comprehensive Plan goals that applicant felt applied to this development.
Staff Comments	<ul style="list-style-type: none"> <li>▪ This property is identified as a Rural Neighborhood area, which includes medium density, single family neighborhoods, clustered development, amenity based neighborhoods, large open space, safe and convenient street and pathway connections, and a clear distinction between residential development and open space/agricultural areas.</li> <li>▪ This proposal does not really cluster development, but it has created building envelopes to limit buildable space and added open space easements to allow for open space and agriculture. The open space easements do not include all of the space outside of the roads and building envelopes though, so it does not necessarily create corridors of open space.</li> <li>▪ There is not currently a distinction between which open space is designated for agriculture, wildlife habitat, or pedestrian use, so it is unclear how much of each space is being preserved. The applicant also states there is no critical wildlife habitat on the property, so it is unclear what wildlife habitat would be protected. It is also unclear how this is an amenity based neighborhood. The applicant references nearby towns and Grand Targhee Resort, but the open space easements have the potential to create on site amenities. The open space is identified as being for pedestrian use, but it is not identified if this means trails or park areas, or if it will just be an open field or grassy lawn. The narrative states the development provides pedestrian recreation opportunities through the open space, but it does not say how.</li> <li>▪ I think this proposal has the potential to be a rural neighborhood as described in the Comprehensive Plan if the open space was clearly defined for uses. Clustering could be somewhat accomplished with the minimum lot sizes and building envelopes, but the number of lots would need to be reduced to do this.</li> </ul>
<b>2. The availability of public services to accommodate the proposed development.</b>	
Applicant Comments	This subdivision will utilize private well and onsite septic systems. There are entities in the area to provide public services to this development. A Fiscal Impact Analysis will be prepared with the Preliminary Plat application.
Staff Comments	The subdivision will access from public roads N. Stateline Road and N 1500 E. The applicant is proposing an onsite fire suppression system for this development. A Public Service/Fiscal Impact Analysis is required with the Preliminary Application, which will provide more information on the impacts to the service providers.
<b>3. The conformity of the proposed development with the capital improvements plan (CIP).</b>	
Applicant Comments	<p>The Capital Improvements Plan assumes an average density of 50-80 units per 100 acres for the area of the proposed subdivision.</p> <p>The density of this development is 38.6 units per 100 acres. All required impact fees will be paid in accordance with the CIP in effect at the time of building permit issuance</p>
Staff Comments	This development is proposing a lower density than was assumed in the Capital Improvements Plan. If this development is phased, the demand on the County will be spread out over time. Impact fees will be paid during the building permit process to offset the impact of this development. The subdivision road will be private, so the County will not be responsible for maintaining that road.

<b>4. The public financial capability of supporting services for the proposed development.</b>	
Applicant Comments	A detailed Fiscal Impact Analysis will be prepared and submitted with the Preliminary Plat Application.
Staff Comments	The capability to support this development will be better understood once a Fiscal Impact Analysis has been completed.
<b>5. Other health, safety, or general welfare concerns that may be brought to the County's attention.</b>	
Applicant Comments	There are no FEMA Special Flood Hazard Areas mapped on the site. There is no surface water on the site. It is not in a Natural Resource Overlay, and no critical wildlife habitat areas. The site is mapped as "Class 1: Low Liquefaction Susceptibility", the lowers risk of three categories relating to earthquake hazard.
Staff Comments	A portion of this property is located in the Wetlands and Waterways Overlay Area. This would trigger the Nutrient Pathogen Evaluation. It would also trigger the Natural Resource Analysis (not the Wildlife Habitat Assessment).

**POSSIBLE CONDITIONS OF APPROVAL**

1. Provide an updated plan with the public road right of ways of N. Stateline Road and N 1500 E removed from the lot areas, the addition to the subdivision road with the road surface removed from the lot area, and include an updated number of lots proposed for this subdivision.
2. Provide an open space management plan as part of the preliminary plat application stating how much open space will be dedicated to agriculture, wildlife habitat, and pedestrian use. Also include a map of where these uses will be located and elaborate on what pedestrian use means. Include in this plan how the open space easements will be managed.
3. Obtain access approval from Teton County, ID Road & Bridge for N 1500 E and N. Stateline Road.
4. Begin working with EIPH for septic approval.
5. Begin working with Teton County Fire District for fire suppression approval.
6. Conduct/update required studies/plans for Preliminary Review: Traffic Impact Study, Public Service/Fiscal Analysis, Landscape Plan, Stormwater and Infrastructure Plans, Phasing Plan (if required), Natural Resource Analysis, and Nutrient Pathogen Study.

**PLANNING & ZONING COMMISSION ACTION:**

- A. Approve the Concept Plan, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
  
- B. Approve the Concept Plan, with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.
  
- C. Deny the Concept Plan application request 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.

## **POSSIBLE MOTIONS**

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

### **APPROVAL**

*Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) can be satisfied with the inclusion of the following conditions of approval:*

1. *Provide an updated plan with the public road right of ways of N. Stateline Road and N 1500 E shown and removed from the lot areas, show the addition to the subdivision road with the road surface removed from the lot area, and include an updated number of lots proposed for this subdivision.*
  2. *Provide an open space management plan as part of the preliminary plat application stating how much open space will be dedicated to agriculture, wildlife habitat, and pedestrian use. Also include a map of where these uses will be located and elaborate on what pedestrian use means. Include in this plan how the open space easements will be managed.*
  3. *Obtain access approval from Teton County, ID Road & Bridge for N 1500 E and N. Stateline Road.*
  4. *Begin working with EIPH for septic approval.*
  5. *Begin working with Teton County Fire District for fire suppression approval.*
  6. *Conduct/update required studies/plans for Preliminary Review: Traffic Impact Study, Public Service/Fiscal Analysis, Landscape Plan, Stormwater and Infrastructure Plans, Phasing Plan (if required), Natural Resource Analysis, and Nutrient Pathogen Study.*
- *and having found that the considerations for granting the Concept Plan Approval to Peacock Property LLC can be justified and have been presented in the application materials, staff report, and presentations to the Planning & Zoning Commission,*
  - *and having found that the proposal is generally consistent with the goals and policies of the 2012-2030 Teton County Comprehensive Plan,*
  - *I move to APPROVE the Concept Plan for Mountain Legends Ranch Subdivision as described in the application materials submitted June 7, 2016 and June 21, 2016 and as supplemented with additional applicant information attached to this staff report.*

### **DENIAL**

*Having concluded that the Criteria for Approval of a Subdivision Concept Plan found in Title 9-3-2(B-4) have not been satisfied, I move to DENY the Concept Plan for Mountain Legends Ranch Subdivision as described in the application materials submitted June 7, 2016 and June 21, 2016 and as supplemented with additional applicant information attached to this staff report. The following could be done to obtain approval:*

1. ...

Prepared by Kristin Rader

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#### **Attachments:**

- |                               |  |
|-------------------------------|--|
| 1. Application (4 pages)      | 5. Soil Resource Report (3 pages)            |
| 2. Narrative (10 pages)       | 6. DRC Meeting Notes (2 pages)               |
| 3. Warranty Deeds (9 pages)   | 7. Adjacent Landowner Notification (3 pages) |
| 4. Concept Drawings (4 pages) | 8. Public Comment (85 pages)                 |

**End of Staff Report**