

City of Driggs
PLANNING AND ZONING COMMISSION MEETING
MINUTES
MEETING HELD AT CITY HALL
July 11, 2012
6:30pm

MEMBERS PRESENT: Delwyn Jensen (Conducting), Rene Lusser, Rick Baldwin, Jen Calder, and Chris Valiante.

OTHERS PRESENT: Planning and Zoning Administrator Doug Self and Deputy Planning and Zoning Administrator Kreslyn Schuehler, Kirk Burns, Linda Szimhardt, Mark Rockefeller, Cody Runyan, Bob Ablondi, and Todd Woolstenhulme.

1) Approval of Minutes

The Commission reviewed the minutes from June 13, 2012.

Commissioner Rene Lusser made a motion to approve the minutes from June 13, 2012. Commissioner Jen Calder seconded the motion. The motion passed with all in favor.

2) Public Hearing – 6:40PM – Amendment to the Comprehensive Plan, adopting the new Fire Capital Improvement Plan

Doug Self explained to the Commission the information regarding the application. He stated an updated Capital Improvement Plan and Fire Study for the Teton County Fire District had been completed. It was in the same format and had the same idea as the previous impact fees. However, this would accept the finding from the Fire District regarding those fees. The application included an update to the Capital Improvement Plan and changed it to include the county, not just the City of Driggs.

Mr. Self further stated the City would continue to collect 50% of the fees as stated in the previous Impact Fee Ordinance. This would be a reduction of approximately \$94.00 in fees.

Commissioner Delwyn Jensen opened the Public Hearing at 6:45PM. There were no public comments and the Public Hearing was closed.

Commissioner Rick Baldwin made a motion to adopt the new Fire Capital Improvement Plan. Commissioner Chris Valiante seconded the motion. The motion passed with all in favor.

3) Public Hearing – 6:45PM – Conditional Use Permit for Trailer Sales behind the Broken Spur as submitted by Red Hawk Investments

Mr. Self presented his staff report. He stated the application was for proposed trailer sales in the C2 zone, which required a conditional use permit. He stated there were other similar businesses in the area located in the C3 zone, where trailer sales are an allowed use. At this time, the business had outdoor sales items and was looking to expand.

Mr. Self stated there was no other public comment that was received before the meeting besides the letter from Mike Dronen voicing he had no concerns with the application.

Mr. Self stated the conditional use permit could be approved if the Commission found it was not in conflict with the Comprehensive Plan. He further stated there was mostly vacant land immediately adjacent to the subject property with a health clinic, residential units and an abandoned off-road vehicle business nearby.

Mr. Self read from the CC&R's for the Valley Centre Subdivision, stating light industrial uses shall be permitted if, "There is no exterior open storage without fencing and landscaping." He stated that if there was a Home Owners Association and enforcement was in place for the CC&R's, the applicant would need to conform. He felt the sketch supplied by the applicant was hard to determine if landscaping and fencing would be completed. He further stated that the Design Review requirements would also have to be met.

Commissioner Lusser asked about the previous subdivision application for this property. Mr. Self stated the subdivision's final plat was never approved and the extension that was granted would expire in September with very little likelihood that the City Council would grant another.

Cody Runyan spoke to the Commission. He stated he had put money into the community and would continue to do so with this project, to an extent. However, he did not want to incur added expenses that were not necessary. He stated he would put in the culvert needed to have a new access point and would add a berm with trees, but was not will carry "onerous expenses."

Commissioner Valiante questioned if Mr. Runyan was familiar with the CC&R's for the landscaping requirements. Mr. Runyan stated he was and had complied with them at the time of his first endeavor, but did not feel other property owners were held to the same standards. He hoped the Commission would "not put that on my back because I can't financially do it." Commissioner Valiante informed Mr. Runyan that a detailed landscaping plan would be needed that conformed to the Design Review standards as well as the CC&R's.

Commissioner Jensen questioned if the Grand Teton Canal Company had been informed about the proposed culvert. Mr. Runyan stated they had not. Commissioner Lusser suggested using the current access point and applying the savings to the landscaping.

Mr. Runyan voiced his concerns of providing an additional landscape plan. Mr. Self stated the Commission simply wanted a few more details.

Commissioner Delwyn Jensen opened the Public Hearing at 7:16PM. There were no comments and the Public Hearing was closed.

Commissioner Chris Valiante made a motion to approve the application with the conditions that a landscaping plan must be submitted to and approved by the Design Review Advisory Committee prior to placement of trailers on the lot, if a culvert was needed it must be approved by the Grand Teton Canal Company and any exterior lighting

must conform to city ordinances and be approved prior to installation. Commissioner Jen Calder seconded the motion. The motion passed with all in favor.

4) Public Hearing – 7:00PM – Variance to construct a 75-foot Batch Plant as submitted by Burns Holdings

Kirk Burns spoke to the Commission. He stated Exhibit A that was submitted provided his stance on the matter and that he had “nothing much to add.”

Commissioner Calder asked the applicant to clarify the options for locations for this type of use. Mr. Burns stated that in the beginning of the process, the city and the county directed him to the current location. Mr. Self later explained there was a land owner adjacent to the property that may be interested in a land swap. Mr. Burns stated he tried for 5 months to make a deal but it never went through.

Mr. Self presented his staff report. He stated two public comments were received after the deadline of July 3, 2012. The Commission will need to decide if they should be reviewed now or put in the file. The Commission determined they would like to view the comments at the appropriate time.

Mr. Self continued his report. He stated the current zone was conditional M1 zoning, in accordance with the development agreement which specifies that the M1 use was restricted to a concrete batch plan. The Driggs City Code states that “any building or structure or portion thereof hereafter erected shall not exceed forty five feet in height above grade, unless a height exception is granted by the planning and zoning commission following the procedures in Chapter 2 Article D of this title, and providing these features do not exceed more than one hundred twenty percent of the base height limit of the applicable zone or the height limitations of the airport hazard zoning regulations.” In the M1 zone, the height limitation with the exception would be 54 feet.

Mr. Self provided some history on the matter, stating that the Driggs Planning and Zoning Commission previously found that the proposed 75ft high concrete batch plant facility would not be in conflict with the public interest nor the general land conditions in the neighborhood, and recommended approval to the Board of County Commissioners for a Conditional Use Permit granting a building height of 75 feet. The CUP application was denied by the County, and amongst the County Commissioner's reasons for denying the CUP, the Commissioners found that a structure with a height of 75 feet in the area North of Driggs conflicted with the applicable (city) comprehensive plan and that there were no conditions that could be imposed on a structure of that size that would assure protection and compatibility with surrounding properties, uses and neighborhood. The denial was upheld by the Idaho Supreme Court, which found that a height restriction can be waived only by a variance, not by a conditional use permit.

Doug read the criteria for a variance from the Driggs City Code, which stated a “variance shall not be considered a right or special privilege, but may be granted to an applicant only upon the showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest nor the general land conditions in the neighborhood.”

Mr. Self felt the issue was if there was undue hardship because of the characteristics of the land. He stated there were no unique characteristics of the site that could be found to cause undue hardship. Therefore, he recommended the application be denied based on that finding. He further stated that the City Attorney was in support of this recommendation.

Mr. Self read public comments from John Grabow, the neighboring property owner to the South, and Anna Trentadue, VARD representative, received on July 10th, 2012. Both comments were in opposition to the variance request.

Commissioner Calder questioned the statement made by Reid Rogers in his letter that the site was in the Scenic Byway and should follow state regulations for such. Mr. Self stated there were no height restrictions tied to the Scenic Byway designation, only sign regulations, and therefore it was not an issue. He further stated that the property was in the airport overlay zone but could build to 75 feet without reaching the protected air space.

Commissioner Jensen opened the Public Hearing at 7:37pm. Kirk Burns spoke in favor of the application, stating the height maximum of 54 feet was not in place when he started the process. He stated there was a signed Development Agreement allowing a height of 75 feet. However, Teton County refused to approve a Conditional Use Permit.

Mark Rockefeller spoke in opposition on behalf of Kambiz Talagani. Mr. Rockefeller read a letter from Mr. Talagani stating he was uncomfortable with the land exchange in the past. He further stated he was the owner of 250 acres adjacent to the subject property and wanted to object to the variance as he felt it would become an “eye sore” and was not keeping with the surrounding uses.

Commissioner Jensen closed the public hearing.

Commissioner Baldwin questioned if an alternative conditions would allow the building to be depressed. Mr. Burns stated with the type of plant, the height cannot be altered and continue to work.

Commissioner Lusser questioned the difference between a wet and dry plant as discussed in the beginning of the process. Mr. Burns stated a Development Agreement had been signed that allowed the 75 foot height and that was the direction he wanted to continue.

Commissioner Chris Valiante moved to recommend denial of the Burns Holdings variance application based on the Driggs City Code and the applicant’s inability to show undue hardship because of the characteristics of the site. Commissioner Rick Baldwin seconded the motion. The motion passed with all in favor.

5) Public Hearing - 7:45PM – Plat Amendment to increase the lot sizes at Huntsman Springs as submitted by Huntsman Springs

Bob Albondi, with Rendezvous Engineering, spoke to the Commission. He stated the project was originally designed for townhomes and urban design. However, now it appeared there needed to be more flexibility in the lot sizes. The infrastructure was in and utilities were already

in place. The application was asking for a reduction in the number of lots and was still in line with the overall plan. An avigation easement for the airport was discussed to ensure home owners were aware of the airport and what comes with it.

Commissioner Lusser questioned the pathway connection recommended in the staff report. Mr. Albondi stated it made sense to connect it to the eventual pathway on Highway 33, but was unsure of the best way to do so at this time. He further stated the bridges had been built to provide pathways when future connection took place.

Mr. Self read his staff report. He stated the application conformed to the Zoning Code and the Master Plan for Huntsman Springs. The density would be reduced and the only comments were received from the Public Works Department that requested if and when connections were abandoned they be capped according to Driggs Standards.

Mr. Self further stated the City Council should require, as a condition in the development agreement, a disclosure about the airport noise and suggested a fair disclosure statement indicating the impacts and not holding the city responsible would be in order.

Commissioner Jensen opened the Public Hearing at 8:09pm. There were no comments and the Public Hearing was closed.

Commissioner Rick Baldwin made a motion to approve the Plat Amendment for Huntsman Springs with the condition to satisfy the Public Works Department with abandoned utility connections. Commissioner Jen Calder seconded the motion. The motion passed with all in favor.

6) Public Hearing - 8:00PM – Subdivision for Huntsman Springs Phase 2 as submitted by Huntsman Springs

Mr. Ablondi stated that everything within the subdivision would remain the same. However, the lot lines for Phase 2 were being plated.

Mr. Self read his staff report. He stated the subdivision met all requirements and recommended approval with conditions to address public works requirements, bonding, pathway connection and airport compatibility.

Commissioner Jensen opened the Public Hearing. There were no comments and the Public Hearing was closed.

Commissioner Rick Baldwin made a motion to approve the subdivision application with the following conditions:

- 1. that improvement plans are submitted to and approved by the Public Works Director and the Planning and Zoning Administrator,**
- 2. that the improvement plans include a pathway connection to Highway 33 at Huntsman Springs Drive, to be built within one year of the city pathway completion at Highway 33,**
- 3. that required bonding be in place prior to recording of the final plat and**

- 4. that the Development Agreement require the signature of property purchasers on a fair disclosure statement using the language provided above concerning airport related impacts, including the waiver rights to bring litigation against the city in relation to airport impacts.**

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

Commissioner Chris Valiante made a motion to adjourn. Commissioner Rene Lusser seconded the motion. The motion passed with all in favor and the meeting was adjourned at 8:32pm.