REQUEST FOR A VARIANCE (WETLANDS)

FOR:	Encroaching on a 50' wetlands setback
WHERE:	RP000780040040, 3813 Adams Road
PREPARED FOR:	Planning & Zoning Commission Public Hearing of May 12, 2026

LANDOWNER: Circle A Residential LTD, George Allen
APPLICANT: Katie Salsbury, Intermountain Aquatics, Inc.
REQUEST: The George Allen property (RP000780040040) is located at the Teton Valley Lodge at 3813 Adams Rd (Figure 1). The property is surrounded by residential homes adjacent to wetlands bordering the Teton River within the 50' riparian and wetland buffer setback. Most of these homes were built prior to the adoption of the current Land Development Code. Wetlands were delineated in 2025, and portions of the 0.52-acre property were found to meet U.S. Army Corps of Engineers wetland criteria (Figure 2). The landowner would like to build a residence (est. 4000-6000 sq. ft.) on their property within the riparian wetland buffer (50') and fill a small isolated wetland on the west side of the lot (Figure 3). The applicant has received authorization from the US Army Corps of Engineers and the Idaho Department of Environmental Quality to use Nationwide Permit 29 and Section 401 Certification to fill the small wetland near Adams Road.
APPLICABLE COUNTY CODE: Land Development Code, Section 5-4-2, (E), 1 and 4. Applicant is seeking a variance to construct a residence and place a septic system in the uplands that will encroach on the wetland riparian buffer.
PARCEL NUMBER: RP000780040040
LEGAL DESCRIPTION: LOT 4 BLK 4 TGTHR W/10 FT PATH TETON VALLEY LODGE SITES SEC 17 T4N R45E
ZONING DISTRICT: LA-35, Lowland Agriculture, 35-acre avg. density
PROPERTY SIZE: 0.25 acres
OVERLAYS: Teton River, Wetlands (National Wetland Index Defined), NRO- Waterbird Breeding, Migration, Foraging and Wintering Habitat

Figure1.VicinityMap



Figure 2. Hydrography/NWI Wetland Overlay

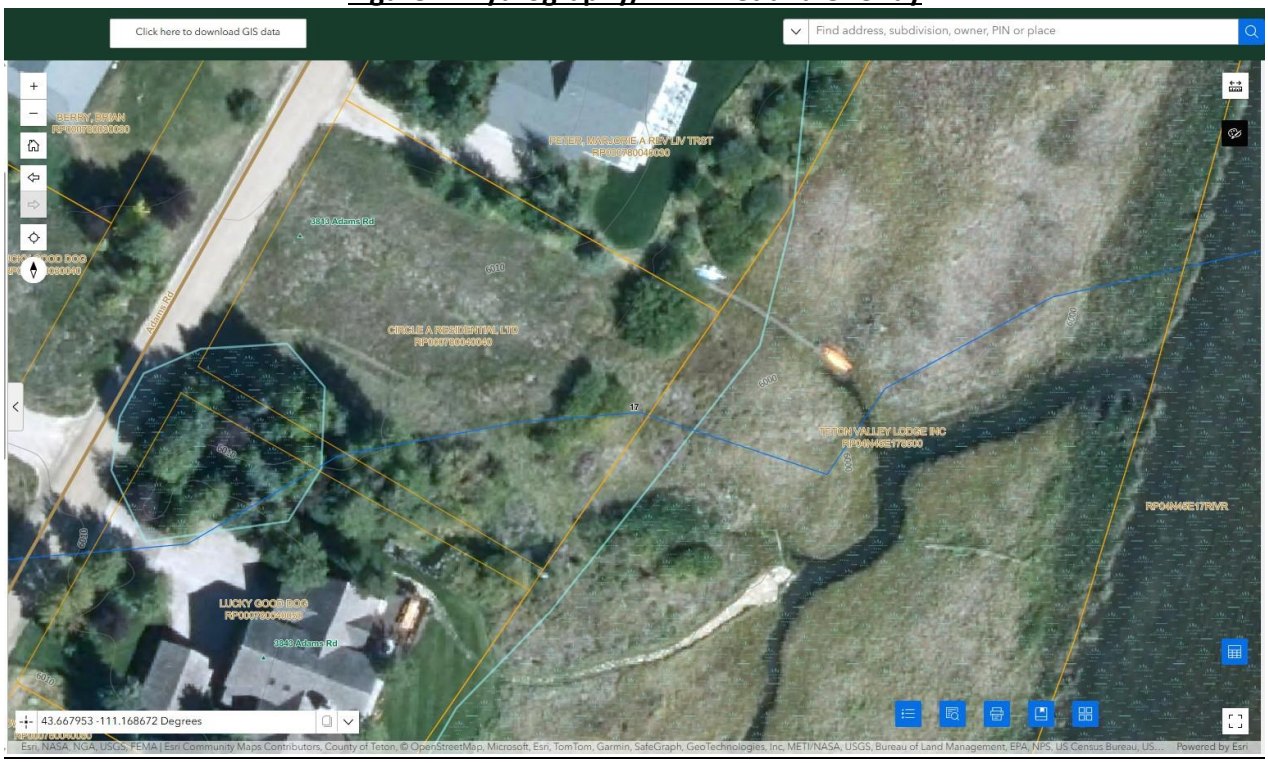


Figure 3. Wetland Delineation

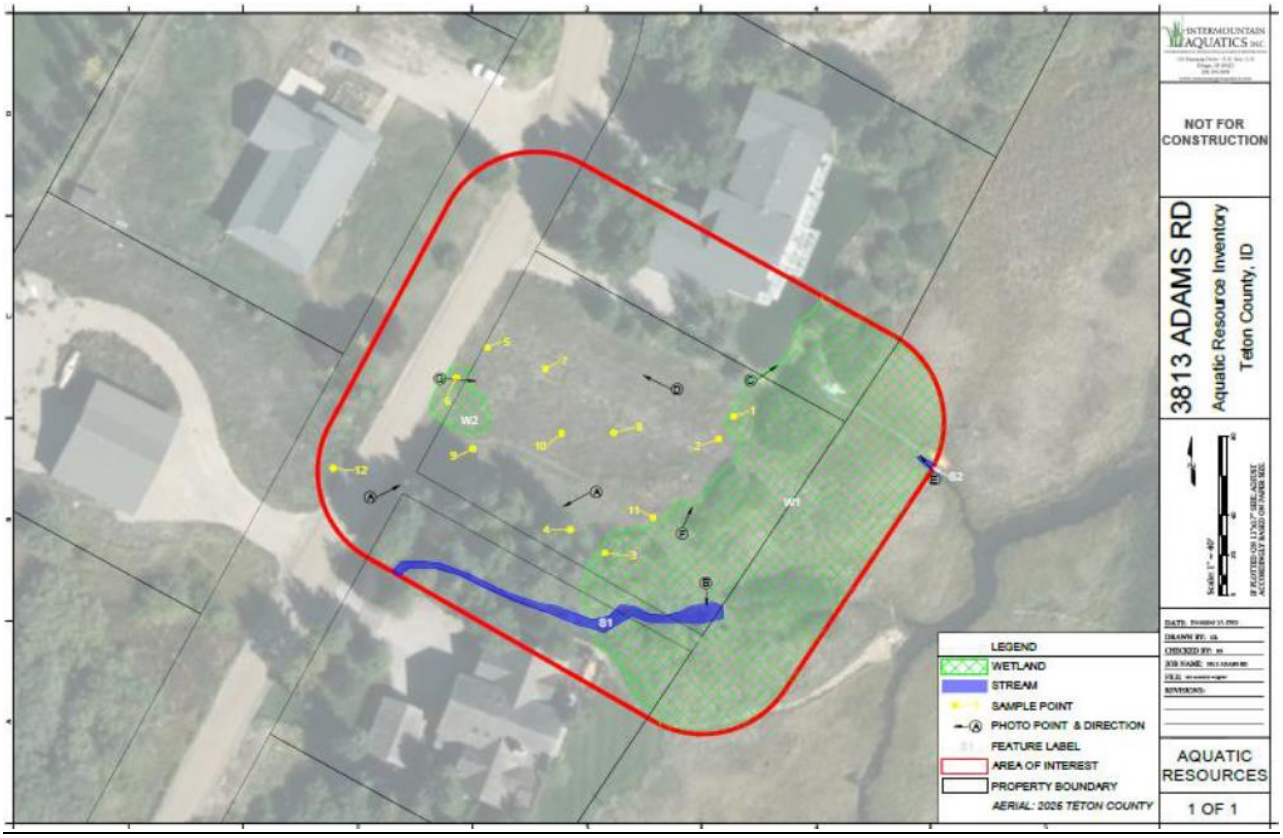


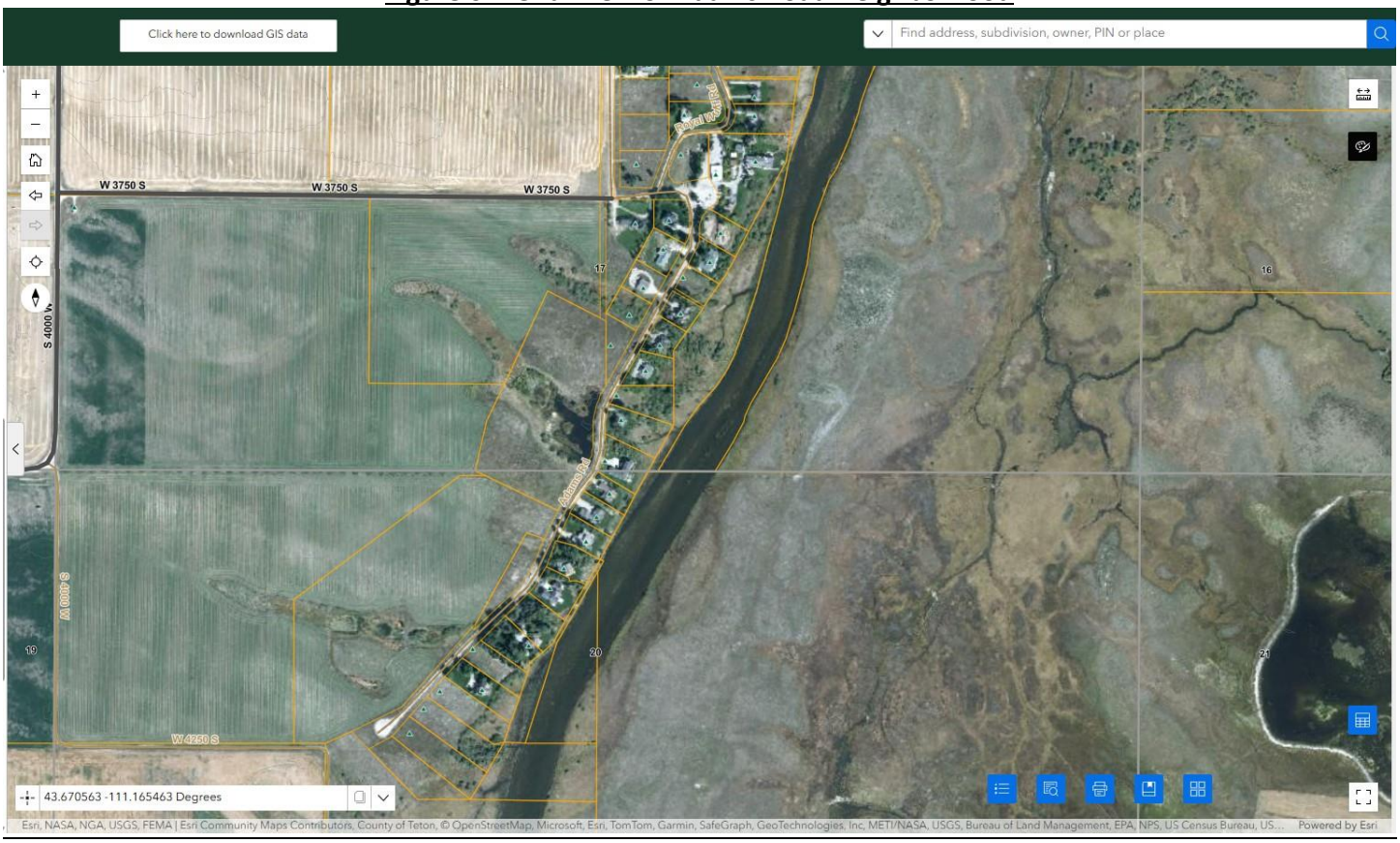
Figure 4. Conceptual Site Plan



Figure 5. Site Visit Photo



Figure 6. Aerial view of Adams Road Neighborhood



Additional Applicant's Narrative

The landowner would like to request a variance to develop in the riparian buffer. In this instance, the prohibition on development in riparian buffers imposes undue hardship due to the extent of the wetlands and the wetland setback.

The Variance request specifically pertains to the following development standards in the Land Development Code:

1. **TCC 5-4-2 (E) 1 & 4**

E. The following development and activities are prohibited in a Riparian buffer:

1. Construction of physical *development* in a riparian *buffer* except as allowed in Section 5-4-2-D above.
2. Fertilizer, herbicide, and pesticide *application*, except as needed for approved restoration or re-vegetation.
3. Grading that interrupts diffuse flow within the riparian *buffer*.
4. Septic tank drain fields.
5. Driveways and *road* crossings are prohibited unless there is no other alternative in which case driveways shall be not *disturb* more than twenty (20) feet in width and *road* crossings shall bridge the primary *riparian area*.
6. Accessory *structures* are prohibited unless for agricultural purposes if no other alternative exists.

OVERVIEW OF VARIANCE APPROVAL:

4-9: Variances can only be approved for the modification of the bulk and placement requirements of the LDC as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other LDC provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots, as outlined in Idaho State Code 67-6516. Variances are considered through a quasi-judicial process.

Idaho State Code 67-6516 – "A variance shall not be considered a special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site and that the variance is not in conflict with public interest."

Review Criteria	Applicant Narrative/Staff Comments
1. If the variance application relates to a public-school facility, that the subject property is appropriate for development allowed in the proposed Zoning District, including the impacts authorized for review under Idaho Code section 67-6519(3).	The application does not pertain to a public-school facility.
2. A literal interpretation of the provisions of the LDC would effectively deprive the applicant of rights commonly enjoyed by other properties of the Zoning District in which the property is located.	Applicant: A literal interpretation of the provisions of the LDC would effectively deprive the applicant of rights commonly enjoyed by other properties of the Zoning District and subdivision in which the property is located. Staff: A review of the application materials confirms that the proposed development on the parcel cannot proceed without a wetland riparian buffer setback variance. Figure 6 is an aerial view of the Adams Road neighborhood showing other homes encroaching on the wetland setback.
3. Granting the requested variance will not confer upon the property of the applicant any special privileges that are denied to other properties of the Zoning District in which the property is located.	Applicant: Granting this variance is necessary to allow access and development of the property, and will not confer any special privileges beyond what would reasonably be expected, that are denied to other properties located within the Zoning District. Staff: A review of other parcels in the vicinity of the proposed project confirms that other parcels dominated by wetland habitat have been developed to some extent (see Figure 6).
4. The requested variance will be in harmony with the purpose and intent of the LDC and will not be injurious to the neighborhood or to the general welfare.	Applicant: The proposed development is on private land and will not impede public health, safety, and general welfare, and is in harmony with the purpose and intent of the LDC. The requested variance is consistent with neighboring development and will not be injurious to the neighborhood or to the general welfare of the public. Staff: Section 5-4-2 Riparian Buffers of the Teton County Land Development Code clearly states that the intent is to protect and maintain riparian areas. A variance is not a right or special privilege and may be granted only upon a showing of undue hardship because of characteristics of the site, and that granting of the variance is not in conflict with the public interest. It appears that the prohibition on development in riparian buffers imposes an undue hardship on the owner due to the extent of the wetlands and the wetland setback on the parcel, and because other parcels within the neighborhood have developed within the wetland setback. It appears to the staff that the proposed variance will not be injurious to the neighborhood or the general welfare of the public.

5. The special circumstances are not the result of the actions of the applicant.	Applicant: The extent of wetlands and the riparian/wetland buffer on the property are not the result of the actions of the applicant. Staff: The warranty deed on file shows the property was purchased in October, 2025. The development restrictions within the wetland setback and the variance procedure were adopted by Teton County, Idaho, in August, 2022. It does not appear that the special circumstances are the result of the actions of the applicant.
6. The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure.	Applicant: The landowner is requesting to develop 0.38 acres for a home, driveway, leach field, and landscaping on their 0.52-acre lot. The requested variance is the minimum required to allow development of the lot (Figure 4). Staff: A review of Figure 4, the Conceptual Site Plan, appears to show the applicant's intent to minimize disturbance to wetlands and riparian areas by locating development in the upland areas. The small size of these upland areas necessitates the variance application because the proposals still encroach on the 50' wetland riparian buffers.
7. The variance does not permit a use of land, buildings or structures, which are not permitted by right in the Zoning District or the LDC, including Chapter 5.	Applicant: The requested variance is to develop a residence. It will not result in a use which is not permitted by right in the Zoning District or the LDC, including Chapter 5. The underlying zoning is LA-35 – Lowland Agriculture, and the property is located within the Teton Valley Lodge Subdivision. Staff: The proposed development is a use permitted by right within the Zoning District and the LDC. The proposal also meets the General Development standards described in Chapter 5 of the LDC, except for those for which a variance is sought.
8. Granting of the variance is not in conflict with the public interest.	Applicant: Wetlands will continue to be protected by utilizing existing uplands to the greatest extent possible. Staff: The Teton County Comprehensive Plan and associated LDC regulations try to achieve a balance between effective land use planning and private property rights. The public has prioritized the preservation of riparian areas. After reviewing the variance application materials, it appears that the proposal also tries to balance the intent of 5-4-2 to protect and maintain riparian areas with property rights. The commission should consider any information presented at the public hearing relevant to the public interest aspect.
9. The variance does not reduce the lot size below the minimum lot size allowed in the Zoning District, except as provided in section 1-8.	Applicant: The variance request does not propose changing the lot size, and will not reduce the lot size below the minimum lot size already allowed in the Zoning District. Staff: No reduction in lot size is proposed. The existing lot is non-conforming to the zoning district's minimum lot size. LDC section 1-8-(H)(2) includes provisions for use of a variance on a nonconforming lot to permit construction of on dwelling unit, unless the PZC finds that it conflicts with the public interest, and includes small lot sizes as a basis for a finding of an undue hardship.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE: Idaho Code, Title 67, Section 67-6509, 67-6511, 67-6512, and LDC Chapter 4, Section 4-2-D. The public hearing for the Board of County Commissioners was duly noticed in the Teton Valley News on April 22, and April 29, 2026. A notification was sent via mail to surrounding property owners within a 300- foot buffer area on April 20, 2026. A notice was also posted on the property providing information about the public hearing on May 4, 2026.

REVIEW & INTER-AGENCY COMMENTS / REPORTS:

All related documents are attached.

- Intermountain Aquatics, Inc. Joint Application (USACE/IDWR) to fill a wetland to construct a residence in Teton County, Idaho.
- Nationwide Permit No.29 NWW-2026-00073 Authorization
- Nationwide Permit No.29 NWW-2026-00073 Conditions

PUBLIC COMMENT:

As of 5/5/2026, no public comment has been received.

RECOMMENDATION:

The Planning and Zoning Commission should deliberate whether the proposed development encroaching on the 50' setback from delineated wetlands meets the requirements to grant a variance.

CONDITIONS OF APPROVAL

1. An approval of the variance does not equate to an approved site plan for a building permit. Applicant will still need to receive a Grading and Erosion Control Permit, Building Permit, and all necessary approvals from Teton County.
2. An approved variance expires 1 year after the approval date unless the applicant has filed a complete application for a building permit or made substantial progress towards development that does not require a building permit.

PLANNING & ZONING COMMISSION ACTION:

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

MOTIONS

APPROVAL

Having concluded that the Review Criteria of a Variance and other code found in the Teton County Land Development Code, Section 5-4-2, (E), 1 & 4, can be satisfied (with the inclusion of the following conditions of approval, (if any)**,** I move to APPROVE the Variance for Circle A Residential LTD/George Allen as requested in the application materials submitted February 25, 2026.

DENIAL

Having concluded that the Review Criteria of a Variance and other code found in the Teton County Land Development Code, Section 5-4-2, (E), 1 & 4, have not been satisfied, I move to DENY the Variance for Circle A Residential LTD/George Allen as requested in the application materials submitted February 25, 2026, for the following reasons…

CONTINUATION

I move to continue the public hearing for the Circle A Residential LTD/George Allen variance request *to a specific date and time* in order to obtain additional information from the applicant or other agencies.

Prepared by: Dan Leemon, Senior Planner Reviewed by Joshua Chase

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Attachments:

A. Variance Application
B. Variance Narrative
C. Variance Concept Site Plan
D. Variance Wetland Delineation
E. USACE/IDWR Joint Application
F. USACE Nationwide Permit Authorization
G. USACE Nationwide Permit Conditions

End of Staff Report