



REQUEST FOR PRELIMINARY PLAT PUBLIC HEARING

FOR: Northern Lights Subdivision
WHERE: 2000 w 7000 n (Ne of Tetonia)
PREPARED FOR: Board of County Commissioners Public Hearing on August 28, 2023

LANDOWNER AND APPLICANT: Tony & Anne Campbell

ENGINEER: Civilize, PLLC

REQUEST: Tony & Anne Campbell, represented by Civilize, PLLC have submitted an application for a 17 lot subdivision located on two 40 acre parcels totaling 80 acres. The approved concept plan was for 24 lots but was reduced to 17 lots before a preliminary plat application was submitted. This property is located on 2000 W 7000 N, about 1.25 miles northeast of Tetonia on the South side of W 7000 N, outside of the Area of Impact. The property is zoned A/RR-2.5. The proposal includes lots that range from 2.5 to 20 acres. Big Game Migration Corridor and Seasonal Range and Sharp Tailed Grouse Breeding Habitat overlays are present on the property per the January 2023 NRO updates.

APPLICABLE COUNTY CODE: Subdivision Preliminary Plat Review pursuant to Title 9, Chapter 3-2-C, Teton County Subdivision Ordinance, (revised 5/16/2013); Teton County Comprehensive Plan (A Vision & Framework 2012-2030).

LEGAL DESCRIPTION: RP06N45E280010; NE4NE3 SEC 28 T6N R45E, RP06N45E273000; NE4NE3 SEC 27 T6N R45E

LOCATION: 2000 W 7000 N (NE of Tetonia)

ZONING DISTRICT: A/RR-2.5

PROPERTY SIZE: 80 acres

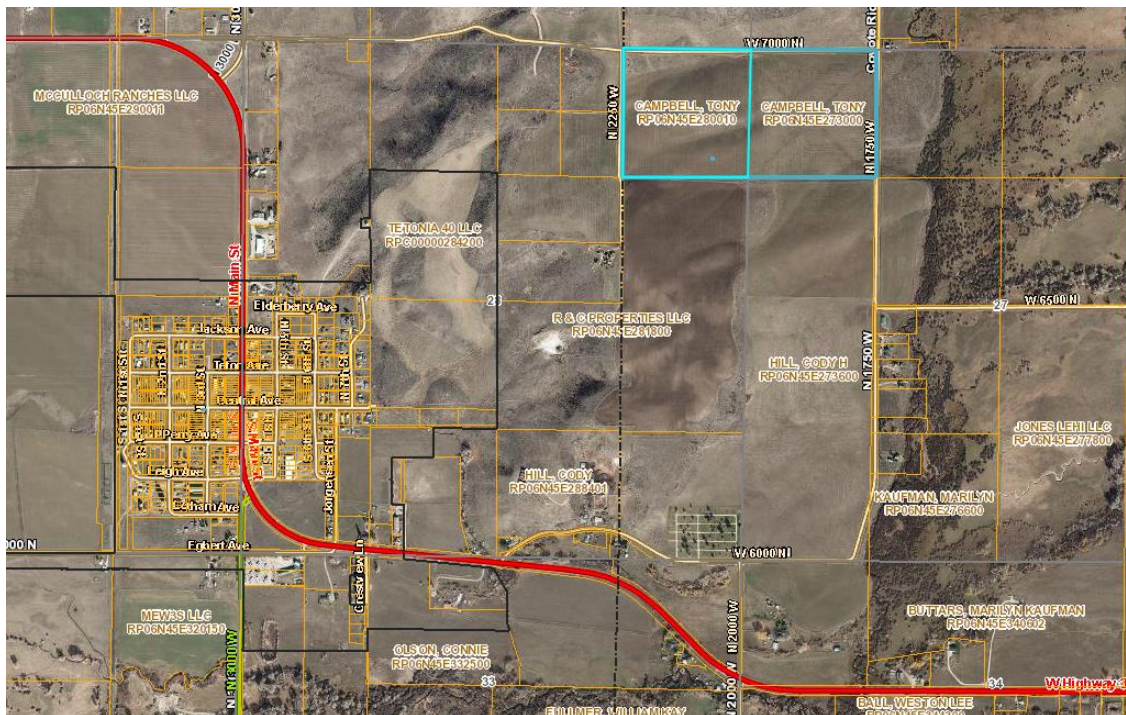


Figure 1. Vicinity Map



Figure 2. Aerial Image; shows the existing conditions of the property

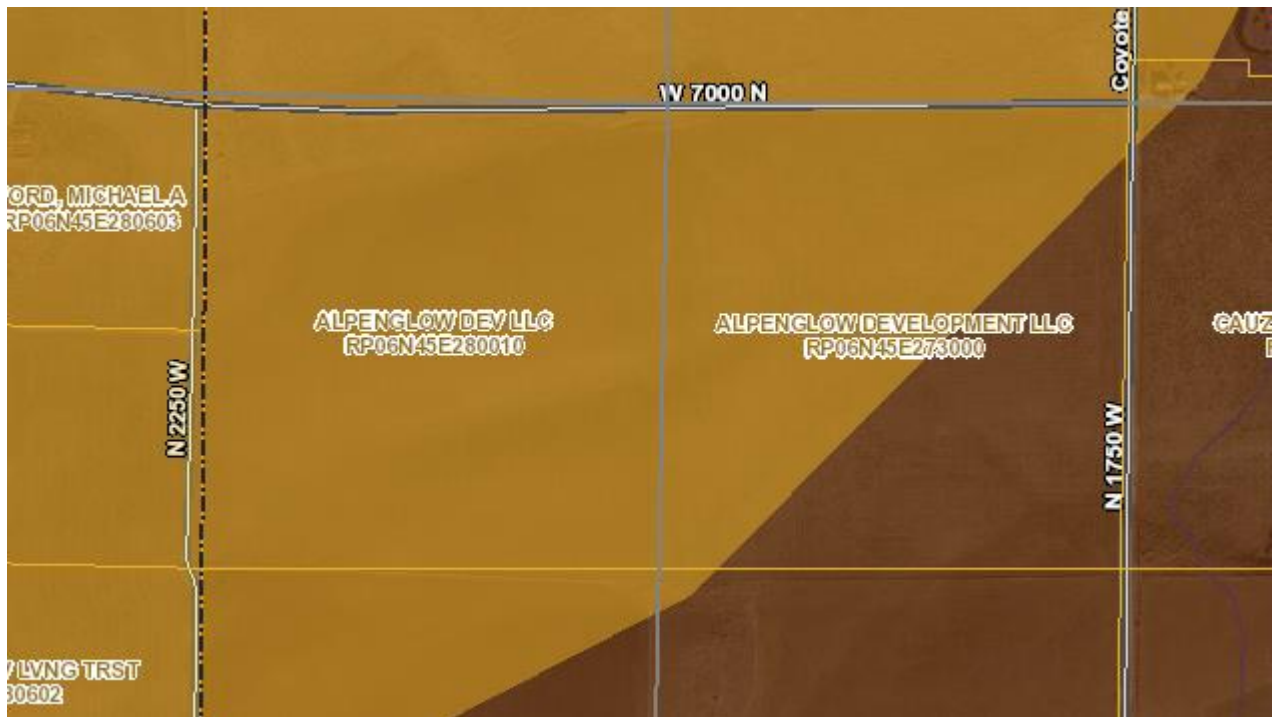


Figure 3. Indicates the Big Game Migration Corridor & Seasonal Range Overlay (brown) & Sharp-Tailed Grouse Breeding Habitat (gold)

PROJECT BACKGROUND & REVIEW HISTORY

Pre-application: A pre-application conference was held with the applicant and planning staff on March 28, 2023.

Concept Review: The first step in the subdivision process is a Concept Plan Review (9-3-2B). Because the proposed subdivision is more than ten lots, a public hearing before the Teton County Planning and Zoning Commission is required.

The Planning and Zoning Commission reviewed and approved [4-1 vote] the concept application on August 9, 2022. With the following conditions and considerations:

CONSIDERATIONS

1. Applicant should consider clustered development given the nature of the site and to better align with the future vision of the comprehensive plan.

CONDITIONS OF APPROVAL

1. Address all public works comments pertaining to improvements and cul-de-sacs.

OVERVIEW OF PRELIMINARY PLAT APPROVAL (9-3-2-C): Preliminary Plat phase is a two-step process with review by both the Planning and Zoning Commission and Board of County Commissioners, where the fact-finding details and specific requirements of the ordinance and law are determined. All of the issues surrounding required infrastructure will be resolved, or have a clear solution acceptable to the County, before scheduling the Final Plat review.

The Planning Commission approved the Preliminary Plat application at the June 13, 2023.

Conditions of Approval:

1. Submit an improvements plan that includes W 7000N off-site improvements. All utilities need to be included in the improvements for the interior subdivision road.
2. Submit the Natural Resource Analysis and Wildlife Habitat Assessment (before a hearing with the BoCC may be scheduled). Applicant should have building envelopes based on the NRA results.
3. Cost estimate should be total of on and off-site improvements. A draft financial surety should be provided (either LOC or Letter of Intent).
4. Submit an updated Development Agreement, per the updated template (available on Teton County's website and has been required since November of 2022).
5. The Fire Marshal requires more details related the fire suppression infrastructure. Please submit confirmation of this review and approval (before a hearing with the BoCC may be scheduled).
6. The Public Works Director take a second look at the TIS and road conditions for additional routes and improvements to Hwy 33 prior to the BoCC hearing.

Staff Comment: All conditions have been met except for providing building envelopes based on NRA results. Applicant states NRA suggests there are no necessary mitigation measures required.

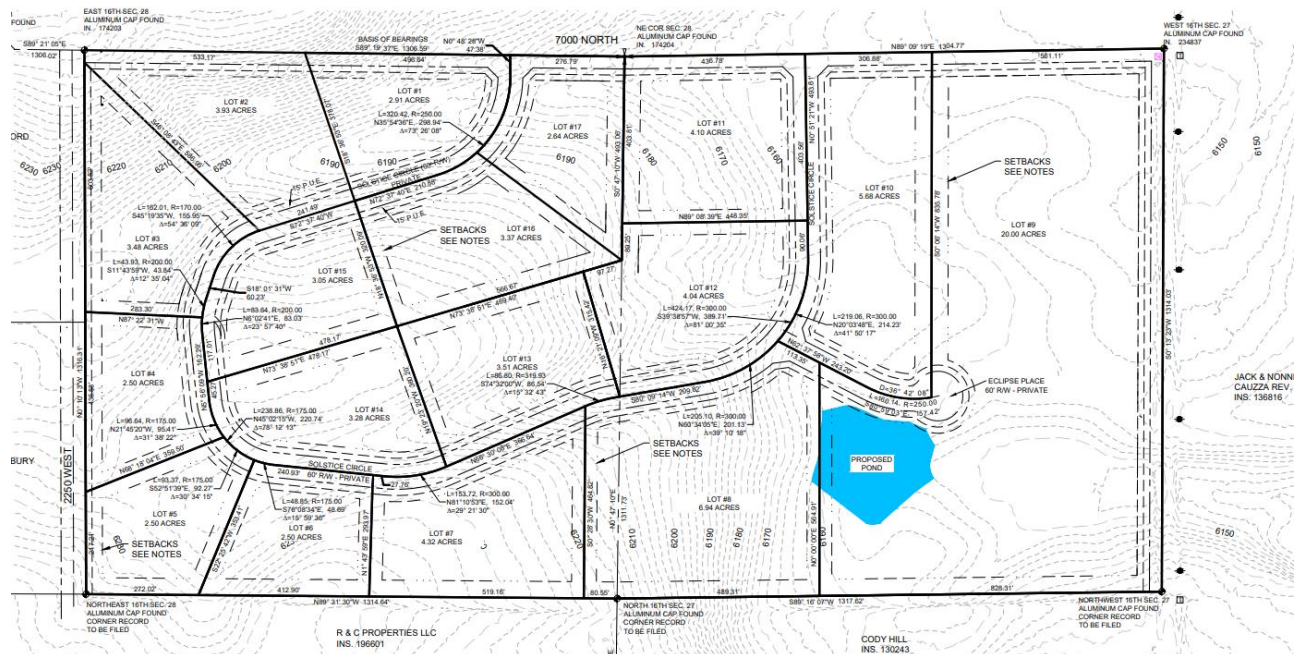


Figure 4. Preliminary Plat
Full preliminary plat is included in the packet.

AGENCY COMMENTS & REVIEW:

The County has solicited comments from other agencies and entities.

ROADS & UTILITIES: The Public Works Director made the following comments on July 29, 2023:

- Interior roads will need to be constructed to County local road standards. *(Staff comment: applicant provided)*
- An Improvements Plan should be submitted, approved and referenced in the final Development Agreement. *(Staff comment: applicant provided)*
- A Traffic Impact Study will be required *(Staff comment: applicant provided)*
- A cul-de-sac (preferred) or other type of turn around will be required at the end of Eclipse Place
- Off site improvements along W7000N should be considered *(Staff comment: This has been provided by the applicant per the review of the TIS)*

Public Work Director also made a following comment via email on June 28, 2023:

- 1750W was widened to meet county Local Road standards when it was reconstructed. There is no need to improve.

FIRE PROTECTION: The proposal is more than 2 lots and therefore does trigger fire suppression. Teton County Fire Marshal, made the following comment on June 21, 2023.

- The fire pond proposed location, size and access if approved for Northern Lights Subdivision.

WASTE WATER TREATMENT: The applicant has coordinated directly with EIPH and received Preliminary Approval as of 10/26/23.

PLANS & STUDIES: The Traffic Impact Study was completed by Civilize, PLLC and is attached to report. The applicant was unaware of the NRO changes in January of 2023. These changes placed the proposed development in two natural resource overlays and does trigger a Natural Resource Analysis and Wildlife Habitat assessment. Applicant supplied the NRA before the hearing with the BoCC and it is attached to this staff report.

CONSIDERATION OF APPROVAL:

The Board of County Commissioners shall only approve if it finds that all of the following criteria (9- 3-2(C-8)) have been met (or if it finds that some of the criteria have not been met, may recommend approval with conditions that would ensure that the proposed development meets the criteria):

a. The application is consistent with the Comprehensive Plan.

Under the 2012-2030 Comprehensive Plan Framework, this proposed development is in the Agriculture and Rural Residential area. This area allows for low to medium density, where appropriate, density residential, with provisions for clustering/conservation development to preserve views. This could be accommodated by the proposed lot sizes.

Staff believes this could be better suited with clustered developed through a PUD application however the application has changed from 24 to 17 lots after the concept phase.

b. The application complies with all applicable County regulations.

This application appears to comply with applicable County regulations. Setbacks can be met for each proposed lot. An interior subdivision road is proposed and to County Local Road Standards and all lots will access from this road. There are no current code violations on this property.

c. If the application is for a PUD, it complies with any regulations applicable to PUDs under Chapter 5 of Title 9, including without limitation regulations controlling the types and locations of open space to be included in the development and the required design and size of development clusters. If the application is for a Planned Community PUD, the application adequately mitigates any impacts identified in those additional studies required by Section 9-3-2(C).

This application is not for a PUD.

d. The application includes trails and pathways as required by Section 9-4-2(B-4) to the maximum extent feasible.

There are no adopted trails and pathways on this property, and there are no proposed trails for the project.

e. The application is consistent with the results of any Nutrient-Pathogen Study required for the property and includes any conditions or changes required to avoid any potential degradation of surface or groundwater identified in that study.

A Nutrient Pathogen Evaluation has not been identified as required for the project. The property is not within the wetlands & waterways overlay nor any of the other NP Evaluation triggers identified by EIPH's review of the property.

f. The application is consistent with the recommendations of any report on the adequacy of the proposed sewage system for the development and includes any recommended mitigation measures identified in that report.

The applicant has received preliminary approval from EIPH for this project as of 10/16/23.

- g. The application is consistent with any Traffic Impact Study required for the property and will not result in a decrease in the level of service (for example, from the level of service B to C) on any State Highway or a maintained county road and includes any mitigation measures recommended in the Traffic Impact Study.**

The application did trigger a Traffic Impact Study which has been completed by Civilize, PLLC. The study concluded that the development is forecasted to have minimal impact to the traffic network in the area. However, the existing conditions of W 7000 N were documented to be insufficient as part of the TIS request. Public Works and Planning requested off site improvements of W 7000 N as part of the application.

- h. If the application is for land that is not adjacent to a state highway or a maintained county road, the applicant will bear the costs of constructing roads to connect the proposed development to at least one state highway or a maintained county road, and adequate for anticipated traffic and will be constructed to County Road Standards.**

The project is proposing access from W 7000 N on the north side of the property. Lots within subdivision will be served by a new interior subdivision road. All lots will be required to have access from this road.

W 7000 N was found to have poor conditions. The applicant, in their conditions report, has documented current conditions and has prepared a cost estimate for their share of improvements to that road. Applicant has included this in the improvement plans for this section of road.

- i. **If a Natural Resources Analysis is required, the proposed development will avoid all mapped Overlay Areas (except the AV Airport Vicinity Overlay Area), or will minimize any unavoidable impacts to the mapped Overlay Areas to the maximum extent feasible and mitigate any unavoidable impacts. In the case of land located in the WH Overlay Area, the duty to avoid or mitigate impacts on habitat areas shall only apply if the wildlife habitat assessment reveals evidence of an indicator species or the presence of indicator habitat, and shall only apply to portions of the parcel where the evidence or habitat is found.**

Teton County's NRO maps were updated January of 2023, placing these parcels within the Big Game Migration Corridor & Seasonal Range as well as the Sharp-Tailed Grouse Breeding Habitat Overlays. The applicant submitted their preliminary plat in March of 2023 and is therefore subject to the NRO maps.

Applicant has submitted a Natural Resource Analysis. The analysis concluded that no mitigation or management is recommended due to lack of potential effects. *Staff does believe the NRA provided is insufficient.* Only one site visit was conducted being a site survey completed by a biologist. Most of the research was conducted on Google Earth. Credentials of biologist were not provided and no mitigation was suggested regarding the request for established building envelopes. Design Review must be conducted as required by Title 9:

9-3-2 (C-2-c-WH):

vi. Design Review: All development shall be subject to design review to ensure that the location of buildings, structures, and land development shall avoid or mitigate impacts to mapped indicator species and habitat to the maximum extent feasible.

Design Review Criteria: A development application shall only be recommended for Board approval if the Commission finds that the Natural Resources Analysis is complete, accurate, and adequate.

- j. **The required Public Service/Fiscal Analysis shows that all public services provided to the proposed subdivision or PUD have adequate capacity to service it, or if they do not, the applicant has committed to mitigation or financing to ensure that those services and facilities will be provided within two (2) years after the first unit in the development is occupied and that any shortfall of tax revenues below the costs of providing the services or facilities will be covered without cost to the County.**

A Public Service/Fiscal Analysis is not required for this application because it is less than 20 lots.

- k. **The application is consistent with any Capital Improvements Plan (CIP) adopted by the County.**

All applicable fees based on the Impact Fee Program (2008 CIP) will be assessed at the time of building. The 2008 CIP indicated that this area was appropriate for 30 units per 100 acres. This proposal of 17 lots on approximately 80 acres can meet this dwelling unit per acre ratio.

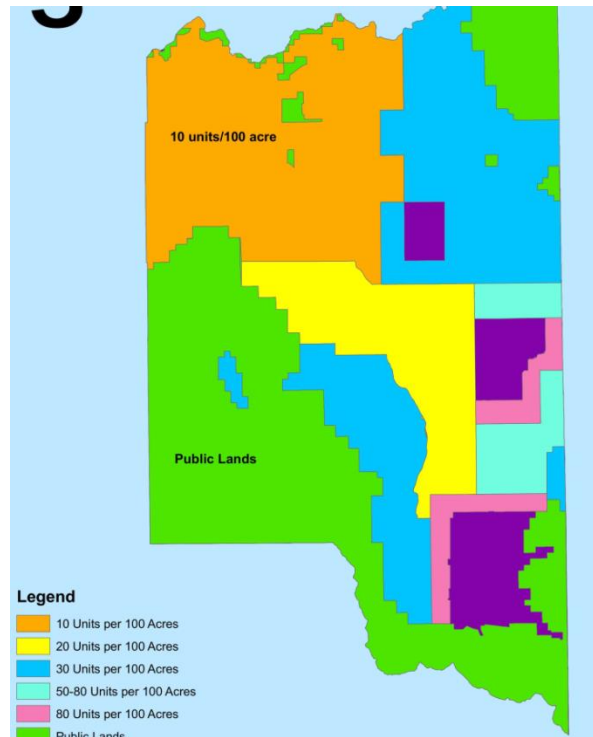


Figure 6. 2008 adopted CIP

- I. **An adequate institutional structure has been created to ensure that long-term maintenance costs of roads, water, sewer, and drainage systems will be collected from within the development and used to maintain such items. If the chosen structure relies on payments of dues (for example, through a homeowners' association) rather than taxes, the county shall be granted the institutional power to enforce payments of those dues in the event the organization fails to do so.**

There are CC&Rs established for this subdivision. They include forming HOA, voting, design, fees, development and restrictions, easements, leases and rental agreements, etc.

- m. **If land ownership boundaries or natural terrain features make it impossible for the application to meet all of the criteria outlined in Section 9-3-2(C-3), the application shall meet as many of the criteria as possible.**

There is no floodplain on the property. Staff has not identified any other health, safety, or general welfare concerns.

- n. **In addition to the above, for Planned Community PUD, the application is consistent with the recommendations of any report on the adequacy of the school system to accommodate school-aged children anticipated by the development and includes any recommended mitigation measures identifies in that study. If the applicant is obligated to pay an impact fee for school then mitigation measures identified in the report will not be required.**

This application is not for a planned community PUD.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE:

Idaho Code, Title 67; Section 67-6509, and Title 9, Section 3-2-(C) of the Teton County Zoning Ordinance. The public hearing for the Teton County Board of County Commissioners was duly noticed in the Teton

Valley News published on August 9, 2023 and August 16, 2023. Notice to adjacent property owners within 300 feet of the property boundary was sent on August 3, 2023. Notice was posted on the site on August 18, 2023.

PUBLIC COMMENTS

Staff has received a number of public comments. Comments address concerns regarding maintaining rural character, impacts on wildlife, wildfires, lack of infrastructure, conditions of surrounding roads, lack of conformance with new LDC, lack of affordable housing, access from W 7000 N being not well suited, plowing, increased traffic, previous fatal car accidents, maintenance of roads, water contamination risk, financial burden, aesthetic values, sense of community.

A comment was received by Robert Stewart with concern that public comments are disregarded in public hearing and by Planning and Zoning staff.

Staff comment: Staff has read and summarized all public comments in staff reports for this subdivision process. Many comments earlier in this process were regarding conditions of W7000N. Improvements to W7000N were therefore incorporated into improvements plan. Concern was also expressed regarding 1750W which has been widened to meet Local County standards. Staff continues to work to ensure compliance and takes all public comment into account.

CONSIDERATIONS & RECOMMENDATION:

Board of County Commissioners should deliberate if the Natural Resource Analysis and Wildlife Habitat Assessment be remanded back to the applicant or if it is sufficient.

Planning staff recommends **CONTINUATION** of this application for the following items:

- In order to establish building envelopes and other proper mitigation measures in relation to the Natural Resource Overlays and/or ensure the NRA is sufficient;
- Receiving improvement plan review and approval from public works.

CONDITIONS OF APPROVAL

1. Building envelopes be provided on the preliminary plat in relation to Big Game Migration Corridor & Seasonal Range as well as the Sharp-Tailed Grouse Breeding Habitat overlays as reflected in NRA.
2. Subdivision sign proposal be submitted with the entrance landscaping plan. This should be incorporated into the cost estimate and improvement plans.
3. CCRs should be updated to reflect compliance with all Teton County regulations, including Short Term Rental (STR) Permits if STRs are utilized.
4. For the record, the Development Agreement the applicant included in the narrative portion of the application is incorrect and outdated. Attachment D is the correct Draft Development Agreement.
5. Public Works must review and approve the improvement plans for the off-site improvements.

BOARD OF COUNTY COMMISSION ACTIONS:

- A. Approve the Preliminary Plat, with the possible conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.
- B. Approve the Preliminary Plat, with modifications to the application, or adding conditions of approval, having provided the reasons and justifications for the approval and any modifications or conditions.
- C. Deny the Preliminary Plat application and provide the reasons and justifications for the denial.
- D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.

MOTIONS

The following motions could provide a reasoned statement if a Commissioner wanted to recommend

approval, continuation, or denial of the application:

APPROVAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2(c-8) can be satisfied, I move to APPROVE the Preliminary Plat for Northern Lights subdivision as described in the application materials submitted March 10, 2023, and additional information attached to the staff report (with the following conditions of approval...)

CONTINUATION

I move to continue the public hearing *to a specific date and time* for Northern Lights subdivision Preliminary Plat to obtain additional information from the applicant or other agencies.

DENIAL

Having concluded that the Criteria for Approval of a Preliminary Plat found in Title 9-3-2 (c-8) have not been satisfied, I move to DENY the Preliminary Plat for Northern Lights subdivision as described in the application materials submitted March 10, 2023, and additional information attached to the staff report, based on the following findings:

1. ...

The following could be done to obtain approval:

1. ...

Prepared by Claire Lazes, Assistant Planner
Jade Krueger, Planning Administrator

ATTACHMENTS:

- | | |
|---|--|
| A) Application (6 pages) | I) EIPH Letter (7 pages) |
| B) Narrative (92 page) | J) Fall River Documentation (1 page) |
| C) Preliminary Plat (2 pages) | K) Improvements Plan (17 pages) |
| D) Development Agreement (18 pages) | L) Public Works Comments (2 pages) |
| E) CC&Rs (2 pages) | M) Public Comment (23 pages) |
| F) Natural Resource Analysis (16 pages) | N) Landscaping Plan (1 page) |
| G) Surety Bond Documentation (2 pages) | O) TIS (115 page) |
| H) Fire Marshal Review (1 page) | P) Applicants response to conditions (2 pages) |

End of Staff Report