A REQUEST FOR APPEAL: ADMINISTRATOR'S DETERMINATION OF SIMILAR USE

FOR: Jason Wilcox

WHERE: 2540 S 5000 W, Driggs Idaho Prepared for the Planning and Zoning Commission Public Meeting of September 22, 2026

Pursuant to the Teton County Land Development Code Chapter 3-1-1 (A), and 4-15.

APPLICANT: Jason Wilcox

Property Owner: Not provided in application materials– Deed shows as DRIGGS TETON INDUSTRIAL LLC (inst # 283493 WD)
Property Location: 2540 S 5000 W, Driggs Idaho
Legal Description: LOT 2 SUNRAIN RANCH SUB SEC 12 T4N R44E

Parcel Number: RP021470000020

Zoning District: Rural Agriculture – 35 (RA-35)
Proposed Use: Indoor recreation, Baseball Batting Cages / Indoor Soccer Facility

Appeal of Administrator's determination.

I. BACKGROUND

The Applicant came in to the planning department offices and inquired about establishing an indoor recreation facility early in 2026. The administrator had a discussion at that time and indicated that use was not a listed use in the land use tables of the Land Development Code (LDC). Prior to this discussion, members of the public had approached the Board of County Commissioners to discuss adding this use to the land use tables and the Board indicated they were interested in considering that. At that time the public decided to allow the county to address this within the existing process of making updates to the LDC rather than formally applying to have that use added. This was relayed to the applicant, with the caveat that the timeframe for when this may be addressed was uncertain as well as the outcome. The applicant asserted a belief that the land use table had a recreation use that would be similar to their proposal enough so that it should be considered as the same use. The Administrator stated that the use did not appear to be similar and that it would require a formal determination relying on more detail about the specifics of the site and aspects of the use, but that the outcome would

likely be a finding that it was not similar. It was indicated that that could be appealed to the Planning and Zoning Commission. Following that the applicant submitted a basic response to the considerations that needed to be addressed according to the code. The Administrator did pursue trying to find information on the existing building, where it was found that the County had not issued a building permit or completed documented inspections. Although a draft finding was prepared, it was never sent to the applicant, nor did the applicant successfully contact the administrator again.

Later, around August 2026, the Planning Administrator, Building Official and Fire Marshal were alerted to an advertisement of the use commencing and the applicant and county re-established communication to discuss the situation, resulting in two meetings. A variety of topics and considerations were discussed in these meetings. The formal decision of similarity was issued, wherein the use was found not to be sufficiently similar to be considered the same use. A process to address this was discussed and the applicant filed a request for an Appeal. At the same time the Planning Department increased efforts to prepare code for adding this as a new use to the LDC.

II. REQUEST

The applicant has proposed to establish an indoor athletic facility consisting of ~20,000 square feet, within an existing building. A very limited site plan showing parking area and access in relation to an existing building was provided. building or description of accessory uses were provided. Primary uses were described as a Recreation Center to be used for baseball batting cages and/or indoor soccer activities. The use is not expressly listed as a separate use category in the Teton County Land Development Code (LDC) Use Table, though the Board has discussed with this with some public interest in establishing this use.

Pursuant to the LDC provisions governing unlisted uses, where a proposed use is not specifically listed but is similar to a listed use category, the Planning Director may determine the most appropriate classification based on the similarity criteria enumerated in the Code.

This determination evaluates whether the proposed use is similar to:

1. **Parks / Outdoor Recreation Field**, or
2. **Special Event Facility**,
   or any other listed category.
3. Or it represents a new unique use identified as **Indoor Recreation Facility**

Findings of fact.

The site consists of 20 acres on a platted subdivision lot. Although the plat refers to CCRs, the County does not enforce private agreements. Otherwise, the plat does not appear to include any notes that specifically prohibit this use or have major bearing on the request.

No building permit was found by county staff documenting a certificate of occupancy or completion. The building is shown on the subdivision plat. One possible reason for this is that it was likely considered to be an exempt agricultural building.

The property is not owned by the applicant, but subleased. It is located on a lot within a subdivision that was platted in 2023, likely for the purpose of separating the building from the surrounding cultivated agricultural lands. Any future permits would need to include the property owner's signature or evidence of consent to make applications.

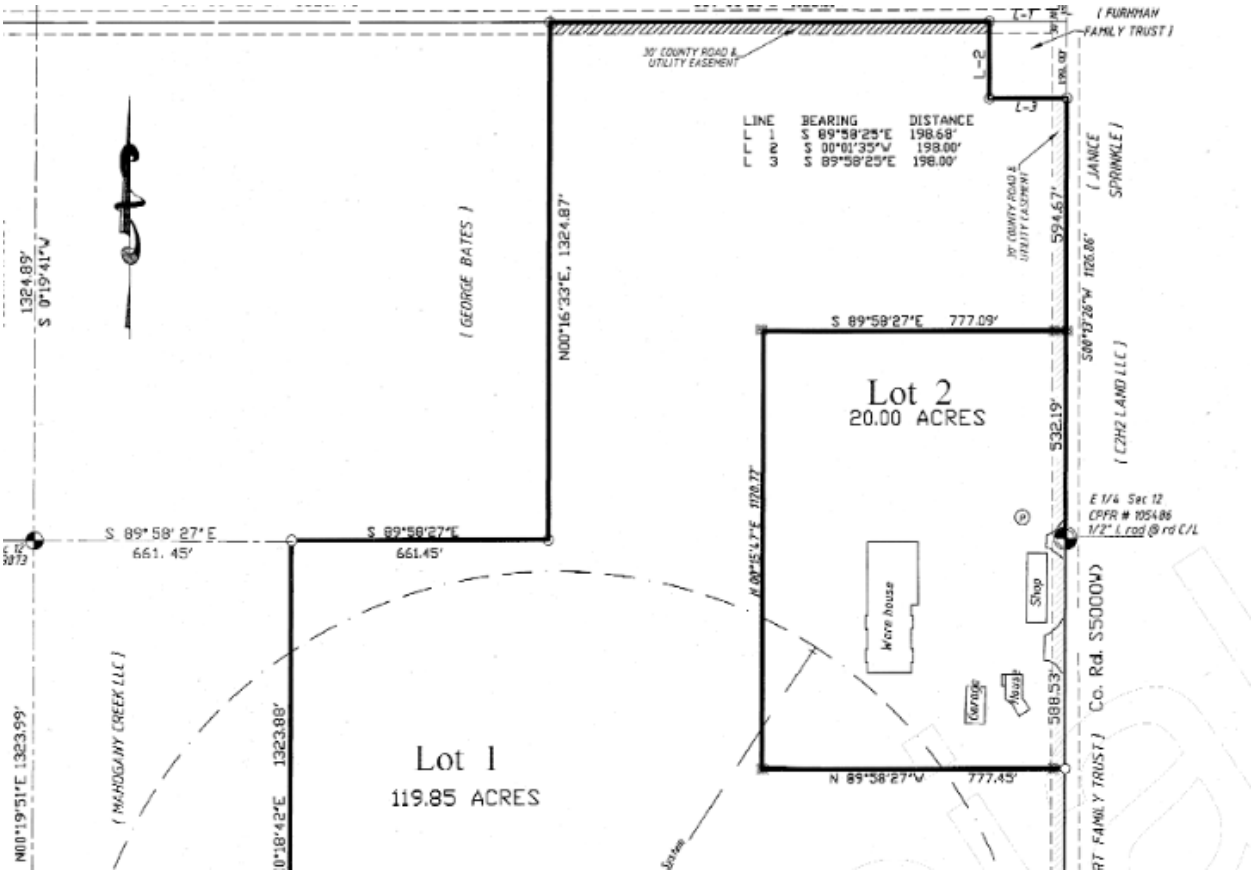


Figure 1. Part of Subdivision plat depicting lot 2 of the Sunrain Ranch subdivision.

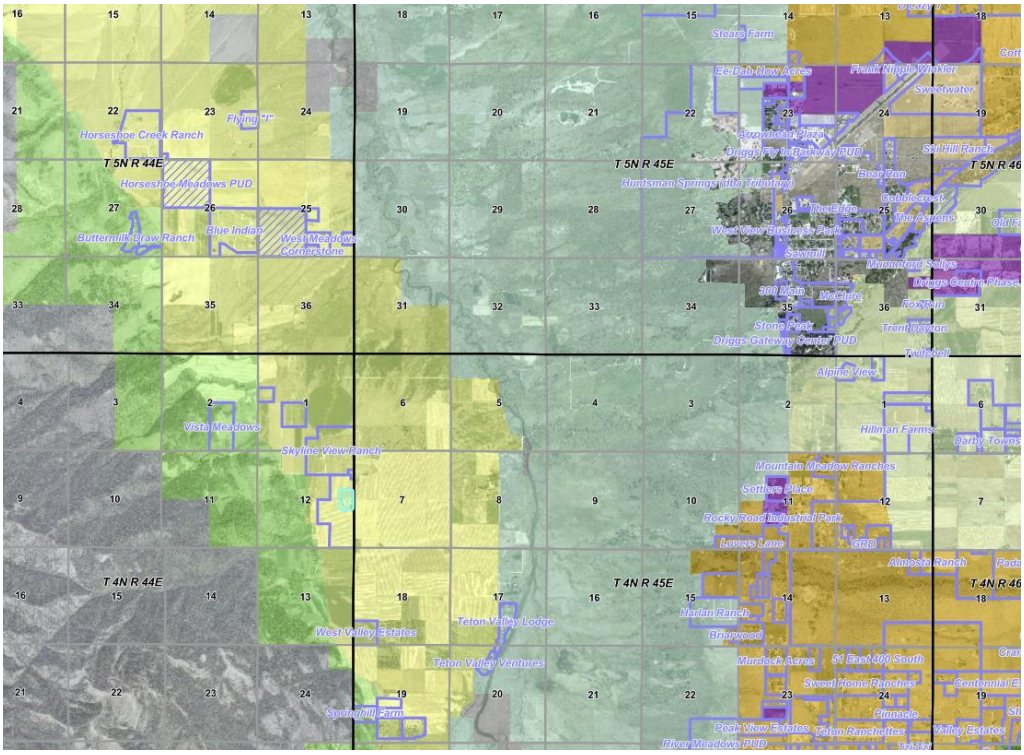


Figure 2. Vicinity map, showing property south and west of the City of Driggs.

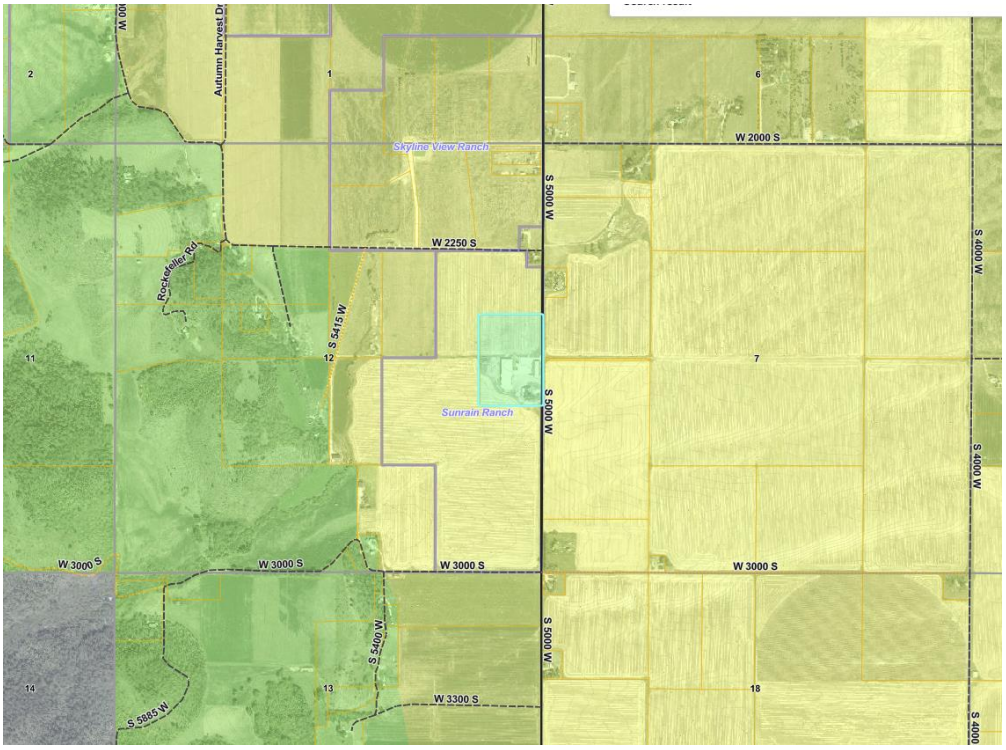


Figure 3. Zoning context of property, (in Rural Agriculture 35, also near foothills 10 to the west)

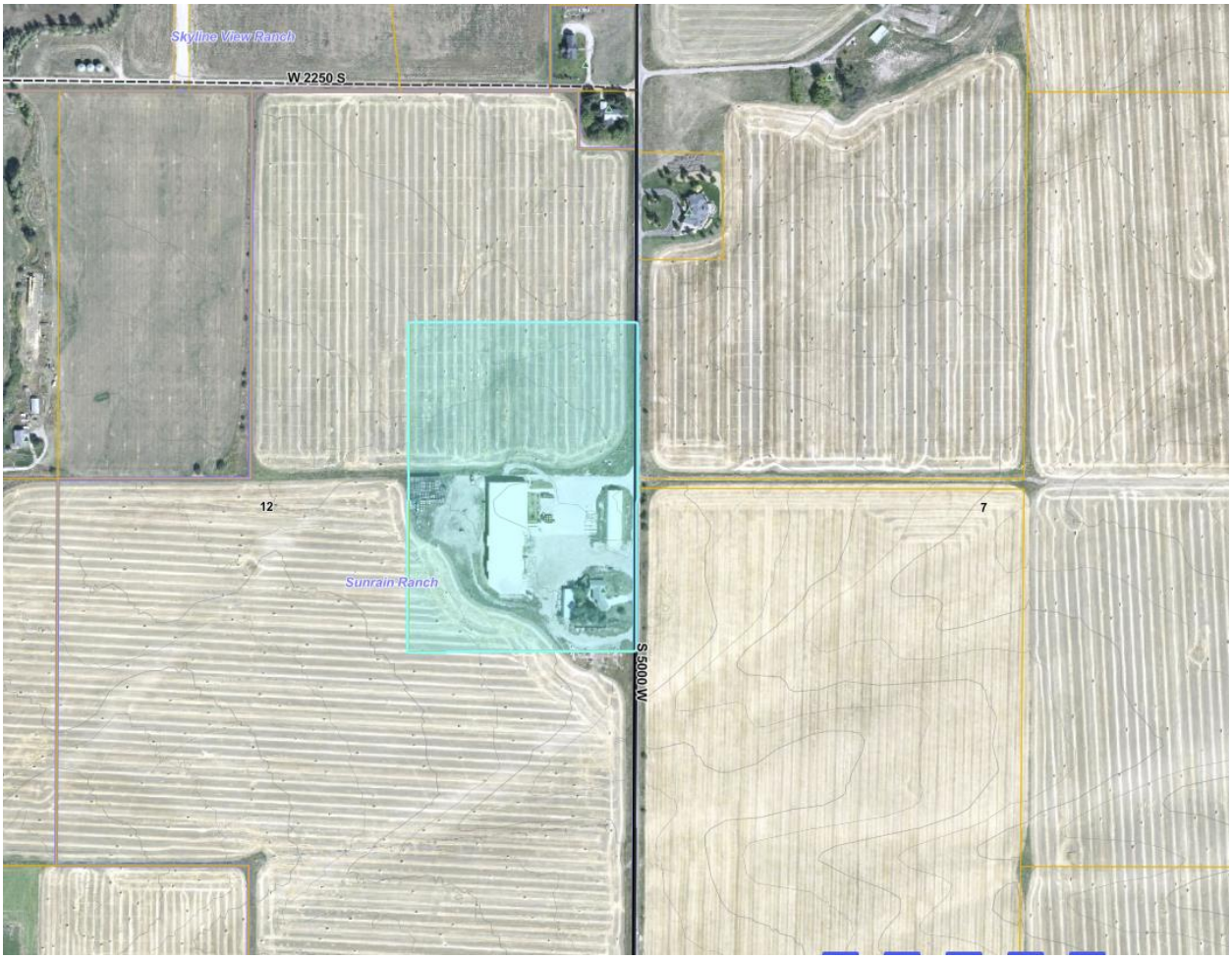


Figure 4. Aerial image of site, largely surrounded by cultivated agricultural fields.

II. APPLICABLE STANDARD

The LDC provides that a proposed unlisted use may be considered part of a listed use category if it is determined to be similar based on the following criteria:

1. Actual or projected characteristics of the proposed use;
2. Relative amount of site area or floor area and equipment devoted to the use;
3. Retail sales;
4. Customer type;
5. Relative number of employees;
6. Hours of operation;
7. Building and site arrangement;

8. Types of vehicles used and parking requirements;
9. Number of vehicle trips generated;
10. Advertising characteristics;
11. Likely impact on surrounding properties;
12. Whether the activity is likely to be found independent of other activities on the site; and
13. If not similar to any permitted use, the use is only permitted following an LDC Amendment.

III. ANALYSIS

1. Actual or Projected Characteristics

The proposed use consists of enclosed athletic activity within a fully constructed building, including structured league play, training sessions, and facility rentals. The use is climate-controlled and designed for year-round operation.

Outdoor Recreation Fields, by contrast, are characterized by open-air athletic play occurring primarily on land-based fields, often seasonal and weather-dependent.

The proposed use more closely resembles indoor commercial recreation in its operational characteristics.

The Applicants represent that

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2. Relative Site Area vs. Floor Area

Outdoor Recreation Fields are land-dominant uses with minimal enclosed structures. The proposed use is building-dominant, relying on substantial enclosed floor area and specialized interior equipment (e.g., netting systems, turf, batting machinery).

This characteristic aligns more closely with a Recreation Center or Indoor Commercial Recreation use.

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3. Retail Sales

While outdoor fields may include incidental concessions, indoor athletic facilities commonly include accessory pro shop sales, equipment sales, or food and beverage components integrated into a commercial model.

This supports classification as indoor commercial recreation.

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4. Customer Type

The proposed facility serves paying customers, league participants, and private training clients, and may draw from a regional market area.

Outdoor Recreation Fields often serve community-based, civic, or school-oriented functions.

The proposed customer base aligns more closely with indoor commercial recreation.

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5. Relative Number of Employees

The applicant has provided a clearer explanation of their original statement that the use would not require any employees. Although staff question whether that will functionally work over a longer timeframe, it seems possible. That could be similar to a recreation field. It is anticipated that some maintenance would be required at a minimum though this could be carried out by the applicant. At the same time, this would not be typical for other indoor recreation uses which would often rely on trainers or a facility manager at a minimum to ensure that the users are using the facility appropriately and are available if an emergency situation were to occur. An outdoor field or park could be expected to operate with landscaping maintenance, while otherwise operating with limited employees.

For most scenarios, the employment intensity is consistent with a Recreation Center, though this use may have some unique aspects.

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6. Hours of Operation

The proposed facility is capable of operating year-round with extended daily hours, independent of daylight or weather conditions. Outdoor fields are typically seasonal or daylight-limited unless lighted.

The operational intensity supports classification as indoor recreation.

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7. Building and Site Arrangement

The proposed use involves a substantial enclosed structure, associated parking areas, and a building-oriented site layout typical of commercial development.

Outdoor Recreation Fields consist primarily of open field areas with limited accessory structures.

The proposed building mass and site arrangement are consistent with an Event Center or Indoor Recreation use.

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8. Vehicles and Parking Requirements

The proposed use generates steady daily parking demand with frequent turnover of passenger vehicles. Outdoor fields tend to generate episodic peak traffic during scheduled events.

The traffic pattern is more consistent with indoor commercial recreation.

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9. Trip Generation

The proposed facility is expected to generate consistent daily vehicle trips throughout operating hours and throughout the year, rather than seasonally concentrated peaks. If spectators are not provided for in the facility, this use type may require less parking area.

This trip generation pattern aligns with indoor commercial recreation.

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10. Advertising

The proposed use is expected to be marketed as a commercial athletic facility offering leagues, camps, rentals, and training services. Outdoor Recreation Fields are typically not independently marketed commercial enterprises, though there may be some exceptions to this.

This characteristic supports classification as Recreation Center / Indoor Commercial Recreation.

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11. Likely Impact on Surrounding Properties

While indoor facilities may contain interior noise depending on construction, they introduce greater building mass, parking demand, and commercial activity than an Outdoor Recreation

Field. The overall development pattern is more consistent with indoor commercial uses identified in the LDC.

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12. Independence of the Use

The proposed use is intended to function as a standalone principal use. Outdoor Recreation Fields are often accessory to schools, parks, or residential communities.

The independence of the proposed use further supports its classification as Indoor Commercial Recreation.

IV. DETERMINATION

Based on the foregoing analysis and application of the LDC similarity criteria, the Planning Administrator determined that:

1. The proposed Indoor Baseball Batting Cage / Indoor Soccer Facility is **not sufficiently similar** to an Outdoor Recreation Field due to differences in building intensity, operational characteristics, staffing, traffic generation, and commercial nature.
2. The proposed use is **substantially similar to a Recreation Center / Indoor Commercial Recreation Use** as defined and regulated in the Teton County Land Development Code.

Accordingly, the proposed use should be classified as **Recreation Center / Indoor Commercial Recreation** for purposes of zoning review and application of the Use Table and associated standards. This is consistent with other earlier discussions with the public and Board of County Commissioners. It is anticipated that the interest in this use is not a “one off” facility, but that it will be pursued by others interested in establishing a variety of similar uses with variation on scale and specific type of recreation to be supported. Several other entities have approached the county with interest in an indoor recreation facility, and staff believes that code needs to be developed that could address that spectrum. Further, a broader discussion should occur as to where these uses are appropriate from a Zoning Perspective and the claims that these types of facilities cannot be served within the incorporated cities which have provisions for indoor recreation uses. In carrying out the process identified in LDC Chapter 3-1-1 (A), staff has noted a number of deficiencies in procedural clarity, including what needs to be provided for the initial request for determination of similarity, appealability, and level of noticing. The process taken here has been in consultation with legal counsel and the administrator's interpretation of limited direct language addressing some of these issues.

V. APPEAL

4-15 Appeals and Reconsideration

A. Applicability

1. In addition to the remedies described in Section 1-7 of the LDC, this section provides the remedy of appeal from and requests for reconsideration of final decisions made by the Administrator, PZC, BoCC, or other County official. 2. An applicant or an affected person may avail themselves of these administrative remedies in accordance with this section. 3. An appeal of a decision will be reviewed by the PZC or BoCC, as specified in the table in Section 4-1.

In this case, the referenced Table 4-1 does not include a row addressing an administrative determination of similarity; however, similar Administrative Decisions, such as Limited Use permits, are subject to review and decision by the Planning and Zoning Commission.

B. Submittals 1. A notice of appeal or request for reconsideration must be filed on a completed application form provided by the Department. 2. The application must include a narrative description of the basis for the appeal or request for reconsideration, including the specific deficiencies of the decision alleged by the applicant or affected person.

The applicants did provide a narrative which is included as an attachment.

C. Notice and Requirements 1. Notice will be provided as required for the decision being Appealed from or being reconsidered. 2. If no notice was required for the original decision, published notice will be provided in a newspaper of general circulation in Teton County, posted at the courthouse, and posted on the County's website at least fifteen (15) days prior to the hearing.

No notice or hearing was identified as being required for an Administrative Decision on similarity. The principal use the applicant asserted a similarity to is one which is allowed by right. This request was noticed in the courthouse and placed on a special meeting agenda to be heard by the PZC. Regardless of the outcome staff will continue to proceed with direction from legal counsel.

D. Procedures for Appeals and Requests for Reconsideration 1. Following notice and a hearing, as required by law, the reviewing official or body may affirm, reverse or modify the original decision after verification of compliance with applicable procedural and LDC standards. 2. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the completed appeal or request for reconsideration. 3. Where no written decision on a request for reconsideration is issued to the applicant within sixty (60) days of receipt of the completed application, the request for reconsideration is deemed denied, without further action by the applicant or the County.

VI. STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission affirm the Administrator's determination in substance, with clarification of the classification and effect of the decision.

Specifically, staff recommends that the Commission find:

1. The proposed use is a **principal indoor recreation facility** rather than an outdoor recreation field.
2. The proposed use is not sufficiently similar to the LDC's **Park, Recreation Field** use to be treated as that use under LDC § 3-1-1.
3. The distinction is based primarily on the physical and operational characteristics of the proposed use—not simply on whether the facility is operated for profit.
4. The existing **Park, Recreation Field** definition expressly describes an area used for **outdoor** play or recreation and provides outdoor examples including ballfields and soccer fields.
5. The proposed use is substantially different in its building dependence, enclosed floor area, equipment, operating characteristics, and relationship to the site from the outdoor recreation-field use.
6. The proposed use is also not sufficiently similar to the LDC's **Special Event Facility** use, because Special Event Facility is defined around temporary group gatherings, retreats, meetings, weddings, conferences, and similar activities, with recreation being an activity provided to participants during the program rather than the principal purpose of the facility.
7. Because the proposed indoor recreation facility is not sufficiently similar to an existing listed use, **LDC § 3-1-1(A)(13) requires an LDC amendment before the use may be permitted as a principal use.**
8. The Administrator's determination should therefore be affirmed as to the ultimate conclusion that the proposed use cannot presently be authorized through the similarity provision alone.
9. The Commission should clarify that this determination addresses **land-use classification only** and does not constitute a determination concerning building-code compliance, the legality of the existing structure, ADA compliance, septic capacity, fire/life-safety requirements, or eligibility for a building permit.

VI. Appeal Considerations

Based upon the written appeal and the Administrator's determination, staff identifies the following principal issues for the Commission's consideration.

Issue 1 – Is an indoor recreation facility sufficiently similar to an outdoor recreation field?

The central question is not whether the proposed activity constitutes “recreation” in the ordinary meaning of that term. It plainly does.

The regulatory question is narrower:

Is the proposed indoor facility sufficiently similar to the specific LDC use category “Park, Recreation Field” to be classified as that use under § 3-1-1?

Staff concludes that it is not.

Issue 2 – Does the word “outdoor” create an ambiguity?

The applicant argues that the use of “outdoor” creates an ambiguity and asks the County to interpret the provision to include indoor recreation.

The LDC definition, however, expressly identifies the use as an area for outdoor play or recreation. The use table separately identifies no “Indoor Recreation” or “Recreation Center” category.

The issue is therefore not simply whether recreation can occur indoors. Rather, the issue is whether the County may expand the definition of an existing use category through the similarity provision to encompass a substantially different type of facility.

Issue 3 – Does the existing building change the similarity analysis?

The applicant emphasizes that the proposal would reuse an existing warehouse rather than construct a new outdoor facility or a new large building.

The existing nature of the building is relevant to the impacts of the proposal, but it does not by itself determine the land-use classification.

The LDC similarity criteria expressly direct the County to examine the actual or projected characteristics of the proposed use, floor area, equipment, building and site arrangement, parking, trips, advertising, and impacts.

Consequently, the fact that the building already exists does not convert an indoor athletic facility into an outdoor recreation field.

Issue 4 – Does the community or nonprofit character of the proposal change the classification?

The applicant emphasizes youth sports, adaptive recreation, Special Olympics, youth clubs, and other community uses.

Those objectives are relevant to understanding the proposed use and its intended customers. They do not, however, eliminate the physical and operational distinctions between an enclosed athletic facility and an outdoor recreation field.

The similarity criteria do not identify nonprofit status or community benefit as a controlling criterion.

Issue 5 – Is Special Event Facility an appropriate classification?

Staff does not recommend classification of the proposal as a Special Event Facility.

The LDC's definition is oriented toward temporary gatherings, retreats, meetings, weddings, conferences, seminars, and similar activities. Recreation is described as something that may be provided to participants during such a program.

The proposed facility is instead intended to operate as a continuing athletic/recreation facility.

Recommended Motions:

I move to affirm the Planning Administrator's August 31, 2026 Determination of Similar Use, subject to the findings contained in the staff report and with the clarification that the proposed Indoor Recreation Facility is not sufficiently similar to the LDC's Park, Recreation Field use or Special Event Facility use to be classified under either existing category.

The Commission finds that the proposed use is an unlisted principal use and, pursuant to Teton County LDC § 3-1-1(A)(13), may be established only following an amendment to the Land Development Code.

This determination is limited to land-use classification and does not constitute a determination regarding the permitting history, building-code compliance, ADA compliance, fire/life-safety compliance, wastewater capacity, or other regulatory requirements applicable to the existing structure or proposed use.

The Commission finds that the proposed use is sufficiently similar to a listed principal use and, pursuant to Teton County LDC § 3-1-1(A)(13), the applicant may proceed with the use subject to any other applicable requirements of the Land Development Code (and other applicable requirements of other regulatory agencies) related to that use.

I move to overturn the Planning Administrator's August 31, 2026 Determination of Similar Use, finding that the proposed Indoor Recreation Facility is sufficiently similar to the LDC's Park, Recreation Field use or Special Event Facility (or other use) to be classified under either existing category; subject to the following specific findings:

…

If the Commission determines that additional factual information is necessary before making a final decision, it could instead remand the matter to the Administrator for additional review.

A possible motion would be:

I move to remand the appeal to the Planning Administrator for reconsideration and further administrative review and preparation of a supplemental determination addressing the additional information submitted by the applicant, including the following:

...

The supplemental review shall apply the similarity criteria in LDC § 3-1-1(A) and return the matter to the Planning and Zoning Commission for further consideration.

This alternative would be appropriate if the Commission concludes that the existing record does not adequately establish the factual assumptions used in the Administrator's determination.

Joshua Chase, Planning Administrator

(Note: portions of this report were prepared with the assistance of Chat GPT Artificial Intelligence software.)

Attachments:

Exhibit A – Planning Administrator's Determination of Similar Use, dated August 31, 2026.

Exhibit B – Request from Jason Wilcox for a determination of similarity Including limited Any site plan and response to criteria for consideration.

Exhibit C – Written appeal/request from Sidney and Jason Wilcox to the Planning and Zoning Committee.