



Board of County Commissioners - Staff Report

Subject: AMD2016-0006: BP-TC Building Size Exemption for Recreation Use

Agent: Jeff Daugherty

Applicant: Joe and Denise Rice

Property Owner: n/a

Presenter: Alex Norton

REQUESTED ACTION

Amend Section 2.3.5 of the Land Development Regulations (LDRs), pursuant to Section 8.7.1, LDR Text Amendments, to exempt recreation facilities with public benefit from the maximum building size in the Business Park - County (BP-TC) Zone.

BACKGROUND/DESCRIPTION

PROJECT DESCRIPTION

The Business Park (BP-TC) zone limits the size of an individual building to 15,000 sf (or 25,000 sf in compliance with specific standards). This standard is in addition to Floor Area Ratio (FAR) that limits the maximum floor area allowed on a parcel. The effect is that, on a BP-TC site of about 1 acre or more, the allowed floor area is required to be broken into multiple buildings.

The applicants own one of the 35 parcels in the BP-TC that meet that 1 acre threshold and would like to build a sports training facility with turf field that would enable year-round youth sports. Their desired facility is greater than 25,000 sf, but would meet the maximum FAR on the site. They cannot apply for a variance because Section 8.8.2.B.1 prohibits seeking a variance to maximum building size (categorized as a maximum scale of development standard in the LDRs). Thus, this application is to exempt projects such as the applicants' from the maximum building size. The application limits the proposed exemption to Developed Recreation use (a CUP in the BP-TC zone) that provides community benefit.

The applicants' desired development is not the subject of this application. The applicants' will be required to gain approval of a Conditional Use Permit (CUP), Sketch Plan, and Development Plan in order to operate their desired facility. Review of those applications will be the time to discuss mitigation of any potential impacts from the use through the CUP or other permits. This application is a review of whether, as a general rule, recreation facilities with public benefit should be exempt from the maximum building size limit in the BP zone.

EXISTING CONDITIONS

Both Business Park (BP-TC) zoned areas are largely developed. There are only about 15 parcels without buildings on them, but even those are in use as outdoor storage; with the exception of the 5 lots that were recently subdivided, on which infrastructure is currently being installed.

LOCATION

The application would apply to the entire Business Park (BP-TC) zone. The BP-TC has two locations the first is about 2.5 miles south of Town on either side of S. Hwy 89 and includes South Park Service Center, The Bird, Deer Dr., Elk Ave., etc. There are also 2 parcels on the west side of S. Hwy 89 about 7 miles south of Town in Hog Island that are zoned BP-TC – Teton County Weed and Pest and Hunt Construction.

The application would only effect sites in the BP-TC zone with a Base Site Area of 0.96 acres or greater (35 parcels, ~45% of BP-TC parcels). On the following page is a zoning map for each area next to an aerial photo of each area with the sites of 0.96 acres or greater highlighted.

Character District: 7: South Highway 89

Subarea: 7.1: South Park Business Park

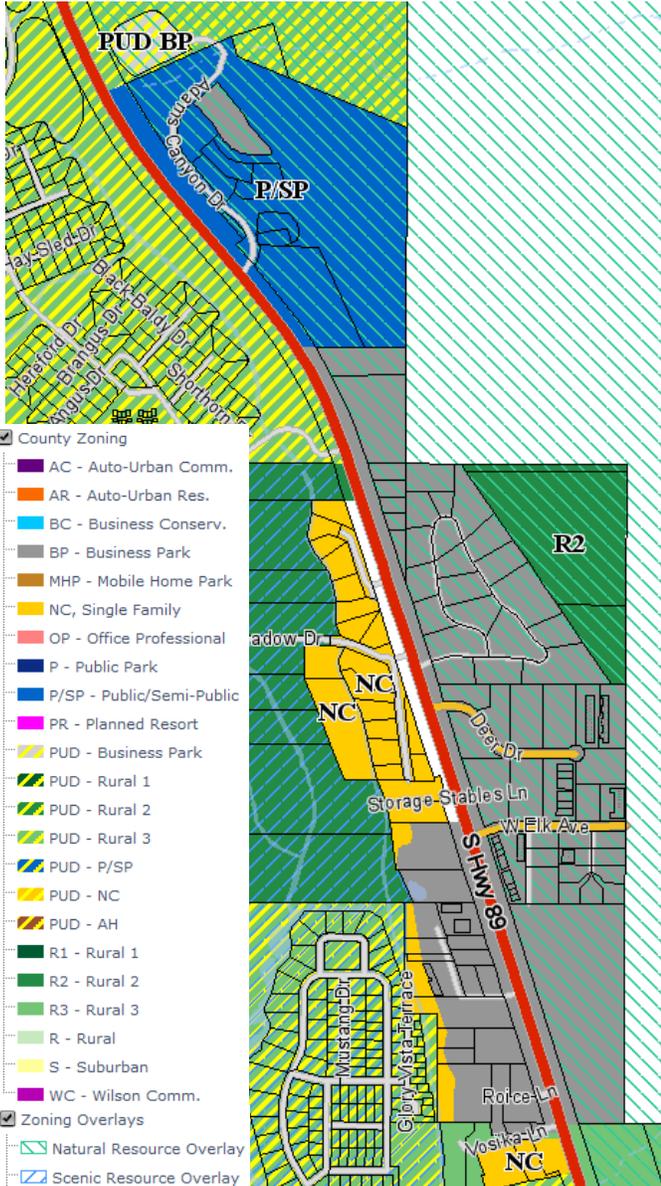
7.2: Hog Island Home Business

Zone: Business Park – County (BP-TC)

Overlay: Natural Resources Overlay (NRO)

Scenic Resource Overlay (SRO)

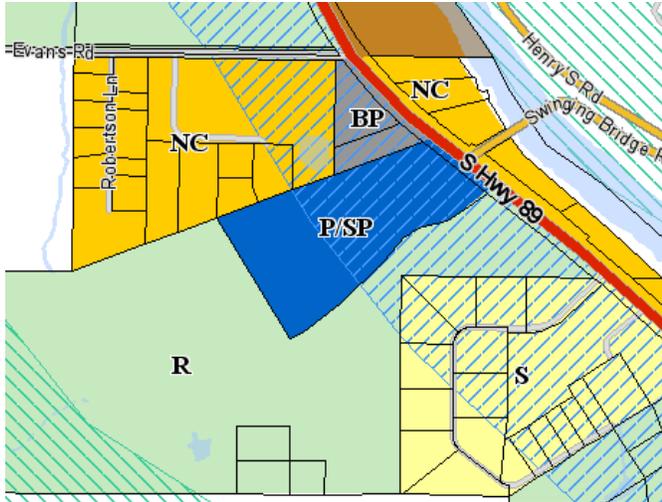
SOUTH PARK BP-TC ZONING MAP



SOUTH PARK BP-TC SITE MAP



HOG ISLAND BP-TC ZONING MAP



HOG ISLAND BP-TC SITE MAP



STAFF ANALYSIS

The application requests an exemption from the building size limit for a particular type of use that needs a larger building. Building size is an important part of the community’s character, which is why the LDRs prohibit variance from building size. However, there are particular uses, such as a sports training facility that do not fit in the maximum buildings allowed in the community. As a result, if such a facility is needed either the public has to provide it in the Public/Semi-Public zone where there is no building size limit, or an exception needs to be made in the LDRs so that such a facility can be privately provided. The community has already determined that the Business Park zone is an appropriate location for developed recreation use. The Business Park zone is also the zone that allows the greatest building size, making it the most appropriate location for an exception to building size.

KEY ISSUES

KEY ISSUE 1: Is an exception for Developed Recreation use consistent with the industrial focus of the BP-TC zone?

The purpose of the BP-TC zone is to, “provide suitable locations and environs for a variety of industrial, wholesaling, distribution and service commercial types of uses to meet general community needs.” (LDR Sec. 2.3.5.A) Subarea 7.1 is, “defined by light industry and protection of light industrial opportunities is the priority. Light industrial development and redevelopment will be promoted. Bulk, scale, and use allowances will first and foremost accommodate light industry and heavy retail.” (Comp Plan pg. IV-57) Is an exception that enables Developed Recreation in the BP-TC zone consistent with the vision for the zone?

The proposed amendment would facilitate an allowed use that has been determined to be consistent with the intent of the BP-TC zone. Large, indoor recreation facilities are not a use with enough demand to threaten the availability of BP-TC land for industrial uses. But they are a use that cannot be accommodated within a 25,000 sf building. Even smaller developed recreation uses occupy only a small portion of the BP in the Town and County. Also, like industrial use, there are not other options for the applicant. Between maximum floor area limitation and building size maximums, there are very few places where the applicant could even propose their project.

The proposed community benefit standard requiring the facility to be open for public use ensures the exemption will have a limited demand. The public use standard prevents against the exemption being used to allow private recreation facilities in the BP-TC, such as private riding arenas, for which there is a demand that might reduce the availability of land for industrial uses. The public use standard requires that the facility be open for public reservation or open public use at least half the hours it is open. In the applicant’s example the standard would allow for various youth sports to sign up for times, subject to applicable fees; but prohibits a membership based structure. If a member of the public called up to use the building they might not get the time they most desire, but they wouldn’t have to buy a membership use the facility and could reserve some time at the applicable rate.

An example of an existing developed recreation use that meets this standard is the Snow King Center ice rink. Developed recreation is a conditional use in the BP-TC so the public use standard can be further vetted and enforced through the Conditional Use Permit, which will assist in monitoring and enforcement.

Lastly, if there is any zone in the County where a larger building is consistent with surrounding character it is in the BP-TC zone, which allows the most intense physical development and use in the community. Staff believes the proposed exception for developed recreation, as limited by the proposed public use standard, will be used sparingly for uses best located in the BP-TC.

KEY ISSUE 2: What are the potential implications of a use-based exemption to building?

The issue with any use-based physical development exemption is that if the initial use to occupy the building ever leaves, the community is left with a nonconformity. Once the building is built through a valid permit it exists. If it is not occupied by the specific use, it becomes nonconforming with regard to size. But, Section 1.9.2.C.1 states that a nonconforming building may be used pursuant to the allowed uses of the zone.

Using the applicant's desired development as an example: if all of the applicant's proposals are approved, there could be a 38,000 sf sports facility on the applicant's site. If the sports facility is closed in 5 years the 38,000 sf building could then be occupied by any use allowed in the Business Park zone.

The proposed public use standard to ensure community benefit amplifies this issue because it requires continuous monitoring to enforce. It would also limit the type of developed recreation use that could follow the sports facility, when no such limit would apply to a light industrial use.

Staff's general preference is that physical development standards not be use-dependent, but in the context of an exemption with defined sideboards and limited applicability staff supports the approach proposed. The public use standard and required CUP will ensure that the exemption is used to provide a public benefit. Staff is comfortable with the limited risk of potentially creating a nonconformity and will address those issue if they ever arise.

PLANNING COMMISSION ANALYSIS

The Planning Commission (PC) is generally supportive of the amendment as a private solution to a community need that is consistent with the character of the Business Park zone. The only PC discussion was to clarify that the proposed public use standard is only narrowly applicable. It only applies to developed recreation use that utilizes the maximum building size exemption and is only applicable in the Business Park zone.

STAKEHOLDER ANALYSIS

DEPARTMENTAL REVIEWS

The application was sent to the Parks and Recreation Department for review. No response was received.

PUBLIC COMMENT

Notice of the Planning Commission hearing was published in the Jackson Hole News and Guide on September 7. Notice of this hearing was published in the Jackson Hole News and Guide on September 14. Notice was not sent to neighbors or posted on site because there is no specific site of the proposal. As of the publishing of this report no comments have been received.

LEGAL REVIEW

Weisman

RECOMMENDATIONS

STAFF RECOMMENDATION

Staff recommends **APPROVAL** of **AMD2016-0006**, dated September 20, 2016, based on the findings recommended below.

RECOMMENDED FINDINGS

Pursuant to Section 8.7.1.C of the Land Development Regulations, the advisability of amending the text of these LDRs is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In deciding to adopt or deny a proposed LDR text amendment the Board of County Commissioners shall consider factors including, but not limited to, the extent to which the proposed amendment:

1. *Is consistent with the purposes and organization of the LDRs*

Complies. The purpose of these LDRs is to implement the Comprehensive Plan in a predictable and coordinated manner. The proposal's implementation of the Comprehensive Plan is detailed below. The LDRs are organized to separate physical development standards from uses to the extent practical. However, staff finds that the proposed exemption to a physical development standard that is use dependent is consistent with the organization because of its limited applicability and the unique requirements of the use.

2. *Improves the consistency of the LDRs with other provisions of the LDRs*

Not Applicable. The proposed amendment is not about improving consistency with other provisions of the LDRs. The purpose of the application is to create an exemption from a certain portion of the LDRs. Yet, as discussed above the application is consistent with the organization of the LDRs and does not decrease consistency within the LDRs.

3. *Provides flexibility for landowners within standards that clearly define desired character*

Complies. The proposed amendment establishes a clearly defined, limited exemption that gives flexibility for a use that needs flexibility while guarding against applications of the exemption that are not the intent. The public benefit requirement will be difficult to monitor and enforce, but will ensure that the exemption is only used for the intended purpose. Future nonconformities created by any change in the use that qualified for the exemption can be dealt with at that time, and the hypothetical impact is not enough to outweigh the benefit to the community of allowing the exemption.

4. *Is necessary to address changing conditions, public necessity, and/or state or federal legislation*

Not Applicable. The purpose of this application is not to address a changing condition, public necessity or other legislation.

5. *Improves implementation of the Comprehensive Plan*

Complies. The application improves implementation of the Comprehensive Plan as discussed below. Because the application is primarily applicable in Subarea 7.1 and because Subarea 7.2 (where the other 2 BP-TC properties are located) specifically states that the intent is not to expand the BP-TC zone in the subarea, staff's Comprehensive Plan analysis is based on the desired future character for Subarea 7.1.

Subarea 7.1: Character Defining Features

This STABLE Subarea is defined by light industry and protection of light industrial opportunities is the priority. Light industrial development and redevelopment will be promoted. Bulk, scale, and use allowances will first and foremost accommodate light industry and heavy retail. A secondary goal is to enhance the appearance of the highway corridor as a gateway. Development should be located, designed and landscaped to provide as scenic a corridor as possible, given the industrial priority. The limited local convenience commercial that exists should be maintained with enhanced connection to Southern South Park (Subarea 10.1). Residential units should continue to be accessory to industrial uses or incorporated as live/work units. While these units may not be appropriate for all households because of the industrial priority of the subarea, they do provide workforce housing opportunities. Livability of these units should be maximized to the extent possible given the industrial priority through design and provision for pedestrian connections to public land, local convenience commercial, and bike paths. As wildlife also depend on the hillside and move across the highway in this subarea, attention should be given to wildlife permeability through development and across the highway.

The character of Subarea 7.1 is primarily defined as industrial. Bulk, scale, and use allowances are supposed to be first and foremost designed to accommodate light industry and heavy service. As with any aspirational statement in the Comp Plan, this priority is meant to emphasize what the community most desires; it is not exclusionary of other uses. Developed recreation is an allowed use in the BP-TC zone because it is a use that is generally consistent with the character of the zone. Ensuring the proposed exemption is applied in a way that is sensitive to scenic and wildlife considerations will occur at the review of the Conditional Use Permit for the use. If application of the exemption cannot be done consistently with the secondary goals of the subarea the use will not be permitted.

Character District #: Policy Objectives

1.1.b: Protect wildlife from the impacts of development. Complies. A larger building has less impact on wildlife than a more intense use. The BP-TC zone already allows for the largest buildings and the most intense uses. The exemption is needed not to increase intensity, but because the use proposed needs more space.

1.1.c: Design for wildlife permeability. Complies. Review of whether the proposed exemption is used in a way that provides for wildlife permeability will occur through the Conditional Use Permit and Development Plan.

1.3.b: Maintain expansive hillside and foreground vistas. Complies. Review of whether the proposed exemption is used in a way that provides for scenic protection will occur through the Conditional Use Permit and Development Plan.

3.2.b: Locate nonresidential development to Complete Neighborhoods. Complies. The application facilitates the location of developed recreation use in a Complete Neighborhood.

5.3.b: Preserve existing workforce housing stock. Not applicable. The application does not affect existing workforce housing stock.

6.2.c: Encourage local entrepreneurial opportunities. Not applicable. The application does not encourage or discourage the small entrepreneurial opportunities envisioned by the policy.

6.2.d: Promote light industry. Not applicable. The application does not promote light industry, nor does it threaten the primary intent of the subarea to provide light industrial opportunities.

7.3.b: Reduce wildlife and natural and scenic resource transportation impacts. Not applicable. The application does not affect transportation policy of the community.

6. Is consistent with other adopted County Resolutions

Complies. The application has no impact on other adopted County Resolutions.

PC RECOMMENDATION

At their October 10, 2016 meeting, the Planning Commission voted 5-0 to recommend **APPROVAL** of **AMD2016-0006**, dated September 20, 2016, being able to make the findings of Section 8.7.1 as recommended by staff.

ATTACHMENTS

- Recommended LDR language, dated September 20, 2016
- [Application](#) (physical copy available upon request)

SUGGESTED MOTION

I move to **APPROVE AMD2016-0006**, dated September 20, 2016, being able to make the findings of Section 8.7.1 as recommended by staff.

2. Maximum Scale of Development	
Individual Building (max gross FA)	
Nonresidential (see E.1. for exceptions-agricultural buildings exempt)	15,000 sf
In compliance with specific standards (E.1.)	25,000 sf
3. Building Design	
Residential Building Materials	
External surfaces shall be non-reflective	
Colors shall blend into terrain using muted colors and earthy hues - additions matching existing colors are exempt	
Nonresidential Building Materials	
External surfaces shall be non-reflective - except that glass for displays and transparency is permitted	
For external surfaces visible from a state highway, county road, or scenic road, colors shall blend into terrain using muted colors and earthy hues - additions matching existing colors are exempt	
4. Site Development	
Site Development Setbacks	
Side/Rear	5'
Front	
40% of lineal lot frontage	0'
60% of lineal lot frontage	structure setback
5. Landscaping (Div. 5.5.)	
Plant Units (min)	
Residential	1 per du
Nonresidential	1 per 1,000 sf of landscape area
Parking lot	1 per 16 parking spaces
6. Fencing (Sec. 5.1.2.)	
Wildlife Friendly Fencing	
Special Purpose Fencing Height (max)	
In street yard	4'
In side or rear yard	6'
Special Purpose Fencing Setback	
Any yard	0'

7. Environmental Standards	
Natural Resource Buffers (min) (Sec. 5.1.1.)	
Rivers	150'
Streams	50' or edge of riparian plant community up to 150'
Natural lakes or ponds	50' or edge of riparian plant community up to 150'
Wetland	30'
Irrigation Ditch Setback (min) (7.7.4.D.)	
Irrigation ditch	15'
Wild Animal Feeding (Sec. 5.1.3.)	
Wild animal feeding prohibited	
Natural Resource Overlay (NRO) Standards (Sec. 5.2.1.)	
Bear Conflict Area Standards (Sec. 5.2.2.)	
Bear proof trash required in Conflict Priority Area 1	
8. Scenic Standards	
Exterior Lighting (Sec. 5.3.1.)	
Light trespass is prohibited.	
All lights over 600 initial lumens shall be fully shielded.	
Lumens per sf of site development (max)	3
Lumens per site (max)	
All fixtures	100,000
Unshielded fixtures	5,500'
Light Color	≤3000 Kelvin'
Scenic Resource Overlay (SRO) Standards (Sec. 5.3.2.)	
9. Natural Hazards to Avoid	
Steep Slopes (Sec. 5.4.1.)	
Development prohibited	Slopes > 30%
Areas of Unstable Soils (Sec. 5.4.2.)	
Fault Areas (Sec. 5.4.3.)	
Floodplains (Sec. 5.4.4.)	
Wildland Urban Interface (Sec. 5.4.5.)	

E. Additional Zone-specific Standards

The following standards apply in addition to all other standards applicable in the BP-TC zone.

1. Maximum Scale of an Individual Building

- a. Exempt. Buildings occupied by the following uses are exempt from the maximum scale of an individual building.
 - i. Agriculture. Agricultural operations meeting the standards for exemption in Section 6.1.3.B.
 - ii. Developed Recreation. Developed recreation use where at least half of the hours the recreation center is open shall be available for public reservation or open public use.
- b. Increase to 25,000. In the BP-TC zone, the maximum floor area above ground in an individual building may be increased from 15,000 square feet to a maximum of 25,000 square feet, provided all of the following standards are met:
 - i. **Traffic and Parking.** The use proposed has neither a high traffic generation rate nor a high demand for parking. The increase in the size of the building will not increase projected traffic or parking demand by more than 20% above the traffic projection and parking demand for a 15,000 square feet building.
 - ii. **Visual Impact.** The visual impact of the size of the building shall be mitigated. Mitigation shall include techniques to visually break-up the mass of the building, such as architectural treatments and landscaping that reduce the perceived size of the building.

2. Convenience Retail Required. The intent of allowing retail use in the BP-TC zone is that the goods sold are primarily convenience goods that provide for the needs of the residents and employees of the surrounding area.

- a. Retail use shall be limited to food and/or liquor stores.
- b. Goods sold shall not be of a specialty nature that rely on and attract customer and vehicle traffic from the community as a whole.
- c. Retail use is only allowed on a lot of record that has another active, lawful principle use.