Amendment to the Land Development Code

Staff Report – BoCC Public Hearing April 27, 2026
To consider adding Drive-In Theaters (including accessory uses)

APPLICATION INFORMATION

APPLICANT & OWNER: MD Spud LLC /
AGENT: Tom Hedges

REQUEST: Amend LDC Sections 3-2-2 and 3-6 to create a new land use in Teton County for "Drive-In Theaters."

APPLICABLE COUNTY CODE: The Comprehensive Plan and LDC Amendments. 4-4 Comprehensive Plan and LDC Amendments, (Also LDC 3-1-1 (A)(13) (Effective December 4, 2024); and the Teton County Comprehensive Plan (A Vision & Framework 2012-2030).

SUMMARY: (From applicant's narrative)

The proposed amendment would add a new subsection under LDC § 3-6 (Principal Commercial Uses) and a new row to the use table in § 3-2-2. No changes to the current text of other sections are proposed. The LDC does not include a use for drive-in theaters or similar open-air theaters. Historically, the Spud has operated as a grandfathered or non-conforming use, but rights for non-conforming uses are restrictive and sometimes not clearly defined. The proposed amendment would create a new use in the LDC and provide us with the certainty we need to invest in the project.

The amendment first defines the use and lists appropriate accessory structures and uses. The definition captures the traditional drive-in theater concept where patrons view motion pictures from their cars. The definition also includes other forms of entertainment, such as live theatrical or musical performances. Accessory uses allowed under the drive-in theater use include concession and dining facilities. The broad definition of "drive-in theater" and the built-in accessory uses create diverse and attractive entertainment opportunities for locals and visitors to enjoy, which is necessary to sustain the long-term economic viability of a drive-in theater business operating in Teton County, where the movie showing season is short.

The proposal would allow the use as a primary commercial Limited Use with administrative review and approval in the Rural Neighborhood 5 (R-N 5) and Industrial Research (IR) Zones, and establishes limited use development standards.

REVIEW PROCESS:
This privately initiated code amendment began with a pre-application conference held via Zoom on November 21, 2025. An amendment to the Land Development Code requires a review and recommendation by the Planning and Zoning Commission (PZC) following a public hearing and a subsequent review and decision by the Board of County Commissioners (BoCC), with discretion to hold their own public hearing in state code, though the LDC Table 4 shows a public hearing with the BoCC as required.

On March 9, 2026 the BoCC reviewed the P&Z Commission's recommendations and held a public hearing. At that time, it was brought to the Boards attention that in order to take any action, it should first be formalized into an ordinance form, and then brought back to the Board for final review, potentially following additional review by the PZC. In the interest of expediency, the Board directed staff to bring it back before them in a form ready for adoption. This hearing is now being held to review that finalized version.

APPLICATION ITEMS:
Per §4-4 of the LDC Comprehensive Plan & LDC Amendments, this is the written description of the proposed amendment. The owner/representative provided an application, narrative, and the specific code proposed for adoption. As this is a new land use, as currently proposed, it does not replace or modify existing LDC language.

The Proposed Amendment Furthers the Goals and Policies of the Comprehensive Plan.

In general, Teton County's Comprehensive Plan supports economic development and encourages highlighting and promoting the County's cultural and entertainment opportunities. By creating a drive-in theater use, the proposed amendments further the general goals and policies of the Comprehensive Plan. The table below provides a detailed analysis of all of the specific goals and policies the proposed amendments support.

Comprehensive Plan Goals and Policies	Proposed Amendments Compliance

STAFF ANALYSIS:
The review criteria of §4-4-F for these amendments are as follows:

The recommendations of the PZC and the final decision of the BoCC on an application to amend the comprehensive plan (or LDC) will be based on the following criteria:

Staff assumes the intent of this section was to say Comprehensive Plan ***or LDC*** amendment for each review criterion, as they are combined in the section heading.

Goal ED 3: Recognize that tourism and lifestyle are fundamental components of our economy and are dependent on healthy natural resources. Policy 3.1. ***Encourage economic development through the promotion of recreational opportunities and natural resources***.	The amendment will encourage economic development by promoting in-demand recreational opportunities for local and County visitors while conserving the County's natural resources. Critically, the amendment will bring more folks into recreational and agricultural settings in the The county will help preserve and highlight the importance of these natural resources.
Goal CEF 1: Provide high-quality public and private services and facilities in a coordinated manner for the health, safety, and enjoyment of the community.	Creating a new drive-in theater use will promote the coordinated development of facilities designed to provide high-quality services for the enjoyment of the community. In particular, the amendment is necessary to revitalize the Spud, which has historically provided high-quality entertainment and community enjoyment for years.
Goal CEF 3: Encourage an environment that fosters community involvement. Policy 3.2. Support events and activities that bring diverse segments of the community together.	Drive-in theater use will directly foster community involvement by supporting events and activities that will bring diverse segments of the community together. Even more, the revitalization of the Spud will preserve an iconic County business and ensure it remains a community gathering place for generations to come.
Goal ARH 1: Preserve and enhance Teton Valley's small town feel, rural heritage, and identity. Policy 1.1. Ensure that planned growth maintains Teton Valley's rural character.	The amendment allows for the reopening of the The county's historic Spud Drive-In theater, preserving a key site of the County's rural heritage and distinctive identity.

a. The comprehensive plan amendment corrects an error or meets the challenge of some changing condition, trend, or fact. Staff comment: The proposed amendment adds a land use not currently listed in the land use Table (LDC 3-2-2). This follows the direction provided in LDC 3-1-1 (A)(13), which requires "where a use not listed is found not to be similar to any other permitted use, the use is only permitted following an LDC Amendment per section 4-4. The current drive-in theater in the county sustained damage to the screen and, as it is understood to be a legal non-conforming use, replacement of the use is restricted to limit expansion. Meeting modern standards has proven difficult for the landowner. This proposal follows the correct procedure to establish the unlisted use for consideration outside of the restrictions associated with a non-conforming use. Some public comments have been received previously outside this hearing process in support of replacing the Spud Drive-In theater. Planning staff believes the proposal meets the criteria addressing a changed condition or fact, though there is no obvious trend for new Drive-in-theaters.

b. The comprehensive plan amendment is in response to changes in state law, as established through amendments to the Idaho Statutes or by court decision. Staff comment: This criterion is not applicable to the proposal.

c. The amendment does not have the effect of creating a regulatory taking under Idaho or federal law. Staff comment: N/A

d. **The comprehensive plan amendment constitutes a benefit to the County as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.** Staff comment: This criterion may be difficult to determine definitively. The proposal would clearly benefit the Spud property owners by providing a clear path for investment on a specific property; however, the owner/applicants argue that there is a broader community benefit in approving the proposal, which would indicate the benefit is not "solely" to the landowner. Planning staff believes that the details of the proposal are important in ensuring that the proposed use could be viable for other applicants, however unlikely that may be, rather than exclusively tailoring a use for their own site or purposes. **Commissioners should discuss**

e. The proposed change is consistent with policies of the comprehensive plan, the requirements of the Planning Act, and state and federally mandated uses. Staff comment: The applicant's narrative included a table above that shows how they believe the change is consistent with the comprehensive plan.

f. The comprehensive plan amendment substantially conforms to the stated purpose and the intent of the LDC. Staff comment: The LDC has limited language related to intent, including that found in 1-1 (B). It describes guiding residential and non-residential growth to protect, promote, and improve public health, safety, and overall welfare. Planning staff believes that this use does not substantially directly affect health, safety, and welfare concerns. Certain previous events, outside the primary use of showing films, have raised questions about public health, safety, and welfare anecdotally. Specific standards should be considered to ensure that these objectives are met if other uses are allowed as an accessory to the primary use. **Commissioners should discuss**

g. The comprehensive plan amendment will not have a demonstrable adverse impact on the natural environment, including air, water, noise, storm water management, wildlife, scenic corridor views, and vegetation. Staff comment: The proposed LDC amendment includes limited-use Standards that address potential environmental impacts, such as limiting projection surface orientation away from a public ROW and requiring connection to a public wastewater treatment facility. The regulations also address design aimed at limiting off-site noise, but do not include specific off-site noise limits. Other considerations related to wildlife and vegetation are not specifically addressed, and regulations related to the scenic corridor are preempted in the proposal.

h. The comprehensive plan amendment will not have a demonstrable adverse impact on existing conforming development patterns, standards, or zoning regulations. Staff comment: The long-standing operation of **Spud Drive-In Theater** established it as an existing use before surrounding development occurred, creating an expectation of the operating conditions associated with the theater. However, this may not apply to proposed accessory uses such as concerts or other events. Introducing this type of use at a new location in the future would likely require a more detailed review of potential impacts than is provided under a Limited Use permit and could significantly affect existing development patterns. Additional regulations may be necessary to help mitigate those impacts. **The Planning and Zoning Commission noted this in their deliberation, that in the future someone could utilize this new use to establish a "special event facility" under the guise of a drive-in theater, notwithstanding the "bona fide" theater language. Commissioners should discuss**

i. The comprehensive plan amendment will not have a demonstrable adverse impact on delivery by any jurisdiction or agency providing public services in the County, including school districts. Staff comment: Staff does not believe there will be an obvious impact on other agencies from this amendment proposal, particularly for the primary use. Impacts from accessory uses may be greater on other agencies providing services. The impacts on traffic flow on Hwy 33 have been discussed previously during permit evaluations for the existing use or site. There were several suggestions to alleviate these traffic impacts. No direct impacts are expected specifically to the school district.

Noticing Requirements:

This application has been noticed per Idaho Code section 67-6509, and LDC 4-2D as applicable (no site-specific notices are required for a county-wide LDC proposal). The application was noted in the Teton Valley News on February 18, 2026, and February 25, 2026, and in the BoCC hearing items. Because this amendment affects the entire County, no site-specific postings are required. All materials were posted and available on Teton County's website under the Planning Department page. Agency emails were sent on January 16th, 2026.

Public Comment:
Staff have not received written public comment at the time of this report.

APPLICANT'S PROPOSED TEXT AMENDMENT:

3-2-2 Use Table

Use Category/Specific Use	RA-35, Rural Agriculture	LA-35, Lowland Agriculture	FH-10, Foothills	FH-20 Foothills Priority Protection	RR-20, Rural Residential	RN-5, Rural Neighborhood	IR, Industrial Research	AOI-2.5, AOI-20, Areas of Impact	Definition/Standards
Key: P = Permitted L = Limited Use S = Special Use A = Permitted Accessory Use -- = Use Not Permitted									
Drive-In Theater	--	--	--	--	--	L	L	--	Section 3-6-7

3-6-7 Drive-In Theater

A. Defined

An open-air theater facility for presenting, showing, or performing films, motion pictures, movies, or other entertainment, including, but not limited to, live or recorded theatrical or musical performances, to patrons primarily seated in motor vehicles or other vehicles. A drive-in theater use may include a screen tower, a projection room/facility, ticketing booths, concession facilities, a restaurant with dining, administrative and office spaces, and employee housing. A bona fide drive-in theater generally open to the public and operating with consistent commercially reasonable business hours may also be used as a special event facility without additional permitting or approvals.

B. Limited Use Standards

1. Minimum lot size of three (3) acres.

2. Connection to, and service from, a public wastewater treatment facility owned and controlled by a municipality or a public utility provider is required.

3. Any screen tower for the display of films, motion pictures, movies, or other entertainment must be located at least 75 feet from all street right-of-way lines, and screen towers may be constructed at a height of up to 60 feet in any zoning district.

4. The viewing projection surface of any screen tower for the display of films, motion pictures, movies, or other entertainment shall be oriented away from the primary public right-of-way.

5. Hours of open operations shall be limited to the hours of 8:00 am to 2:00 am the following day.

6. All lighting and illumination of outdoor facilities, including any screen tower, shall be turned off when the drive-in theater is not actively in use and open for operation.

7. Amplified sound systems are permitted, but shall be designed, constructed, and maintained to minimize off-site noise.

8. Notwithstanding anything to the contrary in this LDC, parking lot landscaping, parking lot lighting, parking lot buffer, and driveway access standards shall not apply.

9. The Scenic Corridor overlay development standards and review process are not applicable.

10. With the exception of vehicle and pedestrian entrances and exits, the perimeter of a drive-in theater facility must be fully enclosed with code-compliant fencing.

11. Parking minimums apply, but there shall be no limit on the maximum number of parking spaces or lot coverage.

12. If applicable, any commercial kitchen facility requires additional review and approval from EIPH prior to operation.

13. Notwithstanding anything to the contrary in this LDC, digital marquee signage is permitted on the back side of any screen(s) erected for the display of films, motion pictures, movies, provided that such signage shall not have scrolling, flashing, or moving messages. The height, sign area, and dimensions of such digital marquee signage may be constructed in excess of any applicable standards with written approval from the planning administrator in connection with the sign permitting requirements and procedures.

CONTEXT AND COMPARISON OF OTHER JURISDICTIONS:

A review of other Drive-in theaters shows that most jurisdictions require minimum areas of more than three acres, possibly due to higher customer/car volumes. Staff found few examples with specific decibel limits for this use, as most rely on in-vehicle speakers rather than projected sound. This is much more likely an issue with accessory uses, such as a concert. We also did not find instances of other jurisdictions allowing additional accessory uses by right, which are typically required to obtain a temporary use permit in Teton County. In a pre-application discussion, the applicants stated they reviewed and compared examples from other jurisdictions, but they did not cite specific examples to show consistency with other codes in their application materials.

PZC RECOMMENDATIONS:

The PZC considered the code change at their meeting on February 10th, 2026. Following a public hearing, the commission deliberated on the proposal and made recommendations to the BoCC. One public comment was received at the hearing, which generally indicated a broader public support of the redevelopment of the existing Spud Drive-In while recognizing that the proposal was for a non-site-specific land use code change. It was suggested that the location of the current spud Drive-In and adjacent uses may benefit from a roundabout traffic device here. No

other written or verbal public comments were received at the PZC review. The PZC was able to ask clarifying questions as to the reasoning for some of the standards, including the specific 3-acre provision, and the applicants responded that it was selected as a locally appropriate area requirement, whereas other sites may provide for much larger venues**. Commissioners deliberated on the accessory uses related to a special event facility and generally concurred that the proposed level of review for this use as a Limited Use Permit with only an administrative review was generally insufficient for what the use allows for.**

Following deliberation, the PZC made the following motion:
Approval: Having found that the review criteria in LDC 4-4-F can be met with conditions or modifications, I move to recommend approval of the LDC amendment to add the Drive-In Theater use as presented in the staff report and materials attached, with the following modifications or conditions:
1. Instead of a LUP it would require a SUP
2. There will be some consideration to limit the size of a special event without further permitting.
3. There will be some consideration to what size movie theater would require a traffic study.
4. Screening to protect surrounding incompatible uses.
5. Hours of operation should be determined through the special use Process.

Harley Wilcox motioned, Carl Kohut seconded.

Commissioners Weber, Braun, Kohut, Wilcox unanimously approved the motion.

STAFF RECOMMENDATIONS:

Planning Staff has worked with the applicant to develop ordinance language based on direction from the Board at their March 9, 2026 meeting, which is presented in the attached ordinance.

BoCC Actions:
1. Approval of the amendments as proposed.
2. Approval of the amendments with conditions of approval or modifications to the proposal including those recommended by the PZC.
3. Denial of the amendment.
4. Continue or Table the application for additional information.

Motions:

a. ***Adopt and Enact***: I move that the Board of County Commissioners adopt Ordinance No. 2026-04-27, entitled
AN ORDINANCE OF TETON COUNTY IDAHO; AMENDING THE TETON COUNTY LAND DEVELOPMENT CODE TO ADD A DRIVE-IN THEATER USE; AMENDING SECTION 3-2-2 OF THE TETON COUNTY LAND DEVELOPMENT

CODE; ADDING A DRIVE-IN THEATER USE TO THE USE TABLE THEREIN; RE-NUMBERING SECTIONS 3-6-7 THROUGH 3-6-14 OF THE TETON COUNTY LAND DEVELOPMENT CODE TO INCREASE THE NUMBER OF EACH SECTION BY ONE; ENACTING A NEW SECTION 3-6-7 OF THE TETON COUNTY LAND DEVELOPMENT CODE; ALLOWING AND PROVIDING STANDARDS FOR DRIVE-IN THEATER USES; PROVIDING METHODOLOGY; PRESERVING PRIOR ORDINANCES; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.
as presented, and direct that the ordinance or a summary thereof to be published in accordance with Idaho law and to be codified into the applicable sections of Teton County Code.

b. ***Deny***: "I move that the Board of County Commissioners decline to adopt Ordinance No. 2026-04-27."

c. ***Continue/Table***: "I move that the Board of County Commissioners continue/table consideration of Ordinance No. 2026-04-27 until the meeting of [*Date*] in order to allow for… [*additional review and information, changes to be made to the written ordinance, etc.*]"

Attachments:

A. LDC Amendment Application
B. Narrative
C. Specific code language (use table)
D. Contextual documents reviewing other codes
E. Draft Ordinance