

**OFFICIAL SUMMARY PROCEEDINGS
OF THE BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, WYOMING**

The Teton County Board of Commissioners met in special session on **October 30, 2018** in the Commissioners Chambers located at 200 S. Willow in Jackson. The meeting was called to order at 9:02am

ROLL CALL

County Commission: Mark Newcomb Chair, Natalia Macker Vice Chair, Smokey Rhea, Greg Epstein. Paul Vogelheim was absent.

Workshop – Bear Proof Trash Containers

Chair Newcomb gave a brief overview of the purpose of this workshop.

Heather Overholser, Integrated Solid Waste and Recycling addressed the Board regarding the bear conflict zones, areas that are not located in the Bear conflict zones are – Melody Ranch, Rafter J, 3 Creek, South Park Ranches, Polo Ranches and the Meadow Drive area, adherence in the mandatory zones is not 100%, the containers do not work if not used properly, education on how to use the containers will be required, enforcement needs to be addressed, Integrated Solid Waste and Recycling is in support of expanding the requirement throughout the county, Pay as You Throw Program, the program should be implemented along with the County wide requirement of Bear Proof Trash Containers, cost of cans are around \$200-\$400 per can, commercial is included in the Bear Proof Trash Container requirement.

Ron Zakoor, West Bank Sanitation, addressed the Board regarding his support of the transitions to Bear Proof Trash Containers, expense of the cans and the maintenance, cans work well if used properly, enforcement and education will be a big part, Bear Proof Trash Containers start at 95 Gallons and go down to 64 Gallons, Bear Resistant compared to Bear Proof, as a hauler the biggest concerns are enforcement, education and initial cost.

Discussion between the Board and Mr. Zakoor included average cost of a Bear Proof Container, different types of Bear Proof Containers, delivery of the containers, replacement procedures of non-working cans.

Kalisa Poinsett and Opie Garvin, Yellow Iron Waste Removal, addressed the Board regarding Bear Proof Cans being difficult to support because of the cost, Bear Proof Dumpsters, requirement to buy new trucks to accommodate the new containers, complaints from customers in dealing with current Bear Proof Containers, currently have a large inventory of non-bear proof containers, enforcement is a hard issue with bear proof trash containers, cost to the consumer and haulers will be significant.

Discussion between the Board and Ms. Poinsett included additional cost, use of re-load trucks to help with sorting, 90% of Bear Proof Trucks are front load.

Keelan Schupman, Teton Trash Removal spoke to the cost of containers, Teton Trash Removal uses rear-load trucks, Pay as you Throw is a good program, enforcement is difficult, not currently in support of the move to Bear Proof Trash Containers.

Discussion between the Board and Mr. Schupman included cost and truck type.

Dan McCliff, West Bank Sanitation, addressed the Board regarding compliance, carbon footprint, trash retrieval process, self-haulers, people that compost, compliance would require 100%.

Brad Hovinga, Brian Devolt, and Mike Boyce Wyoming Game and Fish, addressed the Board regarding regional and state wide perspective on Bear Proof Trash Containers, in support of using Bear Proof Trash Containers, Bear Proof Containers wouldn't prevent conflict 100%, replacement cost long-term, biggest problem nationwide is compatibility with receiving equipment, education is very important, data collection of Bear/Human conflict for about 30 years, areas in the Town of Jackson that have high conflict are cache creek drive, Snow King interface, areas west of Highschool Butte, Hi-Country Drive, options for funding.

Discussion between the Board and Mr. Boyce included location and number of recent conflicts, conflicts are low this year, fruit trees are an attractant to Bears, average Bear siting's south of Town.

Public comment was given by Lorna Miller, Mac Dukart, Leah Zamesnik.

Discussion between the Board and Heather Overholser included compliance options with Pay as You Throw.

The meeting recessed at 10:00am, and reconvened at 10:09am

At 10:09am, a motion was made by Commissioner Epstein and seconded by Commissioner Rhea to convene an executive session. Pursuant to Wyoming Statute §16-4-405(a)(ii) To consider the appointment, employment, or dismissal of a public officer, professional person or employee. Chair Newcomb called for a vote. The vote showed all in favor and the motion carried.

EXECUTIVE SESSION

Commission present: Mark Newcomb Chair, Natalia Macker Vice-Chair, Greg Epstein, Smokey Rhea.

Others present Keith Gingery, Alyssa Watkins, and Kassie Hansen.

At 10:11am, a motion was made by Commissioner Epstein and seconded by Commissioner Rhea to adjourn from executive session. Chair Newcomb called for a vote. The vote showed all in favor and the motion carried.

A motion was made by Commissioner Rhea and seconded by Commissioner Epstein to mark the ballot as directed in executive session. Chair Newcomb called for a vote. The vote showed all in favor and the motion carried.

The meeting recessed at 10:12 and reconvened at 10:32am.

Commissioners present Mark Newcomb Chair, Natalia Macker Vice Chair, Smokey Rhea, Greg Epstein, and Paul Vogelheim.

MATTERS FROM PLANNING & DEVELOPMENT (Continued from September 18, 2018, October 4, and October 16, 2018 BCC Meetings)

1. Applicant: GRAND TARGHEE RESORT, LLC
Presenter: Roby Hurley
Permit No.: PUD2017-0005
2. Permit No.: AMD2017-0006
3. Permit No.: SKC2017-0007
Request: Amend the Grand Targhee Master Plan pursuant to Section 8.7.3, Planned Unit Development, LDR Text Amendment and Sketch Plan pursuant to the Teton County Land Development Regulations on the 120-acre Grand Targhee Resort.
Location: 3300 Ski Hill Road, Alta, WY, generally located 6.6 miles northeast of Alta, WY. A portion of Tract 39. The property is zoned Planned Resort and is not in an overlay.
4. Applicant: GRAND TARGHEE RESORT, LLC
Presenter: Roby Hurley
Permit No.: MSC2018-0006
Request: Miscellaneous permit pursuant to Section 4.3.1.E.8.c Master Plan Extension, of the Teton County Land Development Regulations, to extend the master plan for Grand Targhee Resort.
Location: 3300 Ski Hill Road, Alta, WY, generally located 6.6 miles northeast of Alta, WY. A portion of Tract 39. The property is zoned Planned Resort and is not in an overlay.

On September 18, 2018 the Board of County Commissioners heard from Planning Staff and the applicant and received public comment regarding the application to amend the Grand Targhee Master Plan. The Board reviewed road impact fees, transportation, employee and affordable housing, exactions and replacement of Conditions 6, 7 and 34 with funding and support for the Teton Creek Corridor Project (TCCP). The meeting was continued to October 4, 2018.

On October 4, 2018 the Board of County Commissioners heard from Planning Staff and the applicant regarding the application to amend the Grand Targhee Master Plan. There was no public comment. The Board focused their review on the Teton Creek Corridor Project and the Community Services Element of the Master Plan. The meeting was continued to October 16, 2018.

On October 16, 2018 the Board of County Commissioners heard from Planning Staff and the applicant regarding the application to amend the Grand Targhee Master Plan. There was comment from four members of the public. The Board focused their review on the Teton Creek Corridor Project and the Community Services Element of the Master Plan. The Community Services Element proposes funding and support for the Teton Creek Corridor Project to replace conditions 6, 7 and 34 of the 2008 Master Plan approval. Considered mitigation, Conditions 6, 7 & 34 required conservation easements or fee simple purchase of land, funding and support for easements totaling at least 600 acres. The Board's discussion and review of findings included how the proposed conditions are in conformance with original conditions of approval, prior conditions of approval, value of contiguous acres for habitat vs. fragmented acres for habitat, amended set of conditions meeting conservation, community, and habitat goals, and future funding for transit and road maintenance. The Board continued the applications to October 30, 2018 the application before the Board also includes a miscellaneous application, MSC2018-0006, to extend the current master plan, which expired on February 4, 2018, should an amended master plan not be approved. Grand Targhee has received two extensions, the most recent being MFS2012-0019 that approved an extension from September 25, 2012 to February 4, 2018. The Planning Director received Grand Targhee's applications for amendment on December 4, 2017, prior to the expiration date. If no amendments are approved, the master plan would expire by its terms absent an additional extension as requested in MFS2018-0006.

During the discussion of the Community Services Element, the Board considered extending future transfer fees to transportation needs. This item was discussed under proposed Condition 8 that sets up where future fees are directed should the TCCP cease to exist or not meet the project goals. Given the original proposed condition's intent of environmental mitigation, Staff believes that this approach dilutes or directs funds away from environmental and conservation efforts. In addition, there is not a link between the Community Services element standard with the Transportation element standard in the LDRs. While a separate transportation funding approach could be considered, Ski Hill Road is a County Road. When it was adopted as a County Road, the Targhee Master Plan had been approved. The Board was aware of the density/development at the time it decided to adopt the road. The impact fee for Ski Hill Road during construction and build out of Targhee does have a legal nexus and can remain in place as drafted in proposed Condition #2.

Given the Board's continued discussion on the current conditions and the shift to the Community Services Element, staff is proposing options for consideration, with the goal of reaching a conclusion at the October 30th meeting. Options to consider are as follows:

1. Approve the amendments to the currently proposed Master Plan, but keep the original 2008 Conditions 6, 7 and 34 (requires elimination of staff/applicant recommended conditions 3-8).
2. Approve the amendments to the currently proposed Master Plan, including the attached list of conditions with \$100,000 payment from Grand Targhee and 2% and 1% Transfer Fees for TCCP (applicant's proposal, no change to staff/applicant recommended conditions).

3. Approve the proposed amendments to the current Master Plan, with proposed amended conditions based on the required mitigation determined by Planning Staff in 2006, based on the LDRs in place at the time of approval (Attachment 5) as follows:
 - a. Applicant to acquire 134.5 acres of fee simple or conservation easement land in Teton County, Wyoming or Teton County, Idaho.
 - b. Acquired land shall be of equal or greater value to the undeveloped land on the Grand Targhee parcel.
 - c. Acquired land shall be within 50 miles of Teton County, Wyoming or Teton County, Idaho.

The Board has the discretion to amend/combine the options, including options from the applicant. Once the Board has concluded their review, Staff will draft final conditions for a motion. Should the Board select Option #2 above, staff recommends that the Board discuss and straw poll whether or not they would like to include pathways in condition #7(vi). The Board requested history on Commercial thresholds permitted by both the County and Forest Service Master plans. Commercial allowances and timeline are as follows:

- 1994 Forest Service EIS and ROD for the 2004 Land Transfer
 - 686 total units
 - 135,000 sq. ft. of service (98,3420) and commercial (37,900)
 - Conference Center and spa
- 2017 Forest Service Master Development Plan (MDP focus is primarily on-mountain)
 - Range- 96,330 to 121,380 sq. ft. of service and commercial
- 2008 County Master Plan Application
 - 725 total units
 - 197,724 sq. ft. of service and commercial
- 2008 County Master Plan Approval
 - 450 total units
 - 150,000 sq. ft. service and commercial
- 2017 County Master Plan Application
 - 450 total units
 - 150,000 sq. ft. service and commercial

Staff would like to remind the Board of the order of review as outlined in the suggested motion in the September 18, 2018 Staff Report. The order is to first make a motion on the PUD followed by the AMD and finally SKC, which requires approval of the PUD and AMD first in order to make Sketch Plan finding 8.3.1.5, as approval of the PUD amendment and LDR amendment will supersede prior approvals. Should the Board approve PUD2017-0005, the Board should note that the proposed conditions shall also apply to AMD2017-0006, as certain subsections of LDR Section 4.3.7. Grand Targhee will need to be amended for consistency with any amendments or conditions of approval to the Master Plan.

GRAND TARGHEE RESORT APPLICATION TO AMEND MASTER PLAN PUD2017- 0005; AMD2017-0006

Condition of Approval No. 1

All approved conditions shall be incorporated in the associated sections of the Master Plan, or in an appendix to the Master Plan, with final hard and electronic copies provided to the Planning Department no later than forty-five (45) days after approval by the Board. Subject to approval by the Teton County Planning Director and the Teton County Attorney's Office, the final Master Plan and Appendix shall be recorded in the Office of the Teton County, Wyoming Clerk within ninety (90) days of Board approval.

Condition of Approval No. 2

Prior to the earlier of either Final Development Plan approval or the issuance of any physical development permit at Grand Targhee Resort that will utilize Ski Hill Road, Grand Targhee shall present to the Teton County Engineer a road impact fee representing the proportional impacts of development during the construction phase beyond that which would ordinarily occur on a county road. The impact area for this fee shall be defined as Ski Hill Road beginning at Stateline Road to the termination of the public portion of the road at the Resort boundary. The proposal shall consider the proportionate share of traffic generated by the proposed construction, relevant ADT data, and a cost analysis, and is subject to final approval by the County Engineer.

Condition of Approval No. 3

Within five (5) business days of the recordation of the Amended Master Plan, the Applicant shall make a payment in the amount of one hundred thousand (\$100,000.00) to the Teton Creek Corridor Project (the "TCCP"), which payment shall be used to fund, promote, or ensure stewardship of projects within any of the five (5) established project goal categories of the TCCP of: (i) preservation of agricultural farmlands along the Teton Creek corridor; (ii) preservation and restoration of in-stream and riparian habitat along Teton Creek; (iii) preservation and restoration of upland habitat along Teton Creek; (iv) protection of wildlife habitat through redesign of existing/platted subdivisions; and (v) a pathways/public access project. Distribution of funds shall prioritize preservation/restoration of high value habitat when possible. The Applicant shall provide proof of payment to the Teton County Planning Department.

Condition of Approval No. 4

The "Community Services Transfer Fee Agreement" (the "Agreement") which imposes a two percent (2%) transfer fee on all initial gross sales of residential units, conventional lodging units, short-term rental units, or vacant land with development rights for the aforementioned units sold within the Resort, and which imposes a one percent (1%) transfer sale on all subsequent gross sales (ie: re-sales) of residential units, conventional lodging units, short-term rental units, and vacant land with development rights for the aforementioned units sold within the Resort shall be required to be presented for approval and signature to the Board of County Commissioners no later than its

December 18, 2018 regular meeting, subject to review and approval by the Teton County Attorney's Office. Conventional lodging units shall be defined per the then-current Teton County Land Development Regulations.

The Agreement shall reflect the lots, parcels or units subject to the Agreement, the amount of the transfer fee obligation, and the structure of payments and disbursement of funds. Dispersal of funds shall be to the TCCP, to fund, promote, or ensure stewardship of projects within any of the five (5) established project goal categories set forth in Condition No. 3 above and shall prioritize preservation/restoration of high value habitat when possible. Funds collected via the Agreement shall only be used toward the above-listed five project goals, including ongoing stewardship and maintenance, and shall not be used for non-project or administration-only fees.

The Teton Creek Corridor Project is a collaborative of the following organizations: Teton Regional Land Trust, Friends of the Teton River, Valley Advocates for Responsible Development, and Teton Valley Trails and Pathways. The Applicant is responsible for notifying the Teton County Planning Department of any change in the organizational structure, including if any partner organization is added to, or leaves the collaborative. The Community Foundation of Teton Valley is the fiscal agent of TCCP funds, and dispersal of funds shall be managed by the Community Foundation of Teton Valley in accordance with its established rules and protocols.

Condition of Approval No. 5

The Community Services Transfer Fee Agreement, which shall be considered a restrictive covenant, shall be recorded against all properties at Grand Targhee Resort that are subject to the Community Services Transfer Fee Agreement, to ensure payment of fees as required. The transfer fee obligations will be included in any Declaration of Covenants, Conditions and Restrictions established for the Resort.

Condition of Approval No. 6

The Community Services Transfer Fee Agreement shall make clear that this transfer fee is separate from any other transfer fee obligation and separate from the \$100,000.00 obligation set forth in Condition of Approval No. 2.

Condition of Approval No. 7

Beginning either five (5) years after the issuance of the first Development Plan for Grand Targhee Resort, or two (2) years after the first Community Service Transfer Fees are collected and disbursed, whichever occurs first, Grand Targhee Resort shall submit an annual report to the Teton County Board of County Commissioners detailing the progress of projects within the five (5) established project goal areas of the TCCP. The report shall be prepared by TCCP partner organizations or an independent firm qualified and experienced in monitoring, and shall include, at a minimum, the following:

- (i) Amount of funds disbursed to TCCP;
- (i) Project areas to which Community Service Transfer Fees have been dedicated;
- (ii) Acres of land protected by easement or fee simple acquisition to date of report, including:
 - a. Progress toward the goal of conserving approximately 800 acres
 - a. Holders of the easements or the fee simple land acquired
- (iii) Level to which stream health and stream flow has been restored to Teton Creek, including:
 - a. Progress toward goal of restoring an additional 25 cubic feet per second (cfs) of natural flow
 - b. Data on cutthroat trout abundance within Teton Creek
- (iv) Distances of stream bank restoration achieved; including:
 - a. Progress toward goal of restoring and protecting approximately five miles of stream bank and associated riparian land
- (v) Distances and locations of pathways constructed, and pathway connections to Alta, Wyoming and public lands, including:
 - a. Progress toward goal of creating a four-mile-long pathway along the upland portions of the Teton Creek Corridor
 - b. Progress toward linking and extending pathways into Wyoming, including connections to Alta and public lands trailheads.

This TCCP Report shall be included in the Grand Targhee annual monitoring plan as described in Master Plan Section 3.10. Master Plan Section 3.10 shall be amended to include new section D.7 Teton Creek Corridor Project Monitoring Report.

Condition of Approval No. 8

In the event that either (a) the Teton Creek Corridor Project no longer exists; (b) the funding is no longer being distributed by TCCP to fund or promote or ensure stewardship of projects within any of the five (5) project goal categories as set forth in Condition of Approval No. 2; or (c) the Teton County Board of County Commissioners determines after public hearing that the projects of the Teton Creek Corridor Project are no longer providing a sufficient Public Benefit as that Benefit is defined in the Community Services Element standard applying to all Planned Resorts (LDR Sec. 4.3.1.F.12.) or other applicable sections of the then-current Teton County Land Development Regulations, the Board of County Commissioners may require the Applicant to propose an amendment to the Master Plan to ensure ongoing restoration, conservation, preservation and stewardship of the Teton River Watershed and its surrounding ecosystem and the goals of the Community Services Element.

Condition of Approval No. 9

Prior to approval of the first development plan, a system must be in place to provide oversight on restricted housing units. The Jackson/Teton County Affordable Housing Department will work with Teton County, Idaho to develop a system of oversight. The applicant shall make the Teton County Housing Department aware when it is preparing to submit its application. As restricted units are proposed, the Housing Department shall review plans and materials to ensure that the units comply with the Livability Standards in the Housing Rules and Regulations in use at the time the units are proposed to be built. The Housing Department and/or its agents shall inspect the units to ensure compliance with the Livability Standards prior to issuance of Certificate of Occupancy. The Housing Department will provide a standard restriction for the Employee and /or Affordable units and will work with the applicant to record the restriction prior to issuance of Certificate of Occupancy. If the Teton County, Wyoming

Housing Department cannot reach an agreement for a system of compliance and oversight with Teton County, Idaho for any reason, the approval to build the housing requirement in Teton County, Idaho will be null and void and a revised system shall be approved by the Board prior to approval of the first development plan. Section 3.4 of the Amended Master Plan will be modified to reflect that the formation of, and oversight by a Teton County, Idaho nonprofit housing organization is not contemplated or required.

Commissioner Macker stated that she was absent from the meeting on October 16, 2018, she has reviewed the video and minutes. Commissioner Vogelheim added that he would like to reference a few items in the Planning Commission minutes included in the meeting packet.

Erin Weisman, Deputy County Attorney addressed the Board regarding the Applicant's revised conditions that were handed out to the Board and provided to the Public. Conditions 3, and 8 changed from 5 project goals to 4 project goals.

Geordie Gillett, Grand Targhee Resort, addressed the Board regarding the Public comment given during the October 16, 2018 meeting. Asking that the Board look at the facts, Grand Targhee has followed all public notice procedures, had an open house, met with Town of Jackson Planning and Zoning (PNZ), Town of Jackson City Council, County PNZ and met with County Commission 4 times, Teton Creek Corridor Project, a brief overview of Grand Targhee's process beginning in 2008, land values in Alta, Conservation Easements, Community benefit, 2% transfer fee, 600 acres relative to the Teton Creek Corridor Project (TCCP).

Discussion between the board and Mr. Gillett included trying to find a balance and fairness, in no way questioning integrity, the planning commission minutes from March 4, 2008 stated an amount of 4.3 million dollars associated with offsite spending, economic study that looks at direct and indirect spending.

Nicole Krieger, Attorney of Applicant, addressed the Board regarding the sketch plan meeting the Land Development Regulations (LDRs), request that the Board look closely at the contents of the Master Plan and LDRs to review the application.

Discussion between the Board, Brenden Schulte, Nicole Krieger, and Staff included the Applicant's responsibility in phasing in 2008, applicant never initiated the Master Plan, combined set of conditions including the 2008 and 2017 proposed conditions, transfer fees, pathways, order of operations, 134.5 acres of fee simple or conservation easement land, community services element, location of acreage, 301 acres in Alta, WY and 299 acres within 50 miles in either Teton County, Idaho or Teton County, Wyoming. Teton Creek Corridor Project, importance of riparian land, pathways, progress reports, a straw poll showed the Board would like to exclude pathways and blend staff options 2 & 3, obligation of 2% transfer fee, commercial and residential expansion of Grand Targhee.

The meeting recessed at 12:02pm and reconvened at 1:38pm.

Discussion between the Board, Brenden Schulte, Nicole Krieger, and Staff included conservation acreage, overview of the conditions of approval, acquiring water rights, strategic acquisition of land, mitigation to include Wyoming as well as Idaho, transfer fees in perpetuity, original obligation of the Applicant regarding the 600 acres according to the 2008 Master Plan, Applicant's right to amend their Master Plan, transfer fee to go towards acquisition of land.

The meeting recessed at 2:34pm and reconvened at 2:41pm.

The discussion between the Board, Ms. Krieger, and staff continued including proposed changes to condition No. 4, removing the TCCP and specifying that the 134.5 acres would be in the Alta area, conservation easements, no phasing from the original Master Plan has been triggered, TCCP phasing that includes Wyoming, committed acres in the Alta area.

There was no public comment.

A motion was made by Commissioner Macker and seconded by Commissioner Vogelheim to continue PUD2017-0005, SKC2017-0007, AMD2017-0006, and MSC2018-0006 to 9am on November 14, 2018. Chair Newcomb called for a vote. The vote showed all in favor and the motion carried.

ADJOURN

A motion was made by Commissioner Macker and seconded by Commissioner Rhea to adjourn. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried. The meeting adjourned at 3:22pm.

Respectfully submitted,

Kassie Hansen
Deputy County Clerk

TETON COUNTY BOARD OF COMMISSIONERS

Mark Newcomb, Chair

Natalia D Macker, Vice-Chair

Greg Epstein

Paul Vogelheim

ATTEST:

Kathleen "Smokey" Rhea

Sherry L. Daigle, County Clerk