



V A R D

February 2, 2009

Teton County BoCC
89 North Main Street
Driggs, Idaho 83422

RE: Legacy Lakes PUD final plat hearing.

Dear Commissioners,

VARD respectfully submits the following comments regarding the final plat for Legacy Lakes PUD:

PART 1. WATER ISSUES.

a. There are no water rights legally secured for these water amenities.

Water features are central to this PUD, but there are no secured water rights to fill and maintain these ponds and streams. This property is within the service area of Grand Teton Canal Company, which has seasonal rights for irrigation on the property, but there is no written authorization from Grand Teton Canal Company to use these water rights for the ponds and streams. Furthermore, there is no approved transfer from IDWR, certifying that year-round use of these Grand Teton Canal rights for artificial lakes and streams would not constitute an enlargement, as prohibited by I.C. § 42-222.

b. The applicant must obtain written authorization from the ditch owner.

I.C. § 42-1207 requires written permission from Grand Teton Canal Company before the ditch may be relocated, altered, or incorporated into the construction of Legacy Lakes PUD. The lack of written authorization is a statutory requirement that was an issue at the preliminary plat hearing from over twenty-two (22) months ago, and still remains at large.

c. Appropriate use of water resources.

To take water from Teton Creek and create large artificial water features is simply an inappropriate use of our limited water resources. I am also concerned about these lakes and streams being properly maintained so they do not run dry and become a muddy eyesore for the community. In this community, we have historically seen HOA's and developers struggle to adequately maintain their water features, and a system of this size would require a large amount of maintenance and upkeep of the system and landscaping.

d. Flooding concerns to be addressed.

With a large artificial system like the one proposed here, I am especially concerned about flooding during spring runoff and large storm events. I have personally seen this become a problem with water features in other private communities. This water system will need to be constantly and appropriately maintained to ensure it will function under high water conditions to avoid flooding.

e. This PUD requires a clear and enforceable maintenance and funding mechanism.

The root of the problem is the water features of this PUD will require significant oversight and maintenance costs in order to not be a health and safety hazard to the community. This board should require a clear and binding provision in the development agreement detailing who is responsible for the water system maintenance, and precisely when it will fall under the control of the HOA. The developments agreement should also include a clear and enforceable funding mechanism for the maintenance of the water system.

PART 2. THE IMPACTS OF THIS DEVELOPMENT NEED TO BE MITIGATED.

a. This PUD is inharmonious with all surrounding developments.

With 80 lots on 154.85 acres, and an average lot size of approximately **0.85 acres**, this PUD simply cannot be considered harmonious with the surrounding developments that immediately abut this project on three sides:

- **Saddlehorn Ranch:** A traditional subdivision directly east of Legacy Lakes with 126 lots on 260 acres. Average lot size is approximately **1.7 acres**.
- **Grandview Ranch:** A traditional subdivision directly east of Legacy Lakes, with 18 lots on 97.22 acres. Average lot size is **4.9 acres**.
- **350 North:** A minor subdivision immediately to the north of Legacy Lakes, with **6 lots on approximately 200 acres**.
- **Dry Creek Ranch:** A traditional subdivision directly west of Legacy Lakes with 21 lots on 70.73 acres. Average lot size is **3.37 acres**.

When compared to the hard numbers of what is on the ground surrounding this PUD, this project will stand out when compared to everything in the area.

b. Where are the benefits?

The PUD process is a negotiation by which the developer *gets* higher densities in exchange for *giving* the community benefits. Here, the developer is getting 80 units where the underlying zoning would only allow 62, but what is the public benefit? The small strips of open space in this project are not meaningful from a wildlife perspective. Moreover, the arrangement of lots into approximately 14 north-south running rows will not protect scenic vistas for the public. And finally, the private tennis courts and hypothetical trail system simply cannot be considered benefits to the greater community at large.

c. Questions regarding the estimate of tax revenue.

In the PUD process, the developer is supposed to prove up his density and show that it's a good investment for the community. Here, the applicant's estimate of tax revenues predicts significant tax revenue for the county, but it is based on extremely high lot values (\$300,000)

and home values (\$800,000) that are not represented in today's market. It is also unclear how the \$2,380,000 revenue for the clubhouse was calculated. The Targhee Hill Estates fiscal impact study and the attached critique of this study (*See Attachment B*) represent a good methodology for how to best estimate the true fiscal impacts.

d. Mitigations should be proposed for community impacts.

The developer's final plat application states that he has no intention of contributing back to schools, transportation systems, emergency services, etc. Development needs to help pay for itself by helping mitigate its impacts not within the gated community, *but out in our greater community at large*. Attachment A addresses the impacts on our community created by Legacy Lakes which still need to be addressed.

PART 3. IMPORTANT PROJECT DETAILS WHICH NEED TO BE CLARIFIED.

a. What are the details of the berming plan and the clubhouse/recreation center?

The final plat application (page 7) references a berming plan for this project to shield it from offsite development. I am concerned about where these berms will be located, and how they will really look from both the Highway 33 and the surrounding subdivisions. I am also confused as to what incidental uses will be permitted at the clubhouse/recreation center. When will it be recreation center be built? What will it look like? Finally, lot 2 is reserved for future uses, but what limitations will be placed on these future uses?

b. Important amenity details should be included on the Master Plan and Phase 1 plats.

These plats are the documents with the most legal significance, as they will eventually be recorded with the county. The lakes and stream system is not depicted on the final plat. The proposed trail system is not depicted. Without these details on the plat, where is the

protection that these amenities will come to fruition and not be something significantly different than what was negotiated in the PUD process?

PART 4. CONCLUSION.

Although Legacy Lakes has been in the process for 3 years, this is the first final plat hearing for this project, and thus the first opportunity to address my concerns in a public form since the preliminary plat hearing over twenty- two (22) months ago. The significant outstanding issues with this project must be addressed before final plat approval.

Sincerely,

Anna Trentadue
VARD Program / Staff Attorney

ATTACHMENT A

Estimated Impacts from Legacy Lakes

If Legacy Lakes has 80 lots, it will add the following to our community:

- 232 new residents
- 23,200 gallons of waste water per day
- 760 vehicle trips per day
- 240 pets
- 39 school children
- 1,044 pounds of trash per day

Our community will require the following to accommodate these increases:

- 41,528 gallons of water per day (Not including scenic pond water.)
- 3,322 kW hours of electricity per day
- 0.56 police officers
- 0.64 hospital beds
- 4,709 square feet of retail space

Impact Calculator Sources

Estimated Population: calculated by multiplying the **number of units** by **2.9 people**, which is the county average for people per dwelling unit. From the U.S. Census Bureau, 2000. <http://quickfacts.census.gov/qfd/states/16/16081.html> High confidence.

Water use: calculated by multiplying the **estimated population** by **179 gallons/day** which is the average water consumption per capita in the U.S. From the United States Geological Survey website. <http://pubs.usgs.gov/circ/2004/circ1268/> Medium confidence.

Power use: calculated by multiplying the **estimated population** by **14 kW hours/day** which is the average power consumption per capita in Idaho. From the United States Department of Energy website. http://www.eere.energy.gov/states/state_specific_statistics.cfm/state=ID High confidence.

Wastewater: calculated by multiplying **estimated population** by **100 gallons/day** which is the national average of wastewater per capita. From the U.S. Department of Agriculture. <http://extension.missouri.edu/explore/commdm/dm1905.htm> High Confidence.

Hospital Beds needed: calculated by multiplying the **estimated population** by **.0028 beds/person**, which is the national average of hospital beds per capita. From the Organization for Economic Cooperation and Development. <http://www.oecd.org/dataoecd/29/52/36960035.pdf> Medium confidence.

School Students added: calculated by multiplying the number of **housing units** by **.49 students**, which is the county ratio of school children to households in 2003. From the Teton County Cost of Services Study conducted by Collins Planning Associates in 2004. High Confidence.

Vehicle trips added: calculated by multiplying the number of **housing units** by **9.5 trips/day**, which is the national average. From the Teton County Cost of Services Study conducted by Collins Planning Associates in 2004. High Confidence.

Police officers needed: calculated by multiplying the **estimated population** by **.00243 officers**, which represents the national average of police officers per thousand people. From the U.S. Department of Justice. <http://www.ojp.usdoj.gov/bjs/sandlle.htm#personnel> High-Medium confidence.

Trash generated: calculated by multiplying the **estimated population** by **4.5 lbs/day**, which is the national average of solid waste generated daily per person. From the U.S. Environmental Protection Agency. <http://www.epa.gov/msw/facts.htm>. High confidence.

Retail Space demand: calculated by multiplying the **estimated population** by **20.3 sqft/person**, which is the national average for retail space per capita. From a study conducted by Cushman and Wakefield. http://retailtrafficmag.com/mag/retail_touching_down/index.html. Medium-Low confidence.

Dogs and Cats added: calculated by multiplying the number of **housing units** by **3 dogs and cats**, which is the Teton County, ID average. From a census conducted by the Teton County, ID Humane Society in 2002. Medium confidence.