



September 26, 2022  
Teton County Board of County Commissioners

**RE: The DEV2022-0002 Proposal for a Rural Subdivision Violates the Principles of the Comprehensive Plan and the Requirements of the LDRs and Must Be Rejected**

Dear Chair Macker, Vice-Chair Propst, and Commissioners Barron, Epstein and Newcomb,

We are writing to urge the Commission to deny the application of LF&F LLC to use the Rural Planned Residential Development (PRD) provisions of the Teton County Land Development Regulations (LDRs) to construct a rural subdivision (“One Wild Life Ranch”) on Phillips Ridge just to the south of the Phillips Canyon trailhead on Fish Creek Road.

To our knowledge, this is the first proposed use of the Rural PRD tool under Div. 7.1 and 7.3 of the LDRs. As such, it is of paramount importance to future development in the county. You face a choice: either protect the values set forth in the Teton County Comprehensive Plan by denying a proposal that violates both the language and the intent of the LDRs, or undermine the Comprehensive Plan goals by opening the door to subdivisions throughout rural Teton County, to the permanent detriment of the wildlife and wild places that make our community special. We hope and trust that you will uphold the values and goals of our community by denying this project approval.

**1. The “One Wild Life Ranch” Proposal Is Inconsistent with the Comp Plan Principles and the Language of the LDRs Implementing Those Principles Regarding Rural PRDs**

**a. A Rural PRD Demands a *Quid Pro Quo*; the County Grants a Density Bonus *in Exchange for* the Landowner Forgoing Development Rights in Order to Protect Conservation Values**

The first principles of the Comp Plan are to protect wildlife, scenic resources, and open space by encouraging growth in complete neighborhoods and limiting rural development. Particularly relevant here, principle 1.4.c recognized that to avoid rural sprawl based on 35-acre ranchettes carved from large parcels of agricultural land, it might be necessary to offer density bonuses *in exchange for* conservation of open space.

That principle is implemented in sections 7.1.2 and 7.3 of the LDRs. LDR Div. 7.1.2 provides that the purpose of the PRD tool is to encourage conservation of open space by granting more density “*in exchange for*” clustering of development and conservation of open space. LDR Div. 7.1.2 goes on to explain that “[t]he goal of the Rural PRD is to provide a rural area landowner with a subdivision option that is better for wildlife, scenery, and/or agriculture than just selling individual 35 acre tracts.”

A Rural PRD “shall” meet the standards of Div.7.1.2 and Div. 7.3. Div. 7.1.2.B. Those standards include that the conservation area be at least 70% of the parcel, that there be at least one “conservation value” such as wildlife, and that land already under a conservation easement “shall

not count” in calculating permissible density in the subdivision. Div. 7.1.2.B. The standards further require that the conservation values in the conservation area “shall be identified and protected” by a conservation easement (Div. 7.3.2) that, among other things, identifies the “public benefit” being provided and prohibits all physical development in the conservation area. Div. 7.3.5.

In other words, the Comp Plan and the LDRs do not grant density bonuses to rural landowners unless the landowners give something in return. That “something” is the *relinquishment of existing development rights* on 70% of the property, and agreement to cluster development enabled by a density bonus in order to protect open spaces and wildlife.

### **b. The One Wild Life Ranch Owner Has No Development Rights in the Proposed Conservation Area, So It Offers Nothing in Exchange for a Density Bonus**

The Dev2022-0002 application seeks to use the Rural PRD tool to create a 4-lot, 5-unit subdivision (perhaps plus five ARUs and apparently with use of an existing cabin as an extra guest house) on a 64.97-acre parcel that – without the bonus density of a PRD – would support only one residence and one ARU. The parcel is zoned R-1 and much of it is in the Natural Resources Overlay. The proposal divides the parcel into a 15.82-acre development area and a 49.15-acre “conservation area.”<sup>1</sup> See Planning Commissioners – Staff Report at p. 4.

The critical fact about this parcel is that it is on very steep slopes. The 49-acre conservation area is virtually all on slopes greater than 30%, the primary exception being a small area by the road with an old cabin, a spring, and a pond. Staff Report at p. 3 (contour map of the parcel). But *the LDRs prohibit all physical development on slopes greater than 30%*. LDR Div. 5.4.1 (“No physical development shall be permitted on natural slopes in excess of 30%”); LDR Divs. 3.2.2 and 3.2.3 (“Development prohibited – Slopes >30%”). Consequently, the “conservation area” is protected from development by the LDRs. The owner therefore does not have any rights to develop the 49 acres it now holds out as the *quid pro quo* for a density bonus for a subdivision. The owner is providing nothing – no relinquishment of existing rights, no public benefit – in exchange for the density bonus it seeks, and thus is not entitled to a Rural PRD.

It is also worth pointing out that there is no danger of 35-acre ranchette sprawl on this parcel; even adding the owner’s 34-acre tract to the north of this one, the properties would support at most two homes. So the proposed subdivision, which would populate a crucial wildlife habitat on a pristine hillside with multiple trophy homes, is clearly not “better for wildlife” than the 35-acre option. Nor has the landowner clustered the proposed development. Instead, the 15-acre development area, which is completely surrounded by >30% slopes, is the only buildable portion of the land, and even some of the development area has slopes over 30%. See Staff Report at 6.

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<sup>1</sup> Lots 2, 3, and 4 each would have a single dwelling unit, while Lot 1 is assigned two dwelling units (although a building permit application for a 13,000 sf, 12-bedroom structure is pending); and all of the 49-acre “conservation area” is a part of Lot 1. See Planning Commissioners – Staff Report at 4.

For all of these reasons, we urge the Commission to deny the One Wild Life Ranch subdivision proposal.

## **2. The One Wild Life Ranch Proposal Should Be Denied Because It Does Not Meet the LDR Standards for Crucial Moose Winter Habitat in the Natural Resources Overlay (NRO)**

The Natural Resources Overlay (NRO) identifies and protects the most important and sensitive natural areas of the county that provide critical winter habitat to the iconic wildlife species of Teton County, including elk, mule deer, and moose. LDR Div. 5.2.1.A. A significant portion of the One Wild Life Ranch parcel falls within the NRO, because it is located within crucial winter range for moose and is part of a year-round contiguous movement corridor “that has population-level significance to the Jackson moose herd.” Environmental Analysis (EVA2021-0018) for the parcel, at 12.<sup>2</sup> With regard to crucial winter habitat for moose, the LDRs declare that “[i]n order to maintain the Teton County moose population at current levels, it is essential that crucial winter habitat be protected; without it, moose could not survive the harsh Teton County winters.” LDR Div. 5.2.C.4.e.

The LDRs specifically address “Crucial Habitat Protection Standards,” including specific standards for crucial moose winter habitat, in LDR Div. 5.2.1.G.3, which provides:

No physical development, use, development option or subdivision shall occur within crucial moose winter habitat, unless the applicant can demonstrate that it can be located within the moose crucial winter habitat in such a way that it will not detrimentally affect the food supply and/or cover provided by the crucial winter habitat to the moose, or detrimentally affect the potential for survival of the moose using the crucial winter habitat.

This showing has not been and cannot be made. The Environmental Analysis for One Wild Life Ranch reported, based on field observations, that the project area “provide[s] forage and protective thermal cover critical for moose survival during stressful winter conditions,” and concluded that the “[p]roposed development will result in a direct loss of habitat and is likely to reduce the attractiveness of portions of the project area to individual moose . . . .” But the EA then inexplicably declared that “these impacts are unavoidable due to topographic constraints.” EA at 12. The Planning Division agreed that those impacts are “unavoidable.” Letter to Y2 Consultants, Jan. 3, 2022.

The problems with this are twofold:

- 1) the LDR exception for unavoidable wildlife impacts due to “topographical constraints” applies only where “permitted densities” cannot be achieved by locating development outside of the NRO. *See* LDR Div. 5.2.E. But here no density beyond a single home has

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<sup>2</sup> While moose may be the most common residents of the parcel, it is also habitat for other species, including elk and mule deer, as the many members of the Jackson Hole community who walk and bike on Fish Creek Road can attest.

been or, as discussed above, should be permitted. If the subdivision proposal is denied, the site's crucial winter moose habitat can be significantly protected. In addition, the LDRs make clear that "[m]aximum densities are not guaranteed" by the LDRs, because "[a]ll standards and requirements *shall be met* and actual achievable densities . . . may be limited by factors such as . . . site location and configuration [or] natural and scenic resource limitations." LDR Div. 1.6.2 (emphasis added).

- 2) the development desires of any landowner with inconvenient topography – steep slopes or riverside acreage, for example, which are often wildlife habitat – would trump the fundamental Comp Plan goals of protecting iconic wildlife, the LDRs implementing those goals, and the NRO. We believe the Commission should not permit that to happen.

### **3. The Commission Should Reject the Application for a Conservation Easement from the Teton County Scenic Preserve Trust (TCSPT)**

We urge the Commission to deny the application by the owner of One Wild Life Ranch for a conservation easement from the TCSPT.

First, the Open Space Resources Resolution that established the TCSPT declares that the Trust's purpose is to "promote protection and stewardship of open space, including scenic and wildlife resources" in accordance with the Comp Plan. Resolution at p. 2. But for all the reasons discussed above, the proposed One Wild Life Ranch subdivision is contrary to the most fundamental conservation goals of the Comp Plan and to the language of the County's LDRs that implement the Comp Plan. It would increase rural development density without eliminating any development rights; it has already impacted crucial moose winter habitat; and it will further endanger the moose population if approved.

Second, no conservation easement (from the TCSPT or any other entity) that purports to protect One Wild Life Ranch's legally undevelopable land from development will change the reality that the would-be grantor of the easement has no development rights to forgo, and therefore does not qualify for the density bonus of a subdivision. An easement that pretended to reflect the owner's relinquishment of development rights would be a sham.<sup>3</sup>

Finally, we think this should be a moot point because the subdivision application should be rejected outright; a purported conservation easement cannot cure it. If the Rural PRD proposal is not rejected, however, the Commission's agreement to the requested TCSPT easement would make the Commission complicit in undermining the conservation goals of the Comp Plan and the LDRs, both

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<sup>3</sup> In this regard, we note that the draft conservation easement attached to the application is absurd in a number of respects, including its claim to a right to replace the old cabin; its claim that the 65-acre parcel has certain conservation values (e.g., historic agricultural values) that haven't existed for decades, if ever; and a list of reserved rights in the "conservation area" that could turn a crucial winter moose habitat into an outdoor Disneyland. At best, it suggests a complete misunderstanding of what wildlife protection entails.



for this proposal and for all the rural subdivision requests that will follow. We urge the Commission to say no.

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The proposed "One Wild Life Ranch" rural subdivision proposal has generated considerable controversy for reasons beyond the fundamental Plan/LDR issues discussed above. Among them are the tragedy that an outsized road with high retaining walls and guard rails now bisects critical wildlife habitat because it was improvidently permitted before the Commission (or virtually anyone else) was even aware of the proposal that supposedly necessitated the road. Or the strong impression that the Teton County Planning Department was understaffed and overburdened at a time of an extraordinary influx of new property buyers with new development proposals during the pandemic – precisely the circumstances in which careful adherence to the requirements of the LDRs is most important.

All this suggests to us that an organized effort to consider issues of process and substance in the consideration of rural development proposals may be warranted. If there is any decision to undertake such an effort, the Alliance would be pleased to work with the Commission and staff to help in any way possible.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dawn Webster".

Dawn Webster  
Interim Executive Director