

**MINUTES
PLANNING COMMISSION
TETON COUNTY, WYOMING
Date September 24, 2018**

The regular meeting of the Planning Commission meeting was called to order at 6:00 in the Board of County Commission Chambers with Karen Rockey, Chair, presiding.

ROLL CALL

Planning Commission: Karen Rockey, Stefan Fodor, Mike Hammer and Glen Esnard. Nikki Gill was absent.

STAFF: Principal Long-Range Planner Alex Norton, Associate Planner Emily Cohen and Deputy County Attorney Erin Weisman.

MINUTES

A motion to approve the September 10, 2018 minutes was made by Commissioner Hammer and seconded by Commissioner Esnard. There was no further discussion. Motion carried 4-0.

ADOPTION OF AGENDA

Commissioner Fodor moved to adopt the September 24, 2018 agenda with Amendments, AMD2018-0002 and AMD2018-0003, postponed to the October 22, 2018 PC Hearing and the withdrawal of Amendment, AMD2018-0006.

The motion was seconded by Commissioner Hammer. There was no further discussion. Motion carried 4-0.

MATTERS FROM THE PUBLIC:

Scott Pierson stated that he had signed a request to postpone Amendments, AMD2018-0002 and AMD218-0003. He discussed how he didn't feel there was time to prepare and address recommendations from staff before tonight's meeting.

Cindy Stone asked that the Commissioners deny the Classical Academy text amendments. She stated she felt the Land Development Regulations pertained to everyone. Ms Stone noted that South Park was taking it personally.

Charles Daval stated that he opposes the Classical Academy text amendments. He does not feel they implement the Comprehensive Plan.

Emily Smith, residing at 2785 Ibis Lane, stated that she cannot attend the October 22, 2018 meeting and wanted to speak to the Classical Academy text amendments. She believes R-1 is meant to protect the character and undeveloped habitat.

Julia Weston, residing in Melody Ranch, commended staff on sticking up for the Comprehensive Plan regarding the Classical Academy. She spoke to how lovely the open space is and what a traditional western feel it provides the valley.

Marv Hieleson stated he was appalled that the developer postponed the Amendments from being heard at tonight's meeting. Mr. Hieleson noted that he agreed with Mr. Salter's letter, that there was enough information to summarily deny.

OLD BUSINESS:

There was no old business.

NEW BUSINESS:

A) Applicant: SEHERR-THOSS, ROGER

Presenter: Emily Cohen

Permit No.: VAR2018-0003

Request: Variance, pursuant to Section 8.8.2., Variance, of the Teton County Land Development Regulations, to vary Section 1.9.2 to allow expansion of nonconforming physical development.

Location: 4500 South Park Loop Road. The property is located approximately 3 miles south of Jackson, immediately west of the Melody Ranch Subdivision. The property is zoned Rural-1 and is within the Scenic Resources Overlay.

STAFF PRESENTATION:

Emily Cohen presented the application to the Planning Commission.

APPLICANT PRESENTATION:

Jeff Palmer, Agent for Roger Sheherr-Thoss, presented himself for questions on behalf of the applicant.

Peter Moyer, Applicant Representative, pointed out that the building in question, was built before the 1978 Comprehensive Plan took effect, therefore it was grandfathered. Mr. Moyer stated that it was not the applicant who damaged the building but mother nature. He noted that under the 1978 comp plan, a 20% increase was permitted. Mr. Moyer feels that it is extreme to destroy or chop off a rebuilt building over a mere 3 feet. He doesn't feel it has an impact on the neighborhood.

PUBLIC COMMENT:

Mitch Lewis, residing in Melody Ranch, noted he didn't see any impact on his property with regards to the variance. Mr. Lewis discussed how Mr. Seherr-Thoss had been working with the Melody Ranch HOA, so the project wouldn't impact the neighborhood.

PC DISCUSSION:

Commissioner Fodor noted he can make findings for Variance, VAR2018-0003, as to Staff's recommendations:

1. The structure is an existing nonconformity because it was built prior to 1978; therefore, it should have deference.
2. The placement of the new building location was not due to willful modification but rather due to natural disaster.
3. Strict application of the regulation sought to be varied would be a hardship on the applicant, because it would mean he must tear down the structure that he recently rebuilt.
4. The variance would allow for an additional encroachment by two feet in the setback to keep the building in place. Mr. Fodor stated that such a variance is minimal. Granting of the variance would not be injurious to the neighborhood surround the variance. Two members of the public in attendance at the meeting were in favor of the variance; Mr. Fodor noted that due to public comment and the fact that there is a park to the east makes this building's new location non-injurious to the public.
5. Mr. Fodor noted that the Comprehensive Plan and Land Development Regulation are balancing act and that ultimately the variance is consistent with the broad goals of the Comprehensive Plan vision.

Commissioner Hammer agrees with Commissioner Fodor's findings and would add to finding #1, the constraint

D) Applicant: TETON COUNTY

Presenter: Alex Norton

Permit No.: AMD2018-0005

Request: Amend Section 8.8.3 of the Teton County Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendment, regarding the process for appeal of an Administrative Decision. Teton County has complied with the requirements of Wyoming State Statute § 9-5-304 pertaining to the Wyoming Regulatory Takings Act.

Location: Applies Countywide

STAFF PRESENTATION:

Alex Norton presented the application to the Planning Commission.

APPLICANT PRESENTATION:

Erin Weisman, Deputy County Attorney, answered questions from the Planning Commission on behalf of the Applicant. Commissioners Fodor and Hammer asked for clarification of section 8.8.3.B.1.C regarding interests of aggrieved party. Ms. Weisman spoke to the general interests and wants the LDR's to be rules that are usable by the public, not just attorneys. She noted that the language in case law states: Specific to individual having standing must have a definite interest exceeding the general interests of community good shared in common with all citizens.

PUBLIC COMMENT:

Matt Kim-Miller, Teton County resident, spoke about concerns he had regarding the proposed LDR's.

PC DISCUSSION:

Commissioner Fodor feels the text amendment is necessary to prevent abuse of appeal process. He would like to see denial language included and would also like to see some outlet for adverse process requirements. Mr. Fodor gives the Pre-App or EA requirements as an example, these requirements don't stop the process, he notes that the alternatives analysis requirement in an EA is the example of adverse process requirement. Commissioner Rocky feels that owners have an interest in procedural decision.

MOTION:

Commissioner Fodor moved to approve the Amendment, AMD218-0005, based on findings recommended by the Planning Director, with the following conditions:

1. That a denial be a final agency action in 8.8.3.B.2.B.
2. That staff explore language for an owner only ability to appeal non-final action.

The motion was seconded by Commissioner Hammer. Motion carried 4-0.

E) Applicant: TETON COUNTY

Presenter: Alex Norton

Permit No.: AMD2018-0006 - **WITHDRAWN**

Request: Amend the Teton County Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to delete Section 6.1.5.D.2.f, which currently prohibits fractional ownership of a campground. Teton County has complied with the requirements of Wyoming State Statute § 9-5-304 pertaining to the Wyoming Regulatory Takings Act.

of the driveway. Commissioner Esnard also agrees with most of Commissioner Fodor's findings. Mr. Esnard would like to add, regarding finding #3, that while there is a hardship caused by mother nature, it is not a hardship to change or re-locate the structure. He notes that taking two feet off the structure is a hardship, but was caused by applicants' decision of building location, not mother nature. Mr. Esnard states, regarding finding #3, that the issues are relatively minimal on such a large piece of property but the fact that the building is already built should not be a factor considered. Commissioner Rockey spoke first to the economics of the hardship. Regarding finding #3, she states that 10% of the cost of the new structure is not a large amount in the overall build out of any development. Ms. Rockey notes that it was the applicant's decision to make the larger structure. Ms. Rockey states, regarding finding #1, that she is loath to have special circumstances for pre-1978 ownership. She feels there should not be exceptions for people who entered the valley prior to 1978. Ms. Rockey notes that everyone should have to live and work within the constraints of the Land Development Regulations. Commissioner Rockey feels there is an interest on the part of the Commissioners and Planning Department to insure consistent application of non-conforming standards and practices. She also notes there were no complaints by adjoining neighbors and she would like to find a way to move the application forward. Commissioner Esnard states that he will vote in favor of the variance but is uncomfortable with the notion of asking for forgiveness instead of permission.

MOTION

Commissioner Fodor moved to approve the Variance, VAR2018-0003, being able to make the findings 1-6 as discussed and modified to include the driveway constraint on the re-constructed building as a special circumstance.

The motion was seconded by Commissioner Esnard. There was no further discussion. Motion carried 4-0.

Applicant: OWL HAPPENINGS, LLC

Presenter: Hamilton Smith

B) Permit No.: AMD2018-0002 – **POSTPONED TO THE OCTOBER 22, 2018 PC HEARING**

Request: Amend Sections 3.2.2 and 3.2.3 of the Teton County Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to revise hours of operation for Conditional Principal Uses in the Rural-1 Zone and Institutional and Infrastructure Uses in the Rural-2 Zone. Teton County has complied with the requirements of Wyoming State Statue § 9-5-304 pertaining to the Wyoming Regulatory Takings Act.

C) Permit No.: AMD2018-0003 – **POSTPONED TO THE OCTOBER 22, 2018 PC HEARING**

Request: Amend Sections 3.2.2 and 3.2.3 of the Teton County Land Development Regulations, pursuant to Section 8.7.1, LDR Text Amendments, to increase the maximum building size from 10,000 square feet to 30,000 square feet for specific building types that generally require larger sizes, as a part of an approved Institutional Use in the Rural-1 Zone and the Rural-2 Zone with a Conditional Use Permit. Teton County has complied with the requirements of Wyoming State Statue § 9-5-304 pertaining to the Wyoming Regulatory Takings Act.

Location: Applies countywide in the Rural-1 and Rural-2 zoning districts.

PC DISCUSSION:

Planning Commission addressed postponement with prior approval of Agenda.

Location: Applies Countywide

PC DISCUSSION:

Planning Commission addressed withdrawal with prior approval of Agenda.

MATTERS FROM COMMISSION:

None.

AGENDA FOLLOWUP:

None.

MATTERS FROM STAFF:

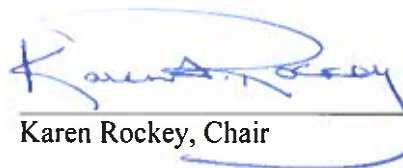
Commissioner Rockey had met with Alyssa Watkins and Susan Johnson regarding the **2018 General Board Meeting Handbook**. Commissioners were asked to read it, sign the expectation sheet and bring them to the next PC Meeting.

Natural Resource Update, review schedule was discussed.

ADJOURN

Commissioner Hammer moved to adjourn at 8:03 PM. Commissioner Esnard seconded and the motion passed unanimously.

Respectfully submitted: kr


Karen Rockey, Chair

ATTEST:


Susan Johnson, Planning Manager / Interim Director

- Digital recording on file-