



March 4, 2009

Teton County BoCC
89 North Main Street
Driggs, Idaho 83422

RE: Legacy Lakes PUD final plat hearing part II.

Dear Commissioners,

After reviewing the new materials submitted to the planning office for the March 2009 hearing, I respectfully reiterate every comment submitted in my February 2, 2009 and February 12, 2009 comment letters. My comments are all based on the December 12, 2005 Teton County Title 8 and 9 ordinances. **In addition to my previous comments, please consider the following issues:**

Issue 1: When will building commence?

Section 3 of the Development Agreement allows construction of Phase 1 to languish for up to three (3) years and ninety (90) days after the date of recordation. Specifically, construction of Phase 1 will begin within ninety (90) days of the water rights transfers being approved by IDWR. I have three (3) concerns with this scenario:

First off, this provision is contrary to all of code section 9-3-4-A-5-b. Secondly, it is contrary to the county's policy of not allowing entitlements to drag on for years without being used. Finally, the backlog of water rights transfers is currently at about 475 applications, and IDWR is processing about 26 applications per month.¹ To date, the developer has *still not filed anything with IDWR*. Even if he filed today, it would still take at a minimum eighteen (18) months to be approved. P&Z asked the developer to begin the

¹ Idaho Water User's Association November 2008 Annual Report. This report indicates that transfer backlogs are dramatically increasing. In 2007, the backlog of transfers was only 250 applications.

transfer process over two (2) years ago because water is so central to the public benefit of this particular PUD, and the transfer process can take a long time to complete.

Issue 2: What specifically are the details of the phasing plan?

I am concerned that the phasing plan lacks specificity and does not include water features. Also troubling is that this development's entitlements (which are based on the out-dated urban reserve PUD ordinance of December 12, 2005) would continue for over twelve (12) more years, even though this type of PUD has been rejected by the community and rescinded by the county. Please do not tie the county and community's hands for so many years on such a high-density project. Please refer to all of code section 9-3-5-E.

Issue 3: Will lot 2 also someday be developed under this out-dated ordinance?

If lot two is developed in the future, what ordinance will it be reviewed under? It is 2009, and this project is already being reviewed under an ordinance that is out-dated by four (4) years. Let's not exacerbate the problem of developments gaining entitlements under ordinances that have been rescinded because they no longer reflect the community's development goals. Please refer to all of code section 9-3-4-A-5-b and all of 9-3-5-E.

Issue 4: Do the small setbacks and large houses conflict with open space requirements?

I am concerned that the proposed 5-foot setbacks (6-foot minimum by fire district standards) appear to allow for houses of 8,000-12,000 square feet to be placed 10 feet apart. Please refer to code sections 8-2-1, 9-7-6-C-2, 9-7-9, 9-1-3-A, 9-1-3-C, and all of 9-7-2.

Issue 5: Can Driggs sewer capacity be guarantee for this entire project?

The newly submitted plat notes indicate that this development will be served by Driggs sewer, however the 15-month old will-serve letter from the City of Driggs cannot guarantee capacity to service every phase of this entire project. Please refer to code sections 9-1-3, 9-3-5-E, 9-5-2-F, and 9-7-2-H.

Thank you once again for all of your hard work and thoughtful consideration.

Sincerely,

Anna Trentadue
VARD Program / Staff Attorney