

**City of Driggs**  
**PLANNING AND ZONING COMMISSION MEETING**  
**MINUTES**  
MEETING HELD AT CITY HALL  
**April 10, 2013**  
**6:30pm**

**MEMBERS PRESENT:** Rick Baldwin (Vice-Chair), Chris Valiante, & Jen Calder

**STAFF PRESENT:** Ashley Koehler, Planning and Zoning Administrator

**PUBLIC PRESENT:** Tom Davis, Teton County Building; Jay Mazalewski, Teton County Engineer; and Mandy Kincaid, Kincaid Daycare

Commissioner Rick Baldwin called the meeting to order at 6:40 p.m.

**1) Approval of Minutes.** The Commission reviewed the minutes from March 13, 2013.

**Commissioner Chris Valiante moved to approve the minutes of March 13, 2013 as written. Commissioner Jen Calder seconded the motion. The motion passed with all in favor.**

**2) Conditional Use Permit- Daycare business with over six children in the R-1 Zone, Applicant- Mandy Kincaid**

Ashley Koehler stated that Mandy Kincaid is requesting a Conditional Use Permit(CUP) to operate a daycare with more than six children at her home in the Sagewood Subdivision. The R-1 Zone requires a CUP for daycares with more than six children. Two public comments in opposition were received and included in the Staff Report. One of the comments received included a copy of the neighborhoods CC&Rs which don't allow a business like this. The City does not enforce CC&Rs, but the conditions recommended by Staff attempt to address the concerns called out by the neighbors and the CC&Rs. Staff recommended that P&Z consider any additional public comment and vote to approve the daycare business with the following conditions:

1. The number of children on site at any one time shall not exceed nine.
2. A valid state license and City business registration should be maintained at all times.
3. The hours of operation shall be M-F 8am-7pm.
4. A backyard fence securing the outside play area should be installed this summer.
5. The driveway should maintain 2 parking spaces for safe drop-off and pick-up during business hours.
6. Drop-off and pick-up times should be staggered so that no more than 2 vehicles arrive at the same time.

Mandy Kincaid: There is no HOA active in the subdivision. There is a demand for childcare in the community and has turned away kids already. She is applying for a State license, which allows up to nine children.

Commissioner Baldwin opened the public hearing. No public comment. Public hearing closed. Commissioners discussed the potential for future issues if the area gets developed and current concerns from the public comment letters. Commissioner Valiante asked if the Commission should just consider eight children as one letter suggested.

Commissioner Calder supported Staff's recommendations as long as the conditions are met. Koehler read the conditions from the Staff Report.

Mandy Kincaid stated that she will be installing the fence and a basement egress door this summer.

Commissioner Baldwin told Mandy that the City doesn't enforce CC&Rs, but would be good for her to consider that the onus is on her to ensure she is compliant. Commissioner Calder added that the onus is on Mandy to maintain the conditions of the CUP as well.

**Commissioner Calder made a motion to approve the daycare business up to nine children with the conditions in the report.**

**Commissioner Chris Valiante seconded the motion. The motion passed with all in favor.**

### **3) Discussion- Zoning Ordinance Text Amendment- Building height exception for essential emergency facilities. Applicant- Teton County, Tom Davis**

Koehler reviewed the Staff Report and called out specific areas of the Report that have been updated, including comments from the Airport Board and that the definition should be modified so that the towers are limited to the same site as the facility. The Telecommunications Act does not allow local regulations to discriminate among providers of functionally equivalent services, so this amendment for emergency towers should stand out from private towers. She suggested that allowing only towers located on the same site as the operating facility avoids discrimination of towers if later a private company applies for a similar height exception process for towers or repeater towers in the City. She further identified questions for the Commission:

1. What is an appropriate maximum height limit? 80' - 100'? Zone dependent?
2. Can a tower serve as a site for other non-emergency services to co-locate on?
3. Should a tower be subject to architectural and design review standards?
4. Should a tower be restricted to certain types (monopole, roof-mounted, lattice)?
5. If lattice towers are allowed, should they be limited to a maximum footprint? Specific zones? summarized staff report

Koehler outlined the main sections of the ordinance, including the co-location requirement, height justification, setbacks, Airport standards, and Design Standards. She called to attention the comments in the margin that need to be discussed. She recommended that P&Z consider the proposed ordinance, respond to Staff's comments, and hold a public hearing. She explained that she deferred making a recommendation in the Report because she had not received any public comment at the time of the Report and wanted to hear from the public at the hearing.

Jay Mazalewski: The County has some concerns based on their original proposal. The reason for the amendments in the first place was to create a way to get a tower. The proposed setbacks eliminate the feasibility of siting the antenna on very many lots in the City [Mazalewski passed out a zoning map showing example lot sizes in the applicable zones]. He asked the Commission to look at the setback requirements, because they are eliminating the allowance for a 100' tower.

When the County originally applied for an emergency facility, the thought was that 100' was probably what was needed. Since this is a code amendment, P&Z should consider even a higher height maximum because technology could change in the future and a tower could be much taller, but be pencil thin. He would be open to being subject to a more vigorous design review if the facility were taller than 100'.

Mazalewski asked that the evergreen shrub screening requirement be removed because it may not be practical. He also asked if there is an appeal process and if it goes to City Council.

Commissioner Baldwin opened the public hearing.

John Hansford: Owner of a lot in Huntsman Springs, which is due west of the proposed Law Enforcement Center. He has preliminary plans to build a boutique hotel in a five-story building. A large lattice tower would be directly on the view path between his lot and the Grand Teton. Technology may offer other alternatives to still achieve what they need. A large structure of this type would mire his view and general view corridor for town. Can sympathize with the Sheriff, but hope there are alternatives to building a tower on Main St. Lattice types are unsightly, would rather see a pole type or something with guy wires. There is a potential for reduction in property values.

Public hearing closed.

Commissioner Calder commented that the height exception should not have a height limit. The ordinance language is already asking that an emergency entity must do everything they can to make the tower the least intrusive possible. If that's the requirement, then why the need for a height limit?

Commissioner Valiante countered that if a 200' tiny tower would be needed, then the ordinance could be changed. He further commented that the design standard E-1 should be clarified that "use the smallest" means height and "least visible" would mean small footprint, like a pole.

Commissioner Baldwin stated that he is optimistic that technological advancements will allow us to reduce the scale of towers that is why he is not overly concerned with the maximum height. Especially if the entity has to prove that it is the minimum height needed. He asked if the county looked into co-locating.

Mazalewski: Yes, he has started looking, but that is project specific. It has been a good process to get the County ready to go through the Height Exception process if approved.

Commissioner Valiante gave his comments:

- **Setbacks:** Questioned different setbacks for different zones. He would consider decreasing them from what is proposed to 100% of the tower's height in residential zones, 75% in commercial zones, and 50% in industrial zones. He'd also like to see setbacks from streets. The concern is not so much for safety, because emergency towers have to be built to a higher building code standard. Mazalewski suggested a reduction in setback for different tower types, so less visual impact could have reduced setbacks.
- **Screening:** Agreed that the "evergreen hedge" screening requirement be removed, but keep "method approved by P&Z".
- **Height:** If the County wants a taller tower in the future, then the ordinance can be changed.

Koehler suggested that some setbacks be imposed because there are no base setbacks in the commercial and industrial zones. May consider basing the setback on the footprint of the tower. She read from an American Planning Association document that a setback radius of 50% of the tower's height is important to serve as a "fall area" for ice and debris, but not necessarily for safety of the tower falling. Commissioners discussed the importance of flexibility on the site so that it is sited in the least sensitive location and considered a minimum of 50% to the height from property lines. Commissioners agreed that the applicant would have to prove that it is the least intrusive place on the property and apply a flat setback 25' from the property lines.

Commissioners discussed limiting others from co-locating on an emergency tower that received a height exception unless approval received from the P&Z.

Tom Davis asked how the applicant can prove the co-location requirements in Section A. Koehler responded that Staff and P&Z will rely on the applicant's narrative and evidence of "good faith effort" to prove. Proof could be letters from communications consultants/experts. The proof would have to be validated by the P&Z and they could request additional documentation.

Discussion on Staff's concern for exempting towers from the design review process. Comments stated that it is difficult to apply fixed standards, but important to have additional steps in the review process in order to determine that the tower/pole is the least visible and least intrusive. Standards that screen the base of the tower are proposed. P&Z felt that the proposed design standards mitigate the concern.

**Commissioner Chris Valiante made a motion to recommend approval of the ordinance with the following changes:**

- 1. Eliminate a height maximum in Section B, 1 and 2, and instead rely on the Design Standards requiring the shortest and smallest footprint towers.**
- 2. Section C Setbacks: add "the applicant must show that the tower is located in the least obtrusive location on site and setback a minimum of 25' from all property lines."**
- 3. Section E Design Standards:**
  - a. Add "shortest" to # 1.**
  - b. Remove the evergreen hedge screening requirement to instead read: "*All support structures and above ground equipment enclosures shall be visually screened from any road, public use or residential property, except when located in the M-1 zone, by a screening method approved by the Driggs Planning and Zoning Commission*".**
  - c. Add a requirement that permission for other entities to co-locate on an emergency tower must first be approved by P&Z.**

**Commissioner Jen Calder 2<sup>nd</sup> the motion. Motion passed with all in favor.**

**4) Discussion- Zoning Ordinance Amendment- Land Use Table.** *Staff- Ashley Koehler, Planning & Zoning Administrator*

Commissioners discussed the "residential uses" category of the Land Use Table and the related definitions. The amendment would allow for accessory dwelling units in the C-3 and M-1 zones, but must be owner occupied. It would also allow for them in the CBD and C-2 zones, but could not front on the Main St. Commissioners were supportive of this new allowance.

Commissioners discussed their vacation schedules and suggestion to reschedule the May 8<sup>th</sup> meeting to a later date. **Commissioner Chris Valiante made a motion to adjourn at 8:49pm. Commissioner Calder 2<sup>nd</sup> the motion. The motion passed with all in favor.**

Approved by:

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Rick Baldwin (Vice-Chair)

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Date