



**Application Submittal Checklist for a
BENEFICIAL USE DETERMINATION (BUD)**

**Planning & Building Department
Planning Division**

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APPLICABILITY. *This checklist should be used when submitting a request for a **Beneficial Use Determination**. The purpose of a beneficial use determination is to permit landowners who believe they have been deprived of economically beneficial use of their land to apply to the Town for relief from application of the LDRs sufficient to provide an economically beneficial use of the land.*

When is a Beneficial Use Determination Required?

If a landowner is of the opinion that the decisions on the appropriate physical development, use, development option, or subdivision applications has denied an economically beneficial use of that landowner's land, then the landowner shall seek a beneficial use determination, pursuant to Section 8.8.4, prior to seeking relief from the courts in order that any denial of economically beneficial use may be remedied through a non-judicial form.

Do I need a Pre-Application Conference first?

A Pre-Application Conference is not required prior to submittal.

FINDINGS FOR APPROVAL. *Beneficial Use Determinations will be reviewed pursuant to the standards in **Section 8.8.4, Beneficial Use Determination**.*

In determining if a landowner is deprived of an economically beneficial use of the land, the following factors shall be taken into account:

1. **Economically Beneficial Use.** The uses of the land as provided by the LDRs, and the uses of the land in relation to uses provided similarly situated lands. For the purposes of this section, "economically beneficial use" means the opportunity to make a return equivalent to that which would have been received from a conservative financial investment. Transitory economic issues shall not be relevant to this determination.
2. **Diminution in Value.** The market value of the land, as established by the comparable sales approach, prior to adoption of the regulations that caused the landowner to apply for relief shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of land prior to the adoption of the regulations that caused the landowner to apply for relief shall constitute its highest and best use one day prior to the effective date of the regulations that caused the landowner to apply for relief, or the date of purchase of the land, whichever is later; and any other land value/appraisal information that the applicant would like considered. All appraisals shall be proposed by qualified licensed appraisers, and shall follow the best professional practices as established by the profession. A mere diminution in market value is not sufficient to support a determination of denial of economically beneficial use.
3. **External Costs.** The amount or nature of any subsidy that may be required by the Town, neighbors, purchasers, tenants, or the public at large if the uses allowed under the LDRs are modified; and any other adverse effects on the Town and its residents.
4. **Current State of the Law.** The state of the law established by the United States Supreme Court, the 10th Circuit Federal Court of Appeals, and the Wyoming Supreme Court relevant to these standards.

GENERAL INFORMATION.

- _____ **Narrative Description of the Request.** Provide a brief narrative description explaining the reason for the BUD request. Identify any decisions on physical development, use, development option or subdivision applications that are relevant to the request, or any other official action of the Town of Jackson related to adoption or application of the LDRs that the landowner believes has resulted in the owner being deprived economically beneficial use. Describe any actions taken by the landowner to seek relief from the decision.
- _____ **Property Acquisition.** Provide documentation of the date the owner acquired the property and the amount paid.
- _____ **Property Value.** Provide documentation of the current value of the property, and any other land/value appraisal information the applicant would like considered.
- _____ **Vested Rights.** Provide documentation of any vested rights associated with the property, such as prior permit approvals.
- _____ **Attempted Sales.** Provide documentation of any attempts to sell the property and the results of those efforts.
- _____ **Relief Sought.** Describe the type of relief being sought to ensure economically beneficial use of the land. See Section 8.8.4.D for examples.