

**OFFICIAL SUMMARY PROCEEDINGS
OF THE BOARD OF COUNTY COMMISSIONERS, TETON COUNTY, WYOMING**

The Teton County Board of Commissioners met in special session on **January 3, 2019** in the Commissioners Chambers located at 200 S. Willow in Jackson. The meeting was called to order at 9:00am.

ROLL CALL

County Commission: Mark Newcomb Chair, Natalia Macker Vice Chair, Smokey Rhea, Greg Epstein, and Paul Vogelheim were present.

MATTERS FROM PLANNING & DEVELOPMENT
(Continued from December 18, 2018 BCC Meeting)

1. Applicant: TETON COUNTY
Presenter: Hamilton Smith
Permit No.: AMD2018-0003
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 Statute § 9-5-304 pertaining to the Wyoming Regulatory Takings Act.
Location: Applies countywide in the Rural-1 and Rural-2 zoning districts.

Hamilton Smith, Planning Staff, presented to the Board for consideration of approval an amendment of Section 3.2.2 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 with a Conditional Use Permit.

The proposed amendment was initiated by Owl Happenings, LLC, the entity representing the Jackson Hole Classical Academy in the effort to develop a new school campus.

The physical development standards of the Rural-1 zone (R-1) establish a single maximum building size of 10,000 square feet (Sec. 3.2.2.B.1.) The exception to this regulation is the zone-specific standard that allows an equestrian center on parcels of 140 acres or greater an allowance for a single building not to exceed 50,000 square feet (Sec. 3.2.2.E.1). The applicant requests an amendment that adds a provision to Section 3.2.2.E. (Additional Zone-specific Standards), that states:

Maximum scale of an Institutional Use structure. *The following are individual buildings that are inherently large due to their use and may exceed 10,000 square feet but are not to exceed 30,000 square feet:*

Barns

Gymnasiums

Church assembly halls

Performance halls

Assisted living facilities

Other similar uses that require large amounts of consolidated square footage

The 10,000 square foot single building maximum size is important for Institutional Use structures to remain in harmony with the rural character of this zone.

The single building limit has been 10,000 sf since 1994. The single building limit requires that sites allowed more than 10,000 square feet must break up the mass into multiple buildings. The single building maximum was established to retain the rural, ranch compound character when developing in rural areas. The allowance of institutional uses in R-1 and R-2 zones was out of a finding that they represent uses that are a community necessity and difficult to locate. The need for some non-residential development in the rural zones carried forward the single building maximum as a check and balance to preserve rural character. The exemption for riding arenas was an acknowledgment of the role riding plays in our historic western rural character, and the inherent large size of riding arenas. In developing the rural zoning an analysis revealed that the maximum size of historic barns in the County was approximately 5,000 square feet.

Key issues include:

- KEY ISSUE 1:
Does the increase of maximum single building size from 10,000 s.f. to 30,000 s.f. meet the intent of the preservation subareas identified in the Comprehensive Plan?
- KEY ISSUE 2:
Does the existing maximum building size accommodate necessary future uses/development?

The Planning Commission reviewed the amendment language, with the revision of the applicant's requested maximum structure size to 15,000 sq ft. The Planning Commission discussed the character of rural development, and the nature of the ranch compound that underscores community expectations of relative building size. Not being able to make the findings, the Planning Commission voted unanimously to recommend denial of the revised LDR text amendment.

The Planning Director recommends Denial of AMD2018-0003, dated June 26, 2018, based on the findings recommended below:

1. Is consistent with the purposes and organization of the LDRs – Cannot Be Made.
2. Improves the consistency of the LDRs with other provisions of the LDRs – Cannot Be Made.
3. Provides flexibility for landowners within standards that clearly define desired character – Cannot Be Made.

4. Is necessary to address changing conditions, public necessity, and/or state or federal legislation – Not Applicable
5. Improves implementation of the Comprehensive Plan – Cannot Be Made.
6. Is consistent with other adopted County Resolutions – Can Be Made.

Discussion between the Board and staff included historical determination of 10,000 square feet and other basis for this allowance, other choices in parcels outside of the Natural Resources Overlay, application for 30,000 sf and request to revise to 15,000 square feet – revision (recommended by Interim Planning Director vs new application (recommended by legal)).

Leah Corrigan, representative on behalf of Owl Happenings, LLC, addressed the Board regarding big picture policy issues. She addressed the public notice issue about addressing narrowing the scope of request of a legislative act (asking 30,000 sf vs 15,000 sf) and why the Classical Academy cannot be built in the Hog Island/Munger Mountain complete neighborhood. Ms. Corrigan talked about the policy question “does it make sense to apply the same square footage to a residence and a K-12 school?” She talked about Quality of Life addressed in the Comprehensive Plan, educational use is a legal use in a rural zone, good policy making must include Community Values (Comprehensive Plan), History, Constitutionality, Practicality and Reality of potential impact, rational for maintaining the 10000 sf building was to disallow large residences not institutional buildings, history of 10,000 sf building size limit, this ask is staying within the Comprehensive Plan Common Values – Ecosystem Stewardship, Growth Management, and Quality of Life, and impacts of an additional 5,000 sf institutional structures – prior to 2015 there was not a big number of large buildings built, large buildings currently exist in rural zones, this change would impact 18.98% of the conserved land.

Discussion between the Board and Ms. Corrigan included quality of education in 10,000 square feet or less, legacy zone (left over from 2015) isn’t available for non-residential uses, size of building has linear intensity of use,

Discussion between the Board and staff included number of buildings at the Journeys School over 10,000 square feet, figures from public school’s gymnasium space and uses.

Scott Pierson, Y2 Consultants, addressed the Board regarding the rural Legacy zone.

The meeting was recessed at 10:31am and reconvened at 10:42am.

Discussion between the Board, staff, Ms. Corrigan, and Mr. Pierson included legal case law pertaining to non-residential use, sizes of current school gyms.

Scott Pierson, Y2 Consultants addressed the Board regarding the original amendment request, public comment received, potential limitations acceptable to the applicant (600 foot setbacks, minimum contiguous site area of 50 acres, reduction to 15,000 square feet), county-wide amendment affecting the entire R-1 zone, impact on rural zone – 73% of land in Teton County is rural (R-1 is 59.3%, R-2 is 13.7%), 68% of R-1 is in NRO (daycare/education not allowed in NRO), educational uses and associated large buildings could exist on 18.98% of Teton County not 59%, potential revised language, history of maximum building size, same standard as single-family residence as for schools, churches, hospitals, amendment is necessary since variances are no longer allowed for maximum scale of development and administrative adjustments do not apply to maximum scale of development, amending the LDRs within the legislative discretion, minimum gymnasium program needs, single use gym for K-12 students.

Mr. Pierson went over the factors (not findings) to consider for the amendment to LDRs:

1. Is consistent with the purposes and organization of the LDRs
2. Improves the consistency of the LDRs with other provisions of the LDRs
3. Provides flexibility for landowners within standards that clearly define desired character
4. Is necessary to address changing conditions, public necessity, and/or state or federal legislation
5. Improves implementation of the Comprehensive Plan
6. Is consistent with other adopted County Resolutions

Discussion between the Board, staff, and Mr. Pierson included constraints around the Equestrian Center and floor area option, public/non-public constraints on Equestrian Center, maximum intensity of use for Equestrian Center, acreage requirement for riding arena, location/site of Munger Mountain Elementary School on work plan, Hog Island area has NRO on many parcels, specifics on circulation in gym (not interior to gym),

Public comment was given by Michele Gammer, Clarene Law, Tanya Beader, Rich Bloom, Colby Cox, Sandy Shuptrine, Alex Muromcew, Jennifer Green, Sally Frese, and Elisa Chambers.

The meeting was recessed for lunch at 12:00pm and reconvened at 1:30pm.

Public comment was given by Cody Miller, Bill Keithler, Jack Krouskup, Mary Lochs, Charles Daval, Sam Lunz, Chip Marvin, Mandy Dornan, Geoff Gottlieb, Andrew Salter (Friends of South Park), Sue Lurie, Ellen Wilson, Jason Ochs, Donna Hornbuckle, Jennifer Scott, Hank Phibbs, Will Dornan, Aaron Pruzan, Liz Brimmer, Sandra Lender, Nancy Baxter, Lynn Friess, Dave Coyle, Bruce Keller, Alicia McGaw, Ashley Agee, and Linda Williams.

The meeting was recessed at 2:43pm and reconvened at 2:49pm.

Susan Johnson, Interim Planning Director, addressed the Board regarding Division 2400 of the previous LDR did limit non-residential uses in the rural, the floor area and the reason for the Variances for the Journeys School, it was a conscious decision to limit structures to 10,000 square feet – not an oversight, discussion about community character, predominance of landscape over the built environment, sprawl – low density automobile dependent development, schools are not allowed in a suburban zone, looking at application for buildings to not exceed 30,000 square feet.

Discussion between the Board and staff included text amendment of the LDRs to allow schools in suburban zone, difference in past is that variances were allowed and now they no longer are.

Leah Corrigan, representative for the applicant, addressed the Board regarding public comment that was made. It included a reminder that this is about the ability to build a functional school, schools never intended to be in rural

zones, current zoning allows for two 10,000 square foot buildings but not one 15,000 square foot building, number of buildings to be built, three Common Values of the Comprehensive Plan.

Scott Pierson, Y2 Consultants, addressed the Board concerning the potential revised language to the application requesting 30,000 square feet to 15,000 square feet including standards – 600 foot setback, 50 contiguous acres, visual impacts shall be mitigated, all institutional structures remain subject to the floor area maximum standards for overall development.

Discussion among the Board included the process has been through the 30,000 square foot and factors could not be made, legislative action to discuss 15,000 square foot structure, case by case cannot happen without variances, non-residential use and CUP process, intensity of use of 10,000 sf building vs 15,000 sf building, specific standards on a per application basis, crowded schools and lack of recreational facilities, Commissioner Vogelheim's support of educational options in the valley, rural zone practicality of one house for every 35 acres,

A motion was made by Commissioner Macker and seconded by Commissioner Rhea to approve AMD2018-0003 for a Text Amendment to R-1 district Section 3.2.2 of the Teton County Land Development Regulations dated August 16, 2018, pursuant to Section 8.7.1, LDR Text Amendments, being able to make the findings of Section 8.7.1.

The motion was amended by Commissioner Vogelheim and approved by Commissioner Macker and Commissioner Rhea to approve AMD2018-0003 of Section 3.2.2 of the Teton County Land Development Regulations, as amended to 15,000 square feet, pursuant to Section 8.7.1, LDR Text Amendments, dated August 16, 2018, being able to make the findings of Section 8.7.1 as presented by the applicant deleting the reference to the applicant assisted living facilities.

Commissioner Macker, Rhea, Epstein could not support the motion based on the factors in the staff report.

Chair Newcomb called for the vote. The vote showed 1-4 in favor and the motion failed.

EXECUTIVE SESSION

There was no executive session.

ADJOURN

A motion was made by Commissioner Macker and seconded by Commissioner Vogelheim to adjourn. Chair Newcomb called for the vote. The vote showed all in favor and the motion carried. The meeting adjourned at 3:42pm.

Respectfully submitted,

Shelley Fairbanks
Deputy County Clerk

TETON COUNTY BOARD OF COMMISSIONERS

Mark Newcomb, Chair

Natalia D Macker, Vice-Chair

Greg Epstein

Paul Vogelheim

ATTEST:

Kathleen "Smokey" Rhea

Sherry L. Daigle, County Clerk