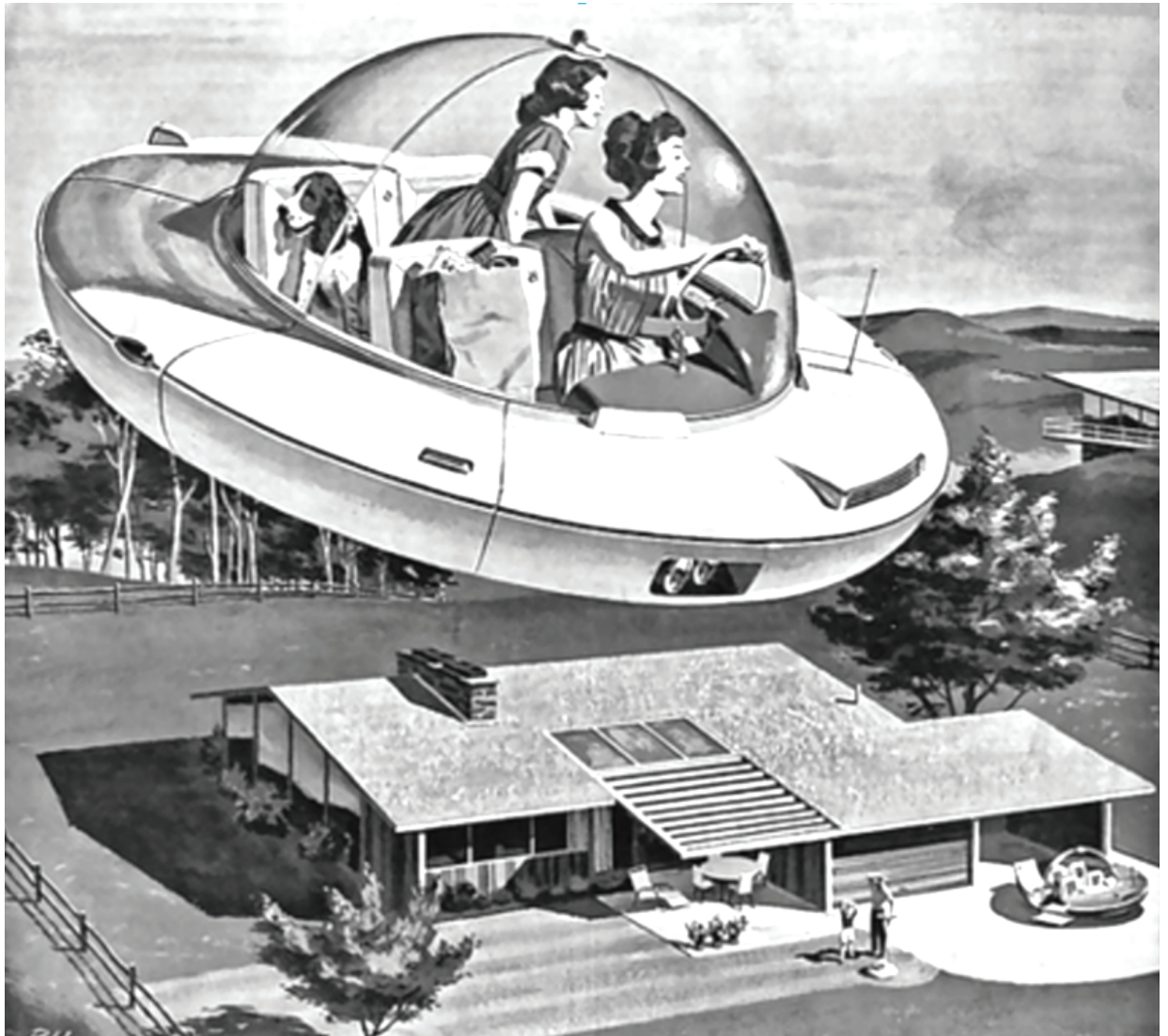


# Decoding the Code Issue Four: Developing Sustainably

**Getting a handle on lot supply, vacant subdivisions, and creeping commercial and industrial uses.** In the course of a decade, how did a county with a population of 10,000 manage to create nearly 8,000 vacant subdivision lots in the rural county and over 1,500 more in its three small cities? The short answer: a lax code susceptible to rampant speculation and fly-by-night developers. Absorption of these lots in the rural county will not be rapid. If homes are constructed at the current average rate of 134

building permits per year, **it will take 52 years for Teton County to absorb the current supply of vacant subdivision lots.**



Teton County's current lot supply is projected to meet demand until 2067, at which time flying cars may or may not be available.

Teton County's Comprehensive Plan is, in large part, a reaction to this massive oversupply of lots. It seeks to reduce future lot supply not only to stabilize real estate markets, but also to protect the wildlife habitat and scenic resources that make Teton Valley special. From its executive summary to its recommended actions, the plan makes one thing clear: ***overdevelopment cost us dearly, and we can't make the same mistake again.***

In the decade leading up to the adoption of the current plan, the community was reeling from rampant subdivisions (which are mostly vacant) and industrial parks that sat empty while commercial and industrial businesses crept up along the Hwy 33 corridor. This experience drives many of the recommendations in the Comprehensive Plan, which seeks to tie the amount of new subdivisions to population growth. The plan also recommends simpler ways for farmers and ranchers to divide land for agricultural purposes, and, on a limited basis, sell off a lot or two to support agricultural operations. However, the common thread that runs through Comp Plan policy is that allowances for new subdivisions should be conservative enough to prevent boom/bust cycles.

In the draft code, several subdivision options are laid out: there is the traditional subdivision option, which requires a bevy of studies and allows for the maximum amount of lots possible in a given zone. Then there are other options, such as the “short plat” and “land division,” which allow for a quicker process with little or no public hearings if a developer proposes a smaller subdivision or fewer lots than what is otherwise allowed.

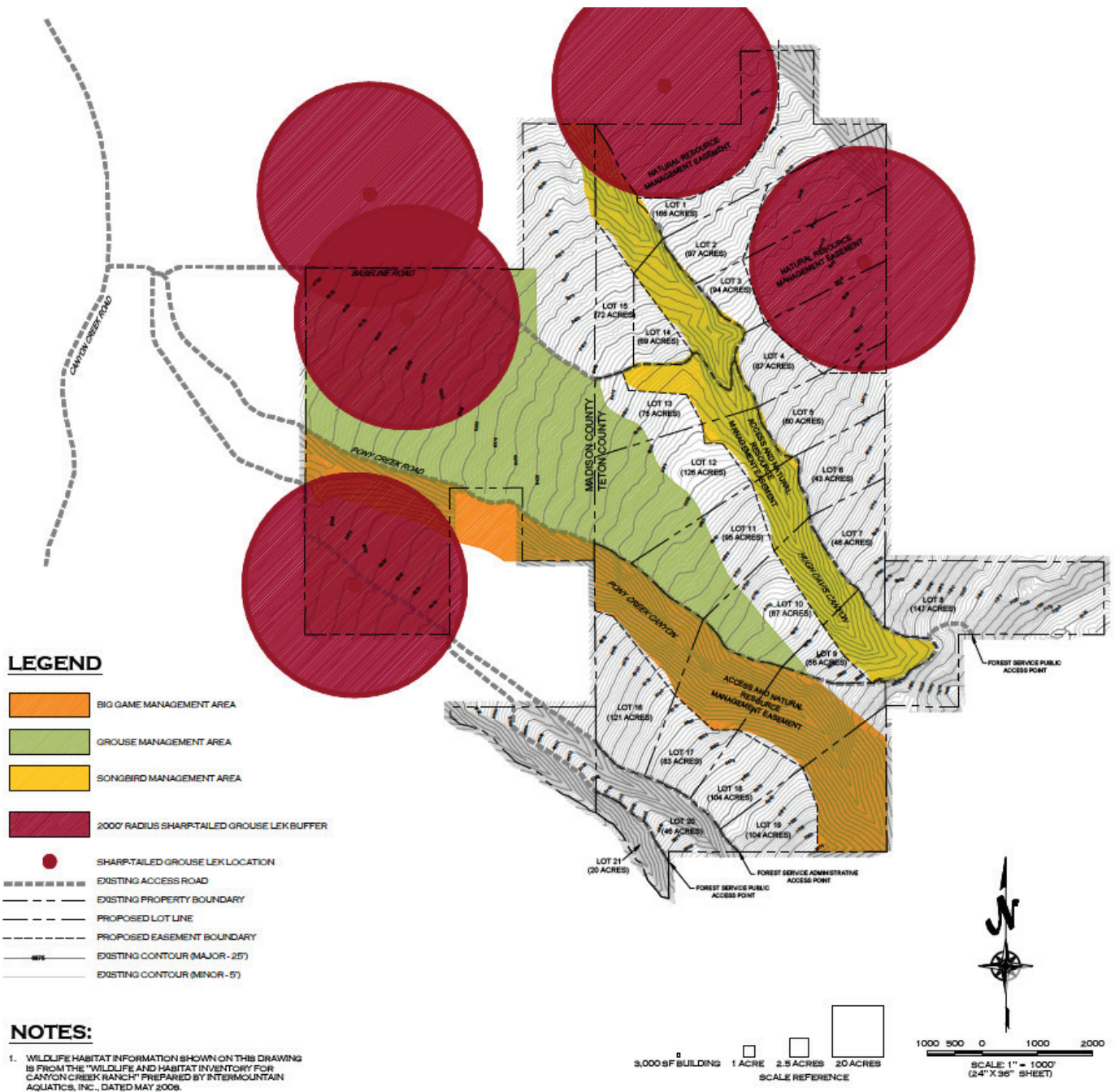
These quickie subdivision options have the potential of significantly increasing lot production with little public oversight. For example, the proposed Land Division option could create over 6,000 new lots in Teton County with no public hearing, no mailed notice, and no published notice in the newspaper. To date, Teton County has not formally researched the impacts of these fast-track options, and public comment has not been positive. The county’s Planning & Zoning Department issued a white paper in May 2015 detailing the exorbitant costs created by residential develop-

ment, costs which ultimately are borne by taxpayers. Not only will these blunt tools have the potential to unleash another swarm of mini-subdivisions across the county, they may also result in a significant fiscal burden carried by future generations. In addition, lots approved on the quick will not be accorded the same quality control measures and planning oversight as traditional subdivisions.

**Investing in existing solutions rather than creating new problems.** In 2011, VARD partnered with the Sonoran Institute and the Lincoln Institute of Land Policy — two of the most respected land use planning organizations in the nation — to craft replatting policies to address “zombie subdivisions” found in overdeveloped communities throughout the country. VARD assisted Teton County in creating their replatting ordinance, and use of the ordinance has eliminated nearly 700 vacant lots in the rural county. Eliminating lots is difficult — some have described it as putting toothpaste back in the tube — but through the diligent application of Teton County’s replatting ordinance, our community has eliminated nearly 10% of its lot supply.

Key to using the replatting tool is to develop an overarching strategy for how to best approach the broad spectrum of stalled-out subdivision projects: some of these developments are “paper plats,” meaning, they have no infrastructure installed while others are partially built with a range of improvements already contracted at the development site. Six paper plats have now been vacated by the Board of County Commissioners, totaling 218 lots on 515 acres. These paper plats have been the low hanging fruit of the county’s vacation efforts because no infrastructure has been built, and they have a single owner.

**Zombie Subdivison:** a partially finished development with little to no economic viability and oftentimes bankrupt.



Canyon Creek Ranch, at the foot of the Big Holes, was replatted in 2013, which reduced the number of lots from 350 to 21.

Replatting partially-built subdivisions is another — and inherently more complex — matter. For one thing, Teton County's old ordinances allowed for the pre-selling of lots, and in some cases, some of the lots have been sold to individual purchasers. In other situations, developers have sold entire portions of unbuilt projects to new investors, or the property is now bank-owned. The county's draft code does little to address these developments that are partially built, contain multiple owners, and/or have been repossessed by banks.



Some roads in vacant subdivisions are slowly being reclaimed by weeds and other vegetation. As these roads disappear, will there be an impetus for landowners to vacate premature or obsolete plats?

The progress to date on redesigning and replatting derailed developments has been mixed. Two mega-subdivisions, River Rim Ranch and Canyon Creek Ranch, have been re-platted, eliminating 479 lots from 8,120 acres. However, developers have also used the replatting ordinance to buy more time in exchange for nominal changes. The original intent of the replatting ordinance was to have a solu-

tion-oriented process on the books to allow Teton County to work with developers, landowners, lenders, and other stakeholders to untangle incredibly complicated developments. The new land use code presents an opportunity to clarify this intent, specify the criteria for approval, and include additional incentives for developers where possible. These partially-developed subdivisions contain the lion's share of existing vacant lots, and letting them rot will not help Teton Valley address its oversupply – let alone preserve its natural environment, protect its agricultural character, and increase vitality in its cities.

### **Controlling Commercial and Industrial “Creep”.**

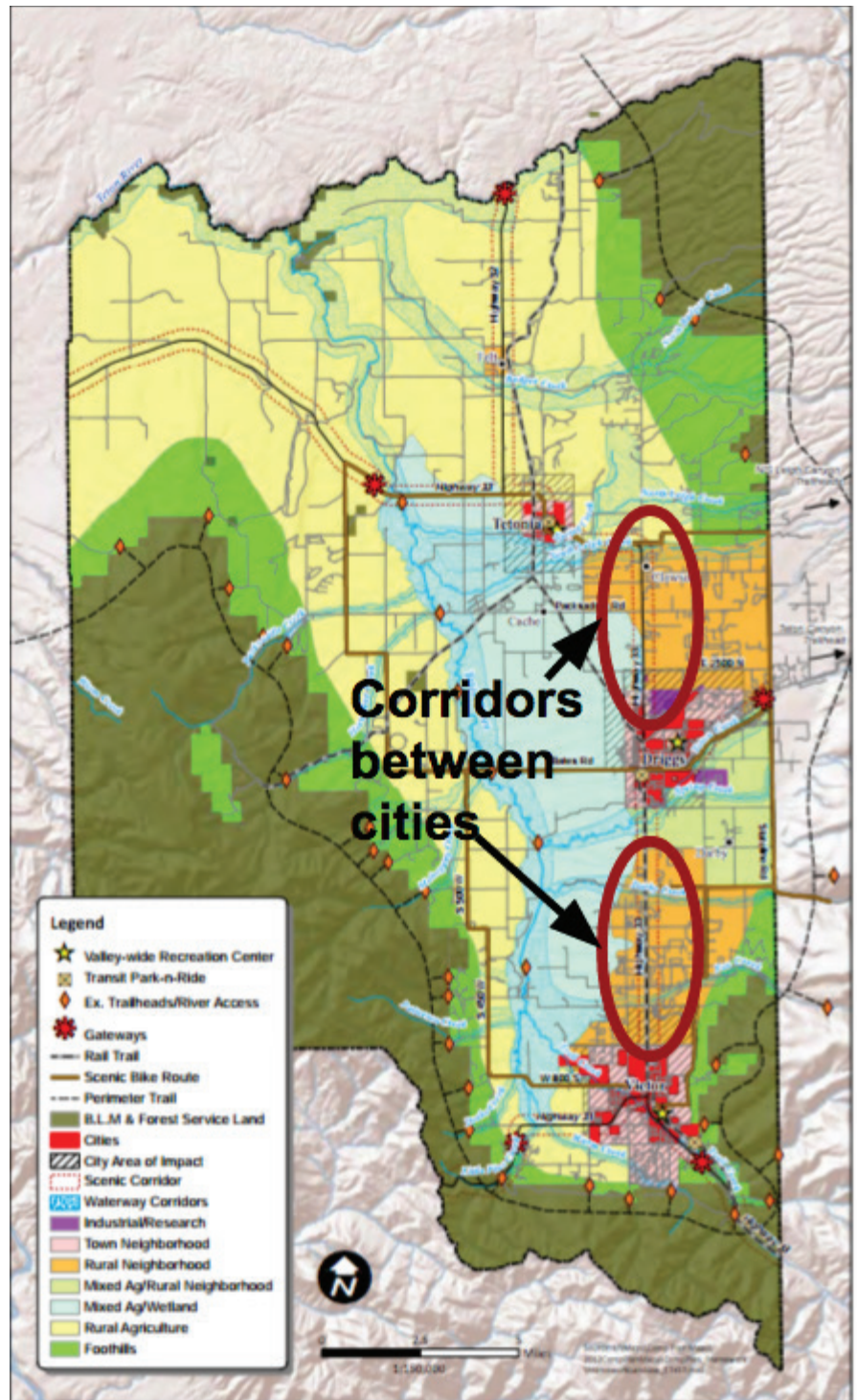
Over time, a variety of commercial and industrial uses have crept up along Highway 33 outside of the cities of Driggs, Victor, and Teton. The Comprehensive Plan makes no bones about this phenomenon. Specifically, the plan states the following:

- ⓐ *Limit commercial retail business to Driggs, Victor and Teton.*
- ⓑ *Incentivize utilization of existing business park locations.*

Many of these commercial and industrial use are scattered along the Scenic Corridor and, quite simply, don't belong in their current location. This is a phenomenon known as “grandfathered,” or “nonconforming” uses. Nonconforming uses are those activities that existed prior to current zoning but do not conform to current zoning regulations. The county can't force them out, and so the question is how much they are tolerated in the new land use code.

## The spectrum of options include:

- Ⓒ *Disallowing any expansion, and disallowing any change in use.*
- Ⓒ *Allowing limited expansion, and disallowing any change in use.*
- Ⓒ *Allowing unlimited expansion, and disallowing any change in use.*
- Ⓒ *Granting commercial or industrial zoning, and allowing for all uses permitted within commercial or industrial zoning.*



Again, the Comp Plan is pretty clear in that it does not envision commercial business outside of cities and industrial outside of industrial parks. In addition to the Comp Plan's written statements about commercial and industrial uses, the plan's Framework Map envisions an "Agricultural Resi-

dential Neighborhood” for most of Hwy 33 between Tetonia, Driggs, and Victor, and most of these uses lie in the existing and proposed scenic corridor. In addition, the county’s existing industrial parks, including Rocky Road, Driggs Centre, and the areas around the Driggs airport, are mostly empty.



Existing Industrial Parks like Driggs Centre are mostly empty.

Should the new code clamp down on nonconforming commercial and industrial uses? Or should incentives be offered to these businesses to relocate to industrial parks? Perhaps a combination of both? Or should businesses be allowed to expand in their current location? It is probably worth having a hearty community discussion — as well as a dialogue with existing business owners — about how Teton County’s Land Use Code shall be applied to commercial and industrial uses outside of the cities. The Comprehensive Plan is abundantly clear about future commercial and industrial uses — they should be in the cities or designated industrial areas — but what is less clear is how we treat existing uses.

### **What are the takeaway issues from this discussion?**

**A Sober Approach Toward Development Potential.** It is much harder to undo bad decisions than to make good decisions to begin with. Once a development is approved and/or a plat is recorded, it is difficult and in some cases impossible to rescind approval. If a development proposal does not have immediate commercial viability, it is best to avoid approving it in the first place. Adding more development potential in the future is easy to do. Reducing potential and eliminating its harmful impacts is not.

**Nurturing Conservation.** Once land is purchased for speculative development, it is particularly challenging to achieve a conservation outcome on the property unless a compelling economic case for land conservation can be made. Instead, development expectations should nurture the existing character of Teton Valley instead of replacing it with suburban-style development. If we’ve learned anything

in the past two decades, it's that Teton Valley's real estate market is best served by protecting its greatest assets: natural resources, agricultural character, and vibrant cities.

**Consistency of Vision.** There is an innate tendency for communities to see no need to protect their treasured places until after they have been impacted, sometimes irreversibly. Implementation of grassroots change is often slow because political administrations can turn over every two years in election cycles, and it is easy for the general populace to forget the past decisions which created the current problems. In this sense, constant education and messaging is critical, whether it is sourced by local media, advocacy organizations, or political administrations to ensure that growth and planning is consistent with the vision set forth in the Comprehensive Plan.

**Economic Sustainability.** It remains to be seen whether Teton Valley will forge a new future or slide back into the same boom and bust cycles of the past. There is often immense public pressure to opt for the quick fix solutions which offer immediate monetary rewards in the form of unplanned growth because the prolonged downturn of the bust cycles can be so agonizing. A clear directive for wise, proactive community change emerged through the Comprehensive Plan — the people of Teton County do not want to repeat the past two decades of unchecked growth. If those hard fought lessons can be implemented in the new Land Use Code, Teton County will have taken a hard-fought and significant first step toward building a new future.