

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**TETON COUNTY, WYOMING**

IN THE MATTER OF: Development Plan (DEV2016-0004)

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING APPROVAL  
OF A DEVELOPMENT PLAN**

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THIS MATTER came before the Teton County Board of County Commissioners (hereafter “Board” or “Board of Commissioners”) for public hearing on November 15, 2016, upon the application of Jake Jackson Holdings, LLC/ VW Properties #2 LLC, Lot 5 VandeWater Estates Subdivision, for a Development Plan, pursuant to Section 8.3.2. of the Teton County Land Development Regulations (“LDRs”). The Board considered a presentation from staff, heard from the applicant, received public comment, and considered written submissions. The Board of Commissioners, being fully advised herein, finds, concludes and orders as follows:

**FINDINGS OF FACT**

1. The property is owned by VW Properties #2 LLC, which is located at Lot 5 Teton Pines Drive, consisting of 38.5 acres in size, VandeWater Estates Subdivision. The property is zoned PUD R-1, is also subject to the Jackson Hole Racquet Club Resort (“JHRCR”) Master Plan and is partially within the Natural Resources Overlay.
2. Jake Johnson Holdings, LLC, applied for a Development Plan, DEV2016-0004, pursuant to Section 8.3.2. of the LDRs to subdivide the 38.5-acre Lot 5 into six single family residential lots at Lot 5 Teton Pines Drive.
3. This application was brought before the Teton County Planning Commission on October 24, 2016, with a staff report dated October 24, 2016. The Planning Commission voted to recommend approval of 3/3A configuration with six (6) conditions of approval, as set forth in the staff report to the Board of Commissioners dated November 15, 2016 as follows:
  - a. All development areas shall contain no site development in vegetation ranked higher than priority 3 with the exception of access determined as essential.

- b. A conceptual Habitat Enhancement Plan shall be submitted prior to subdivision plat approval and a final Habitat Enhancement Plan shall be submitted with the grading and erosion control permit application.
  - c. Should the Board not require on-site or off-site affordable housing, and not require conveyance of land, and determine that the applicant shall pay a fee in-lieu of providing housing, the housing mitigation fee shall be paid at the time of subdivision plat approval (prior to recoding of the plat), unless other arrangements are made, with financial assurances.
  - d. The perimeter fence located between the Estate lots and Lot 5 shall be removed or rebuilt to Wildlife Friendly standards prior to grading and erosion control permit approval.
  - e. The applicant shall provide a Subdivision Improvement Agreement outlining all details associated with connection to the Aspen Water and Sewer District at subdivision Plat.
  - f. The applicant shall provide mitigation for impacts to native vegetation at the rate of 3:1 either on-site or off-site for impacts from the entire roadway and driveway to lot 1.
4. This application was brought before the Board of Commissioners on November 15, 2016.
  5. All hearings of the Planning Commission and Board of Commissioners were properly noticed pursuant to the Section 8.2.14. of the LDRs.
  6. A staff report dated November 15, 2016, was submitted to the Board of Commissioners for review, which details the proposed subdivision of Lot 5 into six (6) residential lots. As set forth in the staff report, the recommendation of the Planning Commission in this matter was for approval of DEV2016-0004 with the 3/3A configuration with six (6) conditions as stated above. The Planning Director also recommended approval of DEV2016-0004, with the 4/2M configuration and six (6) conditions of approval as follows:
    - a. The approval is for four lots in the southern agricultural pasture and two lots in the agricultural pasture in the middle-west area, depicted as the 4/2M layout in the Revised Impact Analysis dated October 7, 2016.
    - b. All development areas shall contain no site development in vegetation ranked higher than priority 3 with the exception of access determined as essential.

- c. A conceptual Habitat Enhancement Plan shall be submitted prior to subdivision plat approval and a final Habitat Enhancement Plan shall be submitted with the grading and erosion control permit application. The Habitat Enhancement Plan for a 3/3A configuration with 3:1 mitigation, shall include details demonstrating a minimum of 2:1 mitigation on site and 1:1 mitigation on site or adjacent off site.
  - d. Should the Board not require on-site or off-site affordable housing, and not require conveyance of land, and determine that the applicant shall pay a fee in-lieu of providing housing, the housing mitigation fee shall be paid at the time of subdivision plat approval (prior to recoding of the plat), unless other arrangements are made, with financial assurances.
  - e. The perimeter fence located between the Estate lots and Lot 5 shall be removed or rebuilt to Wildlife Friendly standards prior to grading and erosion control permit approval.
  - f. The applicant shall provide a Subdivision Improvement Agreement outlining all details associated with connection to the Aspen Sewer System at subdivision Plat.
7. On November 15, 2016, Commissioner Natalia Macker moved to approve DEV2016-0004, which was seconded by Commissioner Paul Vogelheim. The Board voted 3 to 2, with Commissioner Mark Newcomb and Commissioner Smokey Rhea opposed, for approval of Development Plan DEV2016-0004 with five (5) conditions of approval as follows:
- a. All development areas shall contain no site development in vegetation ranked higher than priority 3 with the exception of access determined as essential.
  - b. A conceptual Habitat Enhancement Plan shall be submitted prior to subdivision plat approval and a final Habitat Enhancement Plan shall be submitted with the grading and erosion control permit application. The Habitat Enhancement Plan for a 3/3A configuration with 3:1 mitigation, shall include details demonstrating a minimum of 2:1 mitigation on site and 1:1 mitigation on site or adjacent property owned by the applicant (former Vandewater Ranch).
  - c. A fee in-lieu of providing housing shall be paid at the time of building permit application for each lot based upon a pre-1995 lot, and the fee shall be based on the LDRs effective on the date of application for a building permit.
  - d. The perimeter fence located between the Estate lots and Lot5 shall be removed or rebuilt to wildlife friendly standards prior to grading and erosion control permit approval.

- e. The applicant shall provide a Subdivision Improvement Agreement outlining all details associated with connection to the Aspen Sewer System at subdivision plat.

### **CONCLUSIONS OF LAW**

- I. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, public statements, and response from the Planning Staff and applicant, the application from Jake Jackson Holdings, LLC for a Development Plan complies with all applicable provisions of the Teton County Comprehensive Plan.
- II. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, public statements, and response from the Planning Staff and applicant, the application from Jake Jackson Holdings, LLC for a Development Plan complies with all applicable provisions of the Teton County Land Development Regulations.
- III. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, public statements, and response from the Planning Staff and applicant, the application from Jake Jackson Holdings, LLC for a Development Plan complies with the Jackson Hole Racquet Club Resort Master Plan, Plat 578, Plat 580, Water and Wastewater Utility Master Plan, and the forty-seven (47) Conditions of Approval which accompanied the Jackson Hole Racquet Club Resort Master Plan, dated February 21, 1984. All Conditions of Approval had been previously met, however Condition # 13 WILDLIFE FENCING, is not in compliance. The Board conditioned the approval of DEV2016-0004 with Condition # 5 to address compliance with Condition #13 of the Jackson Hole Racquet Club Resort Master Plan.
- IV. The Board concludes and hereby finds that the application for a Development Plan, DEV2016-0004, complies with each of the five (5) findings for approval of a Development Plan, as set forth in Section 8.3.2.C. of the LDRs, and as outlined in the staff report.

***1: Is consistent with the desired future character for the site in the Jackson/Teton County Comprehensive Plan.***

**This finding can be made.**

The application is for subdivision of preexisting development rights associated with six lots in an existing PUD and adjacent to a Complete Neighborhood. Lot 5 is located in the County Valley Character District and adjacent to the Aspen/Pines Character District. This transition from the Aspen Pines to County

Valley should include attributes from both Character Districts and Subareas. Because both agriculture and wildlife habitat are equally emphasized in the County Valley District, Sub Area Agriculture Foreground and both present on this site, the placement of 6 lots will likely impact one or the other. The application and the Environmental Analysis review direct the 6 lots into pasture, sacrificing agriculture for wildlife habitat.

The Aspen/Pines subarea is characterized by a variety of housing types organized around open space. Development should be designed as clustered development for wildlife permeability and preservation of open space.

The Comprehensive Plan for Aspen/ Pines Residential Sub Area cites that *“the wildlife permeability that comes from clustered development around open space should be preserved.”* This application demonstrates a transition from Complete Neighborhood to Rural, from Residential to Agriculture and indicates a less intense, larger lot, and more open space type configuration.

All building envelopes will be confined to previously disturbed areas such as pasture lands in order to minimize impacts to wildlife. A roadway exception request application was approved to reduce impacts to native vegetation. The six lot layout adjacent to the existing Pines development, protects the majority of native habitat and allows wildlife movement. The Board found consistency with the Comprehensive Plan based on balancing clustering, habitat protection, transitioning and open space preservation with property rights with the 3/3A configuration of the six lots.

***2: Achieves the standards and objectives of the Natural Resource Overlay (NRO) and Scenic Resources Overlay (SRO), if applicable.***

**As conditioned, this finding can be made.** Lot 5 is not located in the SRO but is located partially in the NRO. An EA was conducted, which included multiple alternative analyses. The Board conditioned the approval of the application based upon analysis of the alternatives which best meets the standards for development in the NRO, which requires impacts to be minimized. Minimizing impacts is defined as locating development in the lowest priority vegetation covertype. A condition of approval to minimize impacts is part of this approval.

The Board found the standards and objectives of the Natural Resource Overlay have been achieved based on consideration of the density/ intensity study, the analysis of 5 alternative analyses, locating building envelopes outside of higher ordinal value vegetation, restoration of habitat altered by past agricultural

practices, and the applicants offer to mitigate at 3:1 to offset impacts based on driveways with the 3/3A configuration of the six lots.

***3: Does not have significant impact on public facilities and services, including transportation, potable water and wastewater facilities, parks, schools, police fire, and EMS facilities.***

**This finding can be made.** This proposal considers the placement of six residential dwelling units that are permitted as part of the JHRCR PUD, and it will not generate significant additional impacts on parks, schools, police, fire or EMS facilities. Lot 5 is required to take access through the Pines and to utilize Pines water/sewer infrastructure based on the 1985 Water and Wastewater Utility Master Plan. Exactions are due at final plat.

***4: Complies with all other relevant standards of these LDRs and all other County Resolutions***

**As conditioned, this finding can be made.** The application complies with all applicable standards of the LDRs and County Resolutions, as conditioned. See the “Applicable Regulations” Section of the staff report.

***5: Is in substantial conformance with all standards or conditions of any prior applicable permits or approvals.***

**As conditioned, this finding can be made.** The application is in compliance with the Jackson Hole Racquet Club Resort Master Plan PUD and the forty-seven (47) conditions of the Master Plan, as conditioned and detailed above in Section III.

- V. These conclusions are based upon the analysis of the findings as detailed in the November 15, 2016, staff report, as well as the Board's analysis of the required findings for the Development Plan, that occurred at the November 15, 2016, public hearing on the matter.

**IT IS HEREBY ORDERED:**

The Board **APPROVES** a Development Plan, DEV2016-0004, to subdivide 38.5 acres into six (6) single family residential lots based upon finding that the application meets all applicable standards set forth in the Teton County Land Development Regulations; with five (5) Conditions of Approval as follows:

1. All development areas shall contain no site development in vegetation ranked higher than priority 3 with the exception of access determined as essential.

2. A conceptual Habitat Enhancement Plan shall be submitted prior to subdivision plat approval and a final Habitat Enhancement Plan shall be submitted with the grading and erosion control permit application. The Habitat Enhancement Plan for a 3/3A configuration with 3:1 mitigation, shall include details demonstrating a minimum of 2:1 mitigation on site and 1:1 mitigation on site or adjacent property owned by the applicant (former Vandewater Ranch).
3. A fee in-lieu of providing housing shall be paid at the time of building permit application for each lot based upon a pre-1995 lot, and the fee shall be based on the LDRs effective on the date of application for a building permit.
4. The perimeter fence located between the Estate lots and Lot 5 shall be removed or rebuilt to wildlife friendly standards prior to grading and erosion control permit approval.
5. The applicant shall provide a Subdivision Improvement Agreement outlining all details associated with connection to the Aspen Sewer System at subdivision plat.

DATED this 6th day of December, 2016.

BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, WYOMING

BY: \_\_\_\_\_  
Barbara Allen, Chair

ATTEST: \_\_\_\_\_  
Sherry L. Daigle, County Clerk

**CERTIFICATE OF SERVICE**

I, Sherry L. Daigle, Teton County Clerk, do hereby certify that I sent a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING APPROVAL OF A DEVELOPMENT PLAN, postage prepaid by U.S. Mail on this \_\_\_\_ day of December, 2016, to the following addresses:

Jake Jackson Holdings, LLC/ VW Properties #2 LLC, Lot 5 VandeWater Estates  
Subdivision  
737 Bryant St.  
Palo Alto, CA 94301

Jorgensen Associates, PC  
P.O. Box 9550  
Jackson, WY 83001

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Sherry L. Daigle, County Clerk