

March 30, 2012

Dave Hensel  
Planning and Zoning Chairman  
150 Courthouse Drive - Room 107  
Driggs, ID 83422

*Re: April 10, 2012 Public Hearing: Title 8 - Height Amendment*

Dear Chairman Hensel:

As you aware, Moulton Law Office represents Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints and assisted this client in prior hearings/workshops discussing the proposed height amendment to Title 8 of our zoning ordinance.

Previously the Planning and Zoning Staff provided the following Ada County ordinance, which we feel is an established model of a successful height exception rule:

**8-4A-10-D: Height Limit Exceptions**

**1. Height Limit Applicability:**

a. The maximum height limitations set forth in the applicable base district shall not apply to the following architectural features: church spire or steeple, belfry, cupola, chimney, or smokestack. Such architectural features shall have a maximum height limit of sixty feet (60'). A maximum height of eighty feet (80') may be allowed for a church spire, steeple, belfry, or cupola that complies with subsection D2 of this Section.

...

c. A church spire, steeple, belfry, or cupola which will exceed eighty feet (80') in height requires variance approval...

**2. Height Of Architectural Features:**

a. An architectural feature(s) listed in subsection D(i)(a) of this Section, which exceeds sixty feet (60') in height, but does not exceed eighty feet (80') in height shall comply with the following standards:

(1) The mass of the architectural feature is in visual proportion and scale with the building to which it is attached;

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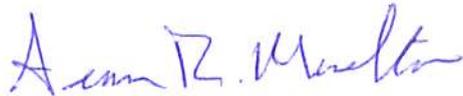


- (2) The exterior materials and colors of the architectural feature are appropriate to its mass, and are visually complementary with the building to which it is attached;
- (3) The architectural feature does not significantly impede views from adjacent properties;
- (4) The architectural feature does not include signage; and
- (5) Lighting of the architectural feature is limited to indirect lighting.

b. An architectural feature(s) which exceeds sixty feet (60') in height but does not exceed eighty feet (80') in height shall be reviewed for compliance with the standards listed in subsection D2a of this Section by a county design professional, in conjunction with director review of a Master Site Plan for the building to which the architectural feature(s) is attached.

We recommend that Planning and Zoning consider implementing such an ordinance in Teton County, as it will eliminate the establishment of arbitrary heights and potential conflict with Idaho's Freedom of Religion Exempted or the Federal Religious Land Use and Institutionalized Persons Act. Other proposed height exceptions will lead to future conflicts that can be avoided with the foresight applied in the above-mentioned Ada County ordinance. Your consideration of this matter is appreciated.

Best regards,



Sean R. Moulton  
Attorney at Law

cc: Lance A. Dunkley (*Via e-mail*)