



A REQUEST FOR A CONDITIONAL USE PERMIT BY:
Mountain Country Propane
FOR: Liquid Propane Storage
WHERE: Lot 6 Flying Saddle Subdivision, Driggs Area of Impact
Prepared for the Board of County Commissioners
Public Hearing of September 8, 2014

APPLICANT: Rod Morris/Mountain Country Propane
LANDOWNER: Katherine Brooks

APPLICABLE COUNTY CODE: Conditional Use Permit pursuant to Title 7, Chapter 1 Teton County Area of City Impact Ordinance (amd. 9-15-2011); Title 9, Chapter 7E City of Driggs Zoning Ordinance (revised 6-2011); City of Driggs Comprehensive Plan (2007-2020)

REQUEST: Katherine Brooks owns property in Flying Saddles Subdivision off Rodeo Drive in the City of Driggs Area of Impact. Mountain Country Propane would like to use this property for bulk propane storage for distribution in Teton Valley for residential and commercial use. The property is in the M-1 Light Industrial zone, and storage for wholesale or for distribution in bulk of any flammable liquid aboveground or below requires a conditional use permit.

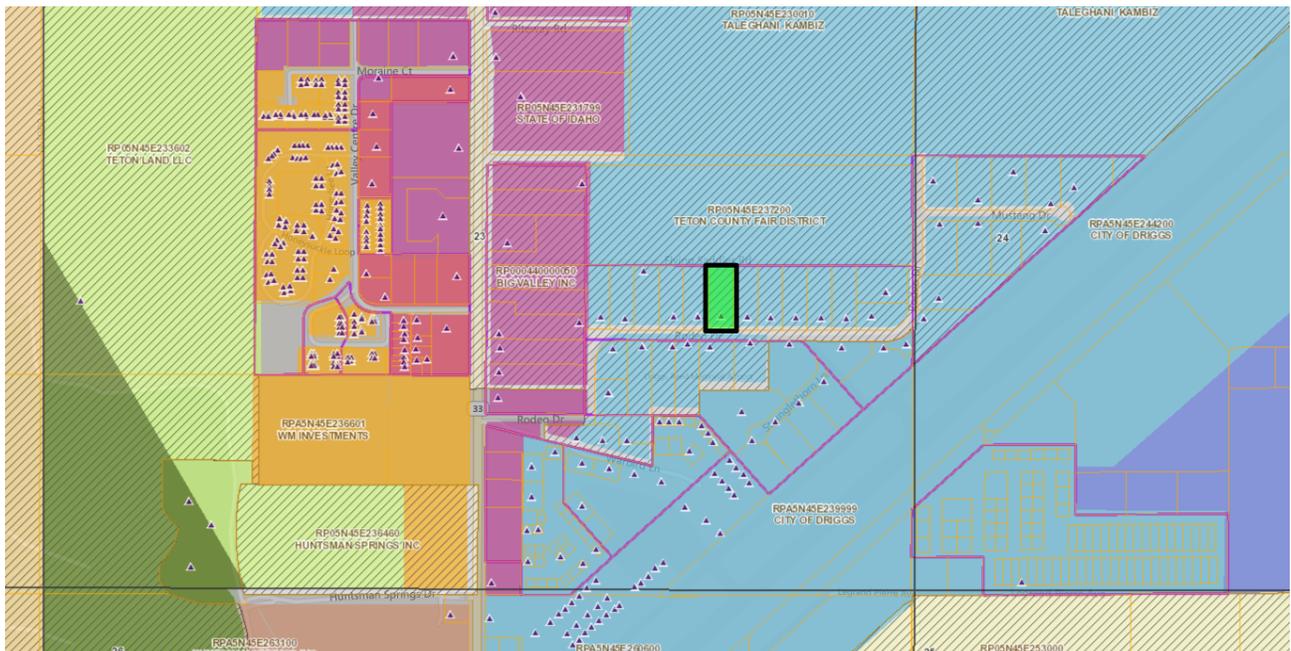
LEGAL DESCRIPTION: Parcel: RP00026001006; Lot 6 Blk 1 Flying Saddle Subdivision SEC 23 T5N R45E

LOCATION: 208 Rodeo Drive, Driggs Area of Impact & Airport Overlay Zone

ZONING DISTRICT: M-1 Light Industrial (City of Driggs Zoning)

PROPERTY SIZE: 1.34 acres

VICINITY MAP:



PROJECT BACKGROUND:

The Brooks property is currently undeveloped. Mountain Country Propane would like to utilize the property for bulk propane storage for distribution in Teton Valley. The property would have one, 30,000-gallon tank aboveground to store liquid propane. The tank would be surrounded by concrete blocks and a 6-foot tall security fence. Smaller, empty residential tanks will also be stored on the property.

Mountain Country Propane submitted an application for a Conditional Use Permit to Teton County on July 7, 2014. The application was forwarded to the City of Driggs on July 8, 2014. On August 13, 2014, the Driggs Planning and Zoning Commission recommended approval with conditions.

KEY ISSUES:

Planning Staff comments:

On July 15, 2014, staff conducted a Development Review Committee (DRC) meeting with Mountain Country Propane General Manager (Rod Morris), Teton County Engineer (Jay Mazalewski), Teton County Prosecutor (Kathy Spitzer), Teton County Fire Marshal (Earle Giles), Eastern Idaho Public Health District 7 Environmental Health Specialist (Mike Dronen), City of Driggs Planning Administrator (Ashley Koehler), Teton County Planning Administrator (Jason Boal), and Teton County Planner (Kristin Rader). From this meeting, the following key issues were identified:

- Access road and fire turnaround need to meet County Standards.
- If an access is desired on the north side of the property, connecting to Flying Saddles Road, Mountain Country Propane would need to improve the road to county standards from Highway 33 to the point of access. Without improvements, an emergency access only would be permitted.
- Site Plan improvements need to be made to include labels and descriptions including: setback distances from property lines and from the 30,000 gallon tank, parking area and number of spaces, identify outdoor storage area, identify ground cover, describe fencing and height of concrete blocks, and include dimensions of access road, turnaround, parking area, and structures.
- If there is water on the property, there must also be sewer. City water and sewer may be a possibility, and the applicant should contact the City Public Works Director for more information. If a septic system is required, then the applicant will need to work with Eastern Idaho Public Health District.
- An office structure on skids that is sitting on the ground could be considered permanent and possible to hookup to water and sewer. A setting permit would be needed for this, and the Teton County Building Department would have to inspect the building.
- Chapter 38 of the International Fire Code, related to liquefied petroleum gases, must be followed.

INTER-AGENCY AND DEPARTMENTAL REVIEW COMMENTS

We have not received inter-agency comments beyond what was discussed during the DRC meeting.

SPECIFIC REQUIREMENTS FOR PUBLIC HEARING NOTICE: Idaho Code, Title 67; Section 67-6509, 67-6511, 67-6512. The public hearing for the Driggs Planning & Zoning Commission was duly noticed in the Teton Valley News. A notification was sent via mail to surrounding property owners within a 300-foot buffer area and to Home Owner Associations of

subdivisions within that 300-foot buffer. A notice was also posted on the property providing information about the public hearing.

COMMENTS FROM NOTIFIED PROPERTY OWNERS & PUBLIC AT LARGE

Staff has not received any written comments from the public at the time of completing this report.

CONSISTENCY WITH THE APPLICABLE GOALS & OBJECTIVES OF THE CITY OF DRIGGS COMPREHENSIVE PLAN 2007-2020

Economic Development Goal: CREATE A MORE DIVERSE LOCAL ECONOMY

OBJECTIVE: Facilitate the creation of new businesses and sustainable, higher wage employment.

Natural Resources Goal: PROTECT THE NIGHT SKY

OBJECTIVE: Prevent the degradation of the night sky from light pollution.

Land Use Goal: PROVIDE FOR A MIX OF LAND USES THAT MEET THE COMMUNITY'S NEEDS AND ARE SUITABLY RELATED TO EACH OTHER AND THEIR NATURAL SETTING, WITHIN AN EFFICIENT PATTERN OF DEVELOPMENT, WITH DENSITY GENERALLY GREATER AT THE CITY'S CORE AND DECREASING TOWARD THE EDGES OF THE CITY, WITH NODES OF HIGHER DENSITY NEAR PRIMARY SERVICES OR OTHER ESTABLISHED INTENSIVE USES

OBJECTIVE: Designate appropriate areas to support desired economic development, while protecting the Central Business District as the city's primary retail center, and preventing commercial sprawl along the highway 33 scenic corridor.

OBJECTIVE: Ensure that development occurs in a manner that is safe, that facilitates efficient delivery of public services and does not outstrip available or potential capacities.

OBJECTIVE: Ensure that incompatible uses are buffered from one another.

City of Driggs Title 9-2B CRITERIA FOR APPROVAL OF A CONDITIONAL USE

The following findings of fact shall be made if the Conditional Use is being approved. If the application is being denied, the BoCC should likewise specify the reasons for denial based on the items listed below.

1. *Uses are not in conflict with the comprehensive plan or this title.*
2. *Uses adequately meet the conditions necessary to assure protection and compatibility with the surrounding properties, uses, and neighborhoods.*
3. *Conditions may be attached including, but not limited to, those:*
 - a. *Minimizing adverse impact on other development;*
 - b. *Controlling the sequence and timing of development;*

- c. Controlling the duration of development;*
- d. Assuring the development is maintained properly;*
- e. Designating the exact location and nature of the development; (Ord. 281-07, 9-4-2007)*
- f. Requiring the provision for on site or off site facilities or services; and (Ord. 281-07, 9-4-2007; amd. 2010 Code)*
- g. Requiring more restrictive standards than those generally required in this title. (Ord. 281-07, 9-4-2007)*

RECOMMENDED CONDITIONS OF APPROVAL

From City of Driggs Planning and Zoning Commission:

- 1. Barbed wire fencing is permitted around the 30,000-gallon propane tank only.
- 2. If perimeter fencing around the entire lot is proposed, the fence is limited to 3' in height along the front lot line or may be 6' in height if setback 20' from the front lot line.
- 3. No storage of junk or unrelated material and equipment may be stored on site.
- 4. An Avigation Easement must be signed by the owner/applicant and recorded.

From Teton County Planning Staff:

- 5. Must meet International Fire Code and Teton County Fire District standards, including but not limited to vehicle barriers, non-smoking signs, fire extinguishers, clearance, and inspections.
- 6. The office and storage shed shall require a Teton County Building Permit and shall be inspected by the Teton County Building Official.
- 7. Updated site plan showing distances from 30,000-gallon tank and road, storage areas, structures, parking areas, fence, and concrete block barrier. All ground cover types shall also be labeled on the site plan.
- 8. All lights must comply with the City of Driggs Lighting Ordinance, if applicable.
- 9. When development occurs on adjacent properties, a perimeter fence will be installed based on Conditions 1 and 2 above.

BOARD OF COUNTY COMMISSIONERS ACTION:

A. Approve the CUP, with the recommended conditions of approval listed in this staff report, having provided the reasons and justifications for the approval.

B. Approve the CUP with modifications to the application request, or adding conditions of approval, having provided the reasons and justifications for the approval and for any modifications or conditions.

C. Deny the CUP application request and provide the reasons and justifications for the denial.

D. Continue to a future BoCC Public Hearing with reasons given as to the continuation or need for additional information.

PLANNING STAFF RECOMMENDATION:

ACTION A, APPROVAL of the Mountain Country Propane CUP as described in the Conditional Use application materials submitted July 8, 2014 and as supplemented with additional applicant information attached to this staff report, and with the suggested conditions provided by the City of Driggs Planning and Zoning Commission and Teton County Planning Staff.

The following motion could be given:

Having concluded that all the Criteria for Approval of a Conditional Use found in the City of Driggs Title 9-2B can be satisfied with the inclusion of the recommended conditions of approval,

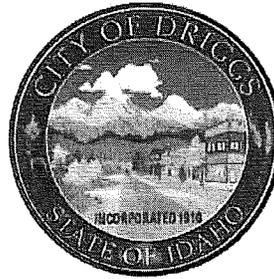
- *and having found that the considerations for granting the Conditional Use Permit for Mountain Country Propane can be justified by the presentation of the application materials, staff report, presentations to the City of Driggs Planning & Zoning Commission, and to the Teton County Board of County Commissioners,*
- *and having found that the proposal is generally consistent with the goals and objectives of the 2007-2020 City of Driggs Comprehensive Plan,*
- *I hereby APPROVE the Conditional Use Application for Mountain Country Propane for aboveground liquid propane storage with the recommended conditions as described in the application materials submitted July 8, 2014 and as supplemented with additional applicant information attached to this staff report.*

Prepared by Kristin Rader

Attachments:

- Application
- Narrative
- Site Plan
- Additional Application Information (Section 3804 of the 2009 International Fire Code)
- DRC Meeting Notes
- Adjacent Property Owners Notifications
- Updated Site Plan (8/11/2014)
- Driggs Recommendation Letter and P&Z Commission Public Hearing packet
- Avigation Easement Agreement
- Chapters 3 and 38 of the 2009 International Fire Code

End of Staff Report



TETON COUNTY
PLANNING & ZONING
JUL 07 2014
RECEIVED

CONDITIONAL USE PERMIT APPLICATION

Teton County, Idaho/ Driggs Area of City Impact

The planning staff of Teton County and/or The City of Driggs are available to discuss this application and answer questions. It is recommended that the applicant review Title 7 of the Teton County Code, City of Driggs Ordinances 325-11 & 281-07, and 67-6512 of the Idaho Code.

To expedite the review of your application, please be sure to address each of the following items.

SECTION I: PERSONAL AND PROPERTY RELATED DATA

Owner: Katherine Brooks

Applicant: Rod Morris or Mountain Country E-mail: rod@mtncountry.com

Phone: (208) 390-3609 Mailing Address: P.O. Box 946

City: Rexburg ID State: IDaho Zip Code: 83440

Engineering Firm: _____ Contact Person: Ken Beard Phone: (208) 201-8446

Address: 2314 E 200 N E-mail: beardkv@hotmail.com
ST Anthony ID 83445

Location and Zoning District:

Address: Lot 6 Flying Saddle Parcel Number: _____

Section: _____ Township: _____ Range: _____ Total Acreage: 1.34

Zoning District: Teton county Requested Land Use: Bulk Propane Storage

I, the undersigned, have reviewed the attached information and found it to be correct. I also understand that the items listed below are required for my application to be considered complete and for it to be scheduled on the agenda for the Board of County Commissioners public hearing.

• Applicant Signature: Rod Morris Date: 7-3-14

I, the undersigned, am the owner of the referenced property and do hereby give my permission to _____ to be my agent and represent me in the matters of this application. I have read the attached information regarding the application and property and find it to be correct.

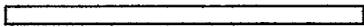
• Owner Signature: Katherine Brooks Date: 7-3-14

Site Plan Narrative for lot 6 Flying Saddle Subdivision Teton County, Mountain Country LLC

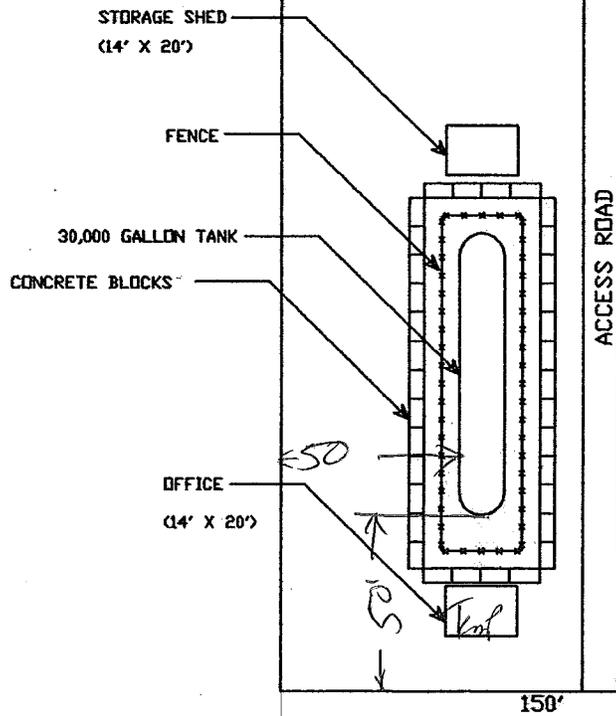
The intended use of this property is bulk propane storage for distribution throughout the Teton Valley for residential and commercial use. The property mentioned is indeed compatible with other properties in the general neighborhood, for example the property adjacent to the south is commercial storage units, to the north is the Teton County Fairgrounds, to the west the property is 150 feet away from the nearest structure and to the east Big D construction and Teton Arts council more than 750 feet from this property. Noise, glare nor odor will be present or a problem at this site. Impact will be very minimal on existing public services. We will put a security fence around tank and controls and have proper barricades in place. We will operate during normal daylight business hours and be very respectful of all adjoining property in the area.

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JUL 07 2014
TETON COUNTY
PLANNING & ZONING

FAIRGROUND ROAD



SCALE: 100'



396'

ACCESS ROAD

150'

RODEO DRIVE

SITE PLAN

MOUNTAIN COUNTRY PROPANE
 LOT 6, FLYING SADDLE SUBDIVISION
 LOT SIZE: 1.34 ACRES

LIQUEFIED PETROLEUM GASES

3803.3 Location of equipment and piping. Equipment and piping shall not be installed in locations where such equipment and piping is prohibited by the *International Fuel Gas Code*.

SECTION 3804

LOCATION OF LP-GAS CONTAINERS

3804.1 General. The storage and handling of LP-gas and the installation and maintenance of related equipment shall comply with NFPA 58 and be subject to the approval of the *fire code official*, except as provided in this chapter.

3804.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L) (see

Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page xiii).

Exception: In particular installations, this capacity limit shall be determined by the *fire code official*, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided and capabilities of the local fire department.

3804.3 Container location. LP-gas containers shall be located with respect to buildings, *public ways* and *lot lines* of adjoining property that can be built upon, in accordance with Table 3804.3.

3804.3.1 Special hazards. LP-gas containers shall also be located with respect to special hazards including, but not limited to, above-ground flammable or *combustible liquid*

**TABLE 3804.3
LOCATION OF LP-GAS CONTAINERS**

LP-GAS CONTAINER CAPACITY (water gallons)	MINIMUM SEPARATION BETWEEN LP-GAS CONTAINERS AND BUILDINGS, PUBLIC WAYS OR LOT LINES OF ADJOINING PROPERTY THAT CAN BE BUILT UPON		MINIMUM SEPARATION BETWEEN LP-GAS CONTAINERS ^{b, c} (feet)
	Mounded or underground LP-gas containers ^a (feet)	Above-ground LP-gas containers ^b (feet)	
Less than 125 ^{c, d}	10	5 ^e	None
125 to 250	10	10	None
251 to 500	10	10	3
501 to 2,000	10	25 ^{e, f}	3
2001 to 30,000	50	50	5
30,001 to 70,000	50	75	(0.25 of sum of diameters of adjacent LP-gas containers)
70,001 to 90,000	50	100	
90,001 to 120,000	50	125	

For SI: 1 foot = 304.8 mm, 1 gallon = 3.785 L.

- a. Minimum distance for underground LP-gas containers shall be measured from the pressure relief device and the filling or liquid-level gauge vent connection at the container, except that all parts of an underground LP-gas container shall be 10 feet or more from a building or lot line of adjoining property which can be built upon.
- b. For other than installations in which the overhanging structure is 50 feet or more above the relief-valve discharge outlet. In applying the distance between buildings and ASME LP-gas containers with a water capacity of 125 gallons or more, a minimum of 50 percent of this horizontal distance shall also apply to all portions of the building which project more than 5 feet from the building wall and which are higher than the relief valve discharge outlet. This horizontal distance shall be measured from a point determined by projecting the outside edge of such overhanging structure vertically downward to grade or other level upon which the LP-gas container is installed. Distances to the building wall shall not be less than those prescribed in this table.
- c. When underground multicontainer installations are comprised of individual LP-gas containers having a water capacity of 125 gallons or more, such containers shall be installed so as to provide access at their ends or sides to facilitate working with cranes or hoists.
- d. At a consumer site, if the aggregate water capacity of a multicontainer installation, comprised of individual LP-gas containers having a water capacity of less than 125 gallons, is 500 gallons or more, the minimum distance shall comply with the appropriate portion of Table 3804.3, applying the aggregate capacity rather than the capacity per LP-gas container. If more than one such installation is made, each installation shall be separated from other installations by at least 25 feet. Minimum distances between LP-gas containers need not be applied.
- e. The following shall apply to above-ground containers installed alongside buildings:
 - 1. LP-gas containers of less than a 125-gallon water capacity are allowed next to the building they serve when in compliance with Items 2, 3 and 4.
 - 2. Department of Transportation (DOTn) specification LP-gas containers shall be located and installed so that the discharge from the container pressure relief device is at least 3 feet horizontally from building openings below the level of such discharge and shall not be beneath buildings unless the space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter. The discharge from LP-gas container pressure relief devices shall be located not less than 5 feet from exterior sources of ignition, openings into direct-vent (sealed combustion system) appliances or mechanical ventilation air intakes.
 - 3. ASME LP-gas containers of less than a 125-gallon water capacity shall be located and installed such that the discharge from pressure relief devices shall not terminate in or beneath buildings and shall be located at least 5 feet horizontally from building openings below the level of such discharge and not less than 5 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances, or mechanical ventilation air intakes.
 - 4. The filling connection and the vent from liquid-level gauges on either DOTn or ASME LP-gas containers filled at the point of installation shall not be less than 10 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances or mechanical ventilation air intakes.
- f. This distance is allowed to be reduced to not less than 10 feet for a single LP-gas container of 1,200-gallon water capacity or less, provided such container is at least 25 feet from other LP-gas containers of more than 125-gallon water capacity.

AFFIDAVIT OF LEGAL INTEREST
Katherine Brooks, Owner of Record, Lot 6, Flying Saddle Sub

TETON COUNTY
PLANNING & ZONING
JUL 07 2014
RECEIVED

June 23, 2014

I, the undersigned Katherine Brooks, have entered into written agreement with Mountain Country LLC for the sale of Lot 6, Flying Saddle Subdivision, Teton County, Idaho and hereby authorize Rod Morris or assign of Mountain Country LLC to make application for Conditional Use Permit in whatever manner they deem appropriate for their intended use subsequent to closing of sale.

Mountain Country LLC shall be responsible for any and all costs related to said application.

Katherine Brooks
Katherine Brooks

7/1/14
Date

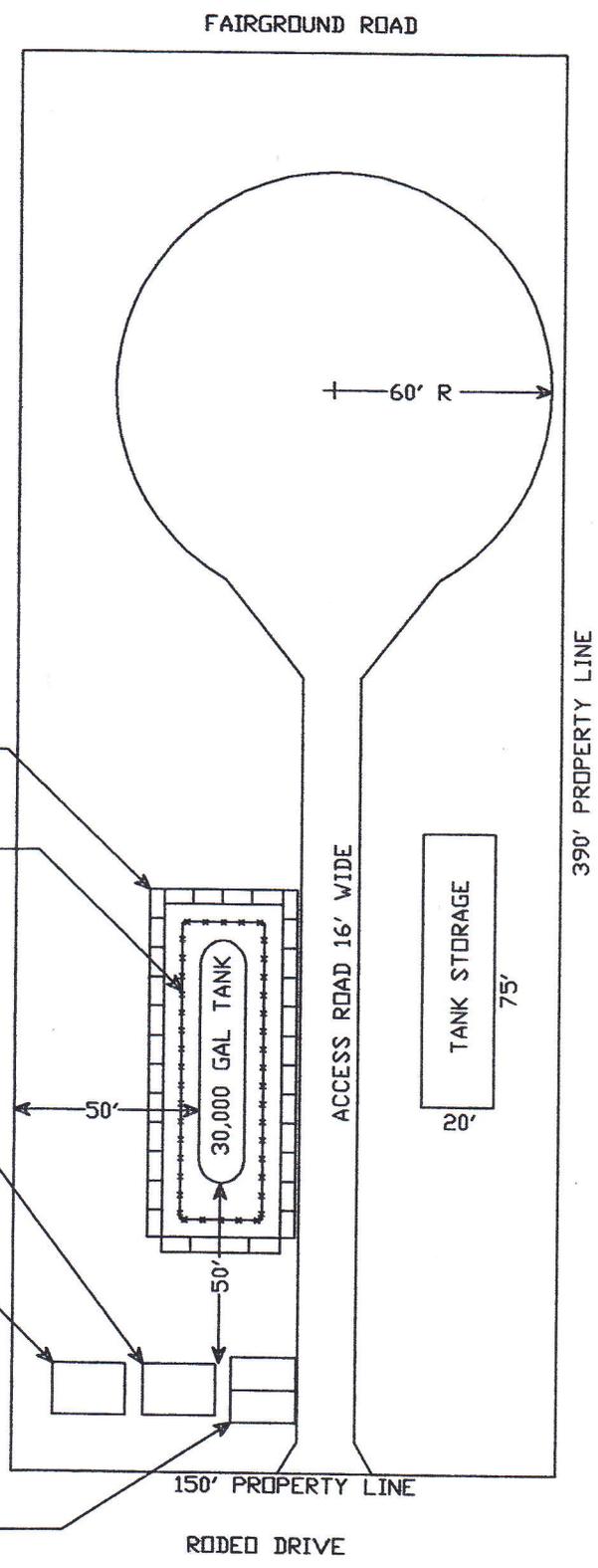
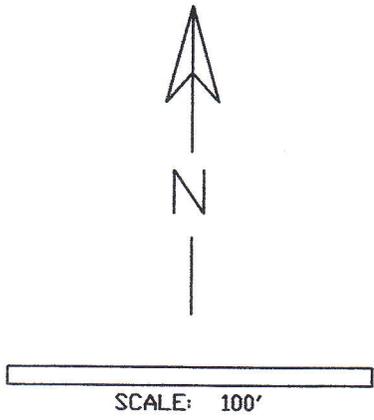
State of Idaho }
 }ss.
County of Teton }

On this 1st day of July, 2014, before me, a Notary Public in and for said State, personally appeared Katherine Brooks, identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she/they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Om Rosen

Notary Public for the State of Idaho
Residing at: Victor, ID
Commission Expires: June 5, 2020



30" CONCRETE BLOCKS
CHAIN LINK FENCE W/BARB WIRE

OFFICE (14' X 20')
STORAGE SHED (14' X 20')

NOTE: GRAVEL GROUND COVER FOR ROAD, PARKING, STORAGE, TURNAROUND, AND UNDER TANK.

PARKING 9' X 18' EACH

SITE PLAN
MOUNTAIN COUNTRY PROPANE
LOT 6, FLYING SADDLE SUBDIVISION
LOT SIZE: 1.34 ACRES

August 11, 2014



Teton County Planning
150 Courthouse Drive, Room 107
Driggs, Idaho 83422
Phone: 208.354.2593
Fax: 208.354.8778

FROM: Planner, Kristin Rader
TO: Rod Morris
RE: Mountain Country Propane DRC meeting Notes
DATE: July 16, 2014 – updated on July 22, 2014

Rod, the purpose of this letter is to summarize the meeting we had yesterday.

Access from Rodeo Drive

- Access road needs to meet County Driveway Standards.
- Turnaround needs to meet fire turnaround standards.

Access Road on North Side of Property

- This access would connect to Flying Saddles Road (the Fairground access road), which is a county right of way and not regularly maintained.
- An access could be created here for emergency access purposes only.
- If a full access is desired here, Mountain Country Propane could improve Flying Saddles Road to County standards from Highway 33 to the point of access.

The [Highway & Street Guidelines](#) can be found on the Teton County website under Departments – Engineer. This includes street, driveway, and fire turnaround standards.

Site Plan Improvements

- Label setback distances from property lines and from 30,000-gallon tank. All structures must be at least 50 feet from the 30,000-gallon propane tank. The City of Driggs does not require setbacks from property lines for this site.
- Identify parking area and number of spaces. The City of Driggs requires 2 parking stalls on the site, with a minimum size of 9'x18'.
- Identify outside storage area for empty, 500-gallon tanks. The City of Driggs does not require screening, in the M-1 zone for outdoor storage. However, the appearance of buildings and treatment of the land about them must be unobtrusive and not detrimental to surrounding commercial or residential uses. As long as the site plan and narrative confirm that any outside storage will be organized and limited to propane tanks and no non-related, miscellaneous items or junk, then this requirement can be satisfied.
- Label dimensions of access road, turnaround, parking area, and structures.
- Describe type of fencing and height of concrete blocks.
- Identify ground cover.

Water and Sewer

- To connect to City water and sewer, lines would need to be extended approximately 590' for sewer and potentially 1500' for water. A map of the property and its proximity to water and sewer lines has been attached for reference. Contact Jared Gunderson, City Public Works Director to determine the line size needed, and a cost estimate. Connection fees are based on the line size and are listed on the City of Driggs website, [here](#).

- If extending City water to the property, there may be a possibility of working with the Teton County Fair Board to extend water to the Fairgrounds' property as well.
- If there is water, there must also be sewer.
- Work with Eastern Idaho Public Health District on siting and permitting for a septic system, if required.

Office Structure

- A structure on skids that is sitting on the ground could be considered permanent and possible to hookup to water and sewer. A setting permit would be needed for this, and the Teton County Building Department would have to inspect the building.

Teton County Fire & Rescue

- Please follow [Chapter 38 of the International Fire Code](#)
 - 3807.2 No smoking signs.
 - 3808.2 Portable fire extinguishers.
 - 3804.3 Separation's Table.
 - 3807.4 Protecting from vehicles

Public Hearing Information:

You are scheduled to attend the Driggs Planning and Zoning Commission public hearing at the Driggs City Hall, 60 S. Main Street, Driggs, Idaho on **Wednesday, August 13, 2014 at 6:30 PM**. You are also scheduled to attend a Teton County Board of County Commissioners' public hearing at the Teton County Courthouse, 150 Courthouse Drive, Driggs, Idaho. We are waiting to hear back from the Board if we can have the public hearing on **Monday, August 25, 2014**. If this is the case, the hearing will likely be in the afternoon, around 2:00 PM or 3:00 PM. If we cannot have it then, you will be scheduled for the public hearing on **Monday, September 8, 2014 at 5:30 PM**. We will let you know as soon as we hear back from the Board.



LEGAL NOTICE OF PUBLIC HEARING

CITY OF DRIGGS, IDAHO
Planning & Zoning Commission

Pursuant to established procedure, NOTICE IS HEREBY GIVEN that the Driggs Planning and Zoning Commission will hold a public hearing at the Driggs City Hall, 60 S. Main Street, Driggs, Idaho on **Wednesday, August 13, 2014 at 6:30 PM.**

The Planning and Zoning Commission will consider a **CONDITIONAL USE PERMIT** application from Rod Morris for Mountain Country Propane for the purpose of siting a 30,000 gallon propane tank. The propane tank will be used for bulk storage of propane that can be distributed throughout Teton Valley.

The subject parcel is 1.34 acres and located in the M-1 (Light Industrial) Zone in the Driggs Area of Impact on Lot 6 of the Flying Saddle Subdivision at 208 Rodeo Dr.

Information pertinent to this application is available for review at Driggs City Hall. The Staff Report and related documents can be found on the City's website at www.driggs.govoffice.com one week prior to the hearing.

Written comments must be received by 5 p.m. Wednesday, August 6, 2014, at Driggs City Hall P.O. Box 48, Driggs, Idaho 83422. You may also FAX your written response to 208-354-8522 or email a response to akoehler@driggsidaho.org. Verbal and written comments will be heard during the public hearing.

Teton County, Idaho Planning & Building Department
150 Courthouse Drive, Room 107; Driggs, ID 83422
208-354-2593 ph. 208-354-8410 fax
www.tetoncountyidaho.gov pz@co.teton.id.us



August 15, 2014

Re: Notice of Public Hearing and Solicitation for Comments from property owners within 300 feet of a property that has an application for a land use permit

Dear Property Owners:

This letter is to notify you that an application for a Conditional Use Permit has been submitted to the Teton County Planning Department by a nearby landowner. The planning staff is soliciting comments from people in the vicinity of the applicant's property so that we can be aware of neighborhood issues and then incorporate your comments into the staff report to the Board of County Commissioners. If you have any comments or questions regarding this application, please contact us at the telephone number, email, or address listed above. A public hearing will be held to consider this application. The details below provide more information on the proposal.

Applicant / Landowner: Rod Morris (Mountain Country Propane), Katharine Brooks (Owner)

Legal Description: LOT 6 BLOCK 1 FLYING SADDLE SUBDIVISION. See attached map.

Zoning District: Driggs Area of City Impact (M-1)

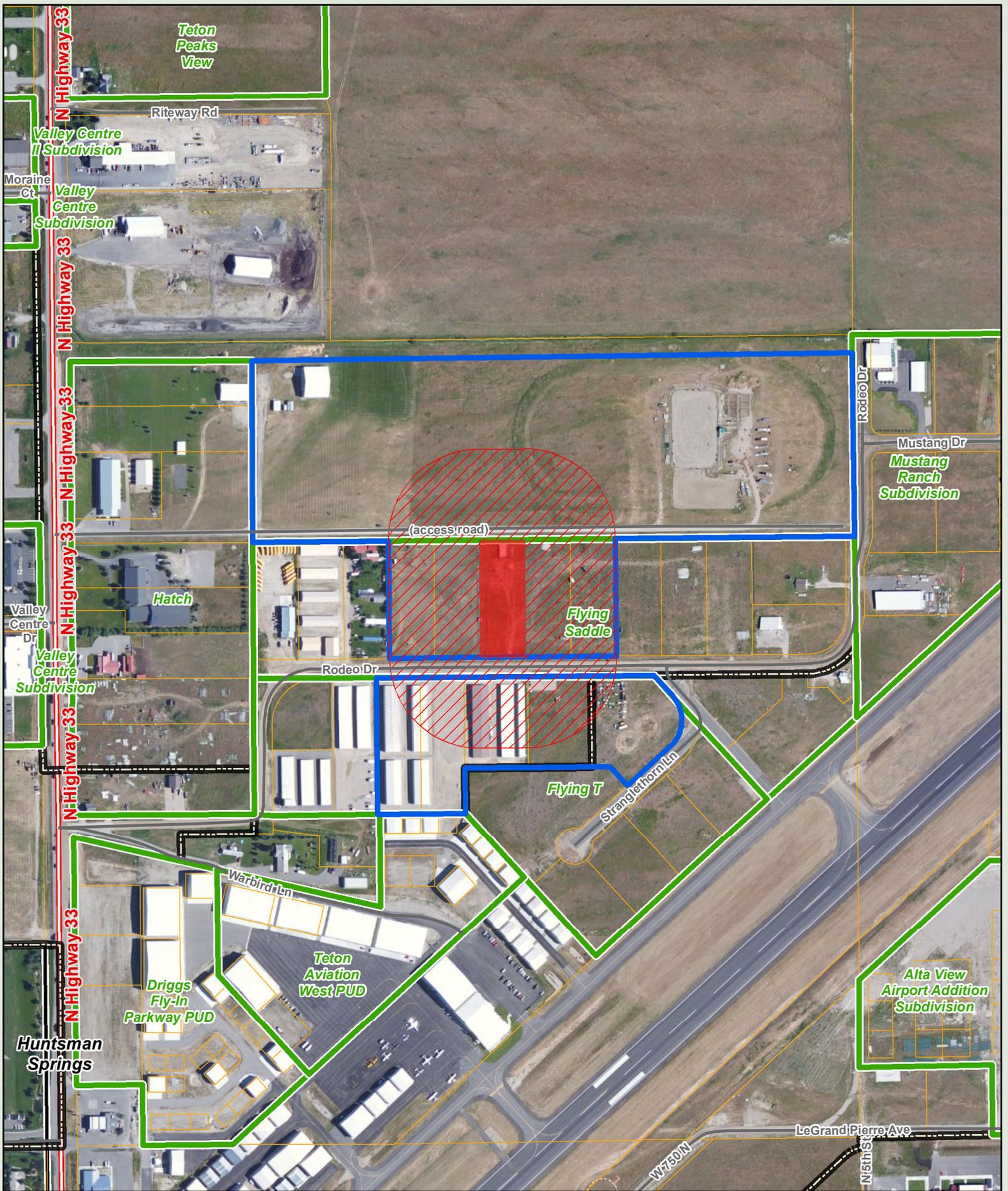
Description of the request: Rod Morris, on behalf of Mountain Country Propane, has applied for a Conditional Use Permit for "Storage for wholesale or for distribution in bulk of any flammable liquid above ground or below ground". The use is proposed at 208 Rodeo Drive in the Area of City Impact for the City of Driggs.

PUBLIC HEARING

The Teton County Board of County Commissioners will hold a hearing in the Commissioners' Chamber located on the First Floor (lower level, southwest entrance) at 150 Courthouse Drive, Driggs, Idaho on **September 8, 2014** on this matter. This application is scheduled as the first item on the agenda. The meeting will begin at **5:30 p.m.**

Information on the above application is available for public viewing in the Teton County Planning and Zoning Department at the Teton County Courthouse in Driggs, Idaho. The development application and various related documents are also posted, as they become available, at www.tetoncountyidaho.gov. Written comments will be included in the packet of information provided to the Board prior to the hearing if they are received in the Planning and Zoning Department no later than 5:00 pm on August 28th. Written comments may be e-mailed to pz@co.teton.id.us or mailed to the address above or faxed. You may also present your comments in person at the hearing. The public shall not contact members of the Board of County Commissioners directly concerning this application, as their decision must, by law, be confined to the record produced at the public hearing.

If you have any further questions, please do not hesitate to call the Teton County Planning and Zoning Department at 208-354-2593.



Legend

- Subject Parcel
- 300 ft Buffer
- Notification Area
- Subdivisions / Phases
- Parcels

**MOUNTAIN COUNTRY PROPANE
CUP NOTIFICATION**

Printed: July 10, 2014





Inc. 1910

Planning & Zoning

60 S Main St | PO Box 48 - Driggs, ID 83422 | Ph: 208-354-2362 | Fax: 208-354-8522 | www.driggs.govoffice.com

August 22, 2014

Teton County Planning & Zoning Department
c/o Kristin Rader, Planner
150 Courthouse Dr
Driggs, ID 83422

RE: File Transfer of Driggs Area of Impact Application: Conditional Use Permit – Mountain Country Propane

Dear Kristin,

This letter is accompanying the application file (CUP14-2) for the Conditional Use Permit submitted by Mountain Country Propane.

Attached are the following items:

- P&Z Commission Recommendation
- Staff Report to P&Z Commission (8/13/14)
- Driggs P&Z Commission Minutes-DRAFT (8/13/14)
- Site Plan- revised (8/11/14)
- Avigation Easement example

If you have any questions, please contact me at akoehler@driggsidaho.org or 354-2362.

Sincerely,

Ashley Koehler
Planning & Zoning Administrator

cc: CUP14-2 file



Inc. 1910

Planning & Zoning

60 S Main St | PO Box 48 - Driggs, ID 83422 | Ph: 208-354-2362 | Fax: 208-354-8522 | www.driggs.govoffice.com

August 22, 2014

Teton County
c/o Kristin Rader, Planner

RE: Driggs P&Z Commission Recommendation of the CUP for Mountain Country Propane

Kristin,

On August 13, 2014 the Driggs Planning & Zoning Commission recommended approval with conditions for the CUP for the bulk propane storage facility requested by Mountain Country Propane. The positive recommendation was based on the revised site plan (8-11-14) indicating a 50' setback from the 30,000 gallon propane tank to all property lines and the office/shed, an established parking area for at least 2-9'x18' parking stalls, and a defined location for the empty tank storage yard. The following are the recommended conditions of approval:

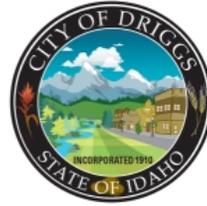
1. Barbed wire fencing is permitted around the 30,000-gal propane tank only.
2. If perimeter fencing around the entire lot is proposed, the fence is limited to 3' in height along the front lot line or may be 6' in height if setback 20' from the front lot line.
3. No storage of junk or un-related material and equipment may be stored on site.
4. An Avigation Easement must be signed by the owner/applicant and recorded.

In accordance with the Area of Impact Ordinance, the Board of County Commissioners issues the final decision on the Conditional Use Permit. Please let me know if you have any questions or need additional information.

Sincerely,

Ashley Koehler
Planning & Zoning Administrator

cc: CUP13-3 file



STAFF REPORT

To: Planning and Zoning Commission (P&Z)
From: Ashley Koehler, Planning & Zoning Administrator
 Tod Morris, Planning Intern
Report Date: August 5, 2014
Meeting Date: August 13, 2014
Project: Public Hearing/Possible Recommendation of Mountain Country Propane Conditional Use Permit
Future Routing: Board of County Commissioners

SUMMARY: Mountain County Propane is requesting approval for a Conditional Use Permit (CUP) to allow for a 30,000-gallon bulk propane storage facility, small office building, storage shed, parking area, and outside storage for empty 500-gallon tanks. The property is located in the Driggs Area of Impact in the M-1 Light Industrial Zone, therefore a recommendation from Driggs P&Z is needed before final review and decision by the Teton County Board of County Commissioners.

Vicinity Map



Photo taken 8/1 from Rodeo Drive.



OWNER: Katherine Brooks
APPLICANT: Rod Morris/Mountain Country Propane
ADDRESS: Lot 6 Flying Saddle Subdivision
ZONING: Area of Impact M-1 Light Industrial and Airport Overlay Zone

I. PUBLIC COMMENT: A public hearing notice was published in the newspaper, posted on site, and also sent to all property owners within 300'. As of the date of this report no public comments have been received.

II. PROJECT DESCRIPTION

The current site is a 150' x 390' (1.34 acres) vacant lot in the Flying Saddle Subdivision. The applicant has proposed to locate a bulk propane storage facility that will include a 30,000-gallon propane storage tank, an office, storage shed, outside propane tank storage and an access road. The 30,000-gallon propane tank would be located 50' from Rodeo Drive and 50' from the adjacent property to the west and contained within a fenced area. An access road is purposed featuring a large turn around feature that would allow service trucks and emergency vehicles to enter and exit the facility. The applicant has further reported that the area east of the access road is to consist of outside storage for empty 500-gallon tanks. A 14' x 20' storage shed is purposed at the northern end of the facility, and a temporary office of roughly the same dimensions is purposed at the southern end. All proposed structures are subject to the 45' height limit associated with the Airport Overlay Zone and the use complies with the approved uses in the Airport Master Plan, however an Avigation Easement and noise mitigation disclosure is required as part of this development

Access: The site's current access would be from Rodeo Drive (shown above), a County gravel road. The applicant is proposing to install a gravel driveway to include a large turnaround feature. This new access road is required to meet County Driveway Standards, including a 16' minimum width and turnaround feature that complies with the International Fire Code (96' diameter). Access to the site from the Fairgrounds Road, north of the property, could be pursued by the applicant, though not required.

Use: A Conditional Use permit for storage or distribution of flammable liquid is required for properties located in the M-1 zone. A Development Review Committee meeting was held on July 15, 2014 with representatives from Fire, Health, County building, County and Driggs City planning, and County Attorney to review the project and site plan. Comments were provided to the applicant and are summarized in Exhibit C. The Teton County Fire District requires that the facility to follow Chapter 38 of the International Fire Code, including installing no smoking signs, portable fire extinguishers and complying with the Separations Table and protection from vehicles.

Per the City M-1 zoning ordinance, the outside unscreened storage of empty 500-gallon tanks may be permitted, so long as the condition of the area remains non-detrimental to surrounding commercial or residential uses. The storage of non-related, miscellaneous or junk items is not to be permitted in this area. The applicant is proposing a 6' chain link and barbed wire fence installed inside a 2-3' concrete block wall around the 30,000 gallon for security purposes. The fence will be setback at least 20' from the property line. Barbed wire fences are not permitted in City limits, unless approved by P&Z. If the applicant proposes to fence the perimeter of the lot, no fence greater than 3' can be along front lot line for a distance of 20' back from the front lot line, unless approved by the P&Z.

The Teton County Building ordinances apply in regards to the small office building and shed and a Setting Permit would be required.

Utilities: Currently, no city water and sewer services are available to this property. The applicant has been made aware that he can pursue a connection to city utilities or explore installing a private well and septic tank.

Site Plan: The attached site plan needs to be modified to show a more complete and updated proposal for the site. The required 50' setback distances of all structures from the 30,000-gallon tank needs to be clearly labeled. Structures currently located within 50-foot setback need to be relocated. The location of a parking area needs to be identified as well as the number of spaces. The City of Driggs requires 2 parking stalls on the site with a minimum size of 9'X18'. The location and dimensions of the area proposed to serve as the outside storage area of the 500-gallon tanks needs to be delineated. The dimensions of all structures, roads and parking facilities are

to be labeled as well as the features protecting the 30,000-gallon tank. All ground cover throughout the site is to be labeled.

Analysis: P&Z may permit conditional uses where they are found to not be in conflict with the Comprehensive Plan and the Zoning Ordinance. P&Z may attach conditions to the permit that:

1. minimize adverse impact on other development;
2. control the sequence and timing of development;
3. control the duration of the development;
4. assure the development is maintained properly;
5. designate the exact location and nature of development;
6. require the provision for on site or off site facilities or services; and
7. require more restrictive standards than those generally required in this title.

The intended bulk propane storage use for the site appears to be compatible with the surrounding properties in the M-1 zone if safety standards are met and outside storage is restricted to only propane tanks and related equipment. No junk or miscellaneous material should be stored on site. As surrounding properties develop screening of outside storage may become more important to avoid becoming obtrusive and detrimental to surrounding properties. P&Z should discuss the following:

1. The barbed wire fence is considered a safety feature for the storage tank and is setback an appropriate distance from the public road. Staff recommends that P&Z approve the use of barbed wire for onl the area containing the 30,000 gal tank.
2. If the applicant requests to fence the outside storage area for the 500-gal tanks or the entire lot perimeter, is a chain link fence acceptable? Is a 6' chain link fence acceptable along the front property line? No water service is available to the lot currently, so no landscaping is proposed by Staff to help screen the site long term.

Staff recommends that P&Z hold a public hearing and vote to recommend approval of the CUP with the following conditions:

1. Barbed wire fencing is permitted around the 30,000-gal propane tank only.
2. If perimeter fencing around the entire lot is proposed, the fence is limited to 3' in height along the front lot line or may be 6' in height if setback 20' from the front lot line.
3. A revised site plan must be submitted showing the following:
 - a. 50' setbacks from the 30,000-gal tank to all property lines and structures.
 - b. An established gravel or paved parking area with at least 3- 9'x18' parking stalls.
 - c. The approximate dimensions of the 500-gal empty tank storage yard.
4. No storage of junk or un-related material and equipment may be stored on site.
5. An Avigation Easement must be signed by the owner/applicant and recorded.

Attachments:

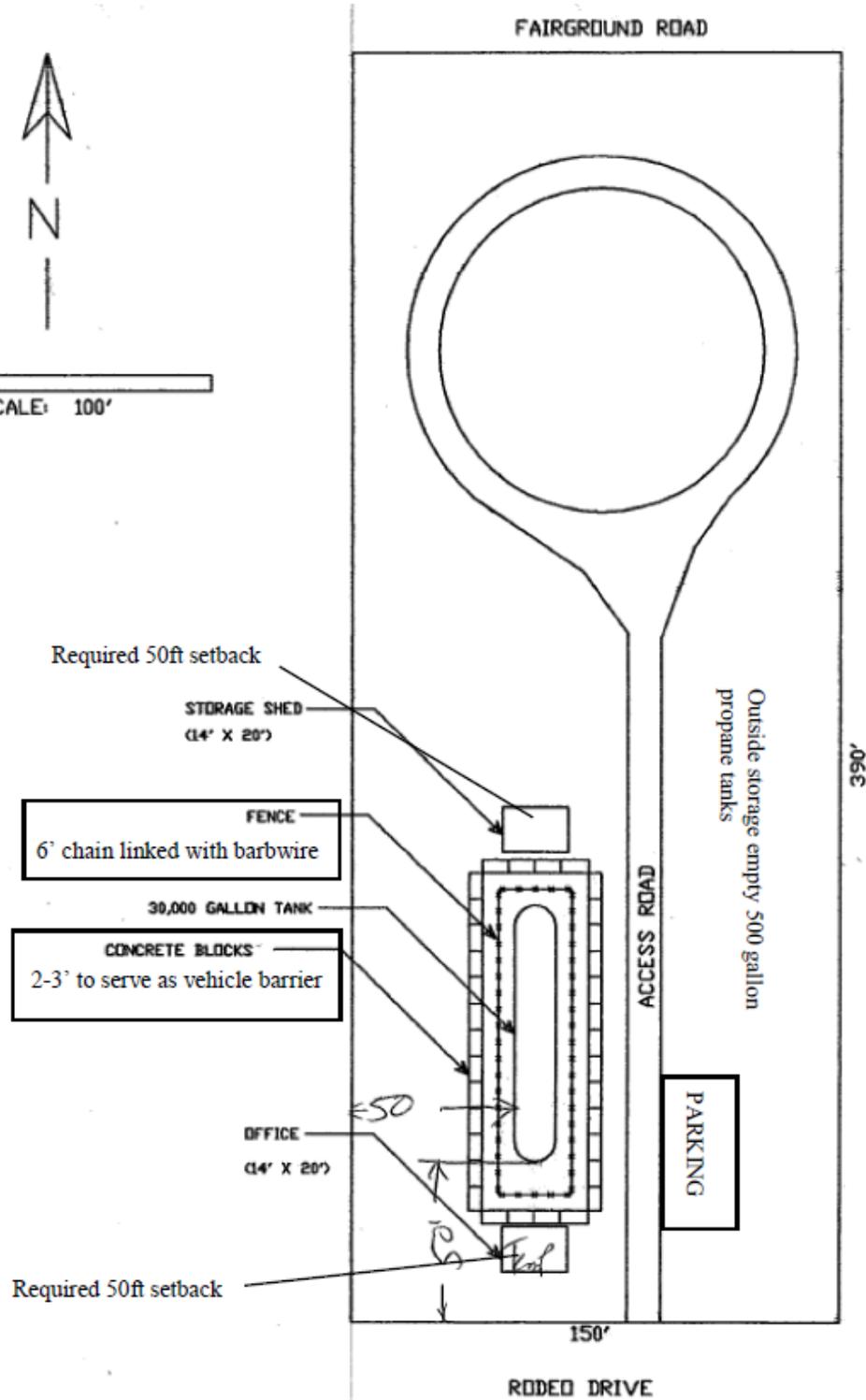
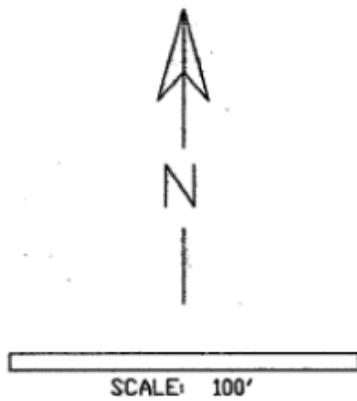
Exhibit A: Site Plan

Exhibit B: Applicant Narrative

Exhibit C: Service Provider Comments

Exhibit D: Zoning Map

Exhibit A: Site Plan with Staff notes



SITE PLAN

MOUNTAIN COUNTRY PROPANE
 LOT 6, FLYING SADDLE SUBDIVISION
 LOT SIZE: 1.34 ACRES

Site Plan Narrative for lot 6 Flying Saddle Subdivision Teton County, Mountain Country LLC

The intended use of this property is bulk propane storage for distribution throughout the Teton Valley for residential and commercial use. The property mentioned is indeed compatible with other properties in the general neighborhood, for example the property adjacent to the south is commercial storage units, to the north is the Teton County Fairgrounds, to the west the property is 150 feet away from the nearest structure and to the east Big D construction and Teton Arts council more than 750 feet from this property. Noise, glare nor odor will be present or a problem at this site. Impact will be very minimal on existing public services. We will put a security fence around tank and controls and have proper barricades in place. We will operate during normal daylight business hours and be very respectful of all adjoining property in the area.

RECEIVED
JUL 07 2014
TETON COUNTY
PLANNING & ZONING



Teton County Planning
150 Courthouse Drive, Room 107
Driggs, Idaho 83422
Phone: 208.354.2593
Fax: 208.354.8778

FROM: Planner, Kristin Rader
TO: Rod Morris
RE: Mountain Country Propane DRC meeting Notes
DATE: July 16, 2014

Rod, the purpose of this letter is to summarize the meeting we had yesterday.

Access from Rodeo Drive

- Access road needs to meet County Driveway Standards.
- Turnaround needs to meet fire turnaround standards.

Access Road on North Side of Property

- This access would connect to Flying Saddles Road (the Fairground access road), which is a county right of way and not regularly maintained.
- An access could be created here for emergency access purposes only.
- If a full access is desired here, Mountain Country Propane could improve Flying Saddles Road to County standards from Highway 33 to the point of access.

The [Highway & Street Guidelines](#) can be found on the Teton County website under Departments – Engineer. This includes street, driveway, and fire turnaround standards.

Site Plan Improvements

- Label setback distances from property lines and from 30,000-gallon tank. All structures must be at least 50 feet from the 30,000-gallon propane tank. The City of Driggs does not require setbacks from property lines for this site.
- Identify parking area and number of spaces. The City of Driggs requires 2 parking stalls on the site, with a minimum size of 9'x18'.
- Identify outside storage area for empty, 500-gallon tanks. The City of Driggs does not require screening, in the M-1 zone for outdoor storage. However, the appearance of buildings and treatment of the land about them must be unobtrusive and not detrimental to surrounding commercial or residential uses. As long as the site plan and narrative confirm that any outside storage will be organized and limited to propane tanks and no non-related, miscellaneous items or junk, then this requirement can be satisfied.
- Label dimensions of access road, turnaround, parking area, and structures.
- Describe type of fencing and height of concrete blocks.
- Identify ground cover.

Water and Sewer

- To connect to City water and sewer, lines would need to be extended approximately 590' for sewer and potentially 1500' for water. A map of the property and its proximity to water and sewer lines has been attached for reference. Contact Jared Gunderson, City Public Works Director to determine the line size needed, and a cost estimate. Connection fees are based on the line size and are listed on the City of Driggs website, [here](#).

- If extending City water to the property, there may be a possibility of working with the Teton County Fair Board to extend water to the Fairgrounds' property as well.
- If there is water, there must also be sewer.

Office Structure

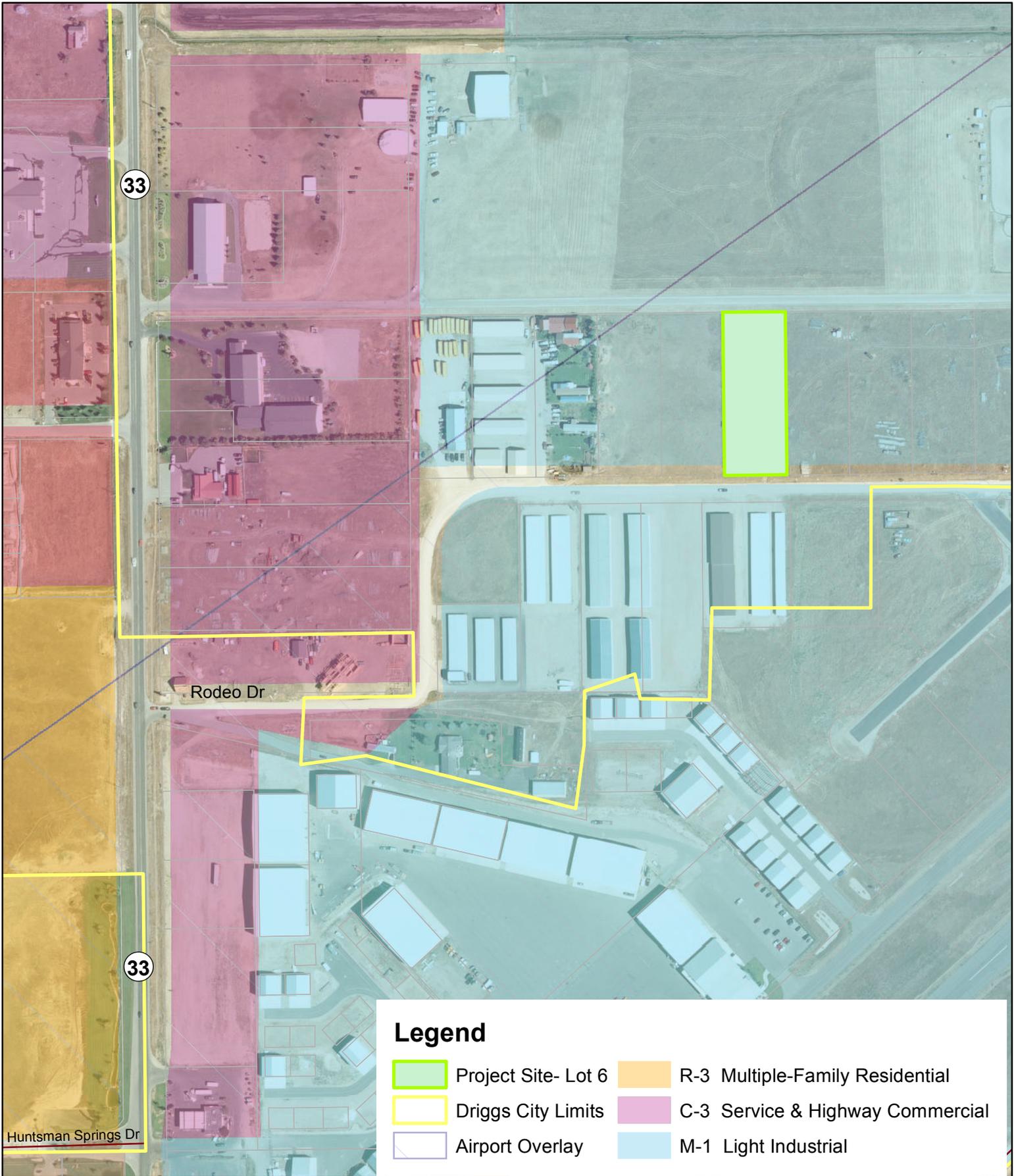
- A structure on skids that is sitting on the ground could be considered permanent and possible to hookup to water and sewer. A setting permit would be needed for this, and the Teton County Building Department would have to inspect the building.

Teton County Fire & Rescue

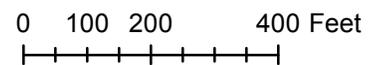
- Please follow [Chapter 38 of the International Fire Code](#)
 - 3807.2 No smoking signs.
 - 3808.2 Portable fire extinguishers.
 - 3804.3 Separation's Table.
 - 3807.4 Protecting from vehicles

Public Hearing Information:

You are scheduled to attend the Driggs Planning and Zoning Commission public hearing at the Driggs City Hall, 60 S. Main Street, Driggs, Idaho on **Wednesday, August 13, 2014 at 6:30 PM**. You are also scheduled to attend a Teton County Board of County Commissioners' public hearing at the Teton County Courthouse, 150 Courthouse Drive, Driggs, Idaho. We are waiting to hear back from the Board if we can have the public hearing on **Monday, August 25, 2014**. If this is the case, the hearing will likely be in the afternoon, around 2:00 PM or 3:00 PM. If we cannot have it then, you will be scheduled for the public hearing on **Monday, September 8, 2014 at 5:30 PM**. We will let you know as soon as we hear back from the Board.

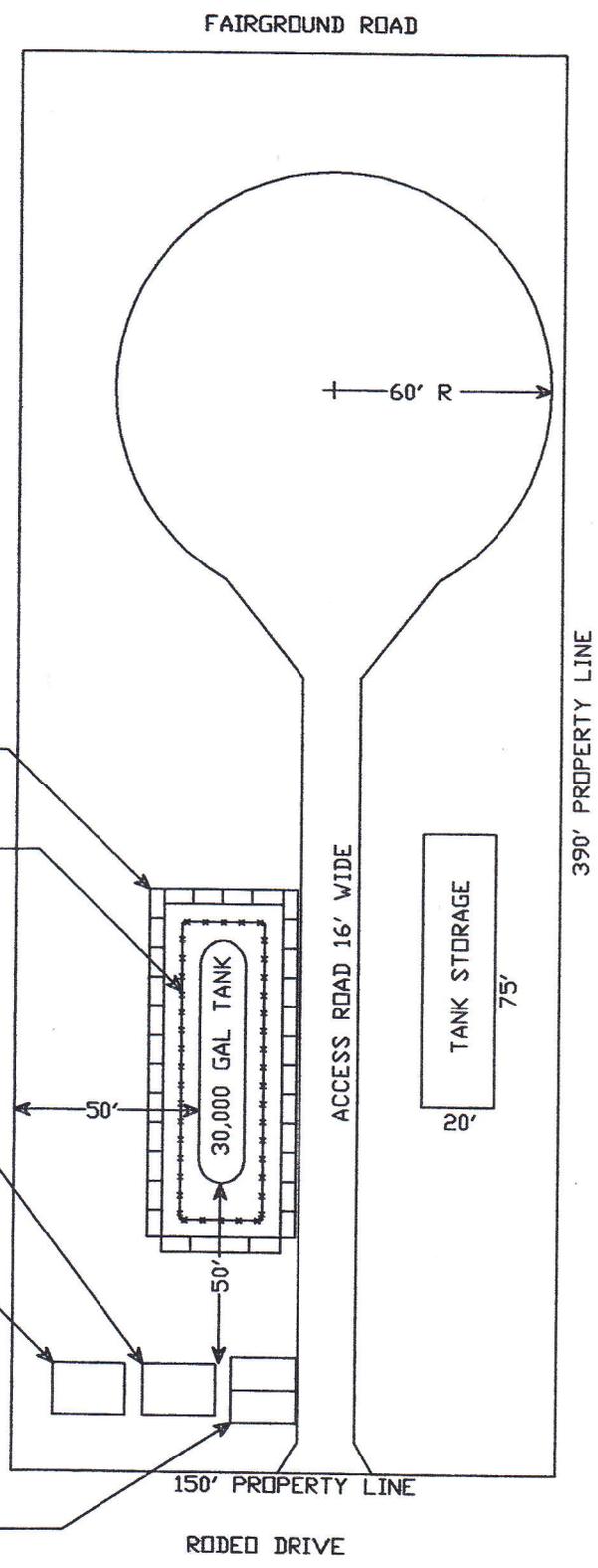
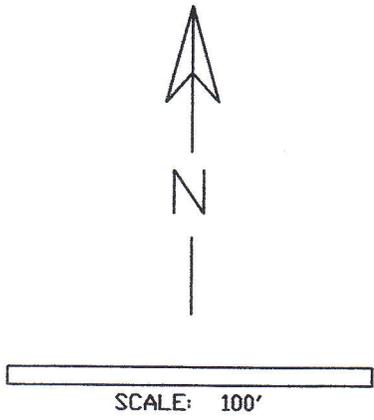


Proposed location for High Country Propane- Flying Saddle, Lot 6



Data Sources: Teton County, ID; and City of Driggs

Disclaimer: Data contains spatial inaccuracies and is for zoning reference only; The City of Driggs shall not be held liable for improper or incorrect use of the data described and/or contained herein.



NOTE: GRAVEL GROUND COVER FOR ROAD, PARKING, STORAGE, TURNAROUND, AND UNDER TANK.

SITE PLAN

MOUNTAIN COUNTRY PROPANE
 LOT 6, FLYING SADDLE SUBDIVISION
 LOT SIZE: 1.34 ACRES

August 11, 2014

City of Driggs
PLANNING AND ZONING COMMISSION MEETING
MINUTES
MEETING HELD AT CITY HALL
August 13, 2014
6:30pm

MEMBERS PRESENT: Rick Baldwin, Lindsey Love, Jen Calder, Chris Valiante

STAFF PRESENT: Ashley Koehler, Planning and Zoning Administrator, & Tod Morris Planning Intern

PUBLIC PRESENT: Rod Morris, Bob Ablondi, Cory Hoffpauir, Todd Woolstenhulme, Anna Trentadue, Stephen Elliot, Jason Boal, Bill Beckett, and Lea Beckett

Rick Baldwin called meeting to order at 6:30 pm, and asked for a review of the 7/9/14 minutes. **Jen Calder motioned to approve minutes with a correction. Lindsey Love seconded motion, and motion passed with all in favor.**

2) Public Hearing/Possible Recommendation: Conditional Use Permit for propane storage in the Area of Impact M-1 zone on Rodeo Dr.- Applicant Rod Morris, High Country Propane

Ashley Koehler presented the proposal by Mountain Country Propane and comments listed in the staff report. Koehler reviewed the revised site plan, which address many of staff's previous concerns and provided clarity to the site. The revised site plan indicated the required 50' setbacks from the 30,000-gallon tank, an established parking area and the approximate dimensions of the 500-gallon tank storage yard. Planning and Zoning Commission discussed surrounding uses and concluded that the site was compatible for the propane storage use. The Commission then asked the applicant, Rod Morris, about his plans for the perimeter fence. Morris stated that if there were to be development on adjacent properties, he would install a fence to deter outside intrusion. Morris was made aware of the required 20' setbacks for the fence from the front property line and that barbwire would not be permitted for this perimeter fence. He stated he did wish to install barbwire in only the area immediately surrounding the 30,000-gallon tank.

Rod Morris stated that the site would be nothing but a road and the tank for several years, and there are no plans for the office and shed in the immediate future. Water and power will eventually be needed at these facilities, but there will be no full time employees. Morris reiterated that there are no immediate plans for the office or shed.

Commissioners opened meeting for a public hearing. No comment for, neutral or against project was given. Public hearing was closed.

Commissioner Valiante made motion to approve the Conditional Use Permit for Mountain Country Propane with conditions that

- 1. Barbed wire fencing is permitted around the 30,000-gal propane tank only.**
- 2. If perimeter fencing around the entire lot is proposed, the fence is limited to 3' in height along the front lot line or may be 6' in height if setback 20' from the front lot line.**
- 3. No storage of junk or un-related material and equipment may be stored on site.**
- 4. An Avigation Easement must be signed by the owner/applicant and recorded.**

Commissioner Calder seconds the motion. The motion passed with all in favor.

AVIGATION EASEMENT AGREEMENT – Mountain Country Propane

THIS AVIGATION EASEMENT AGREEMENT (this "Agreement") is made as of the _____ day of 2014, by and between OWNER Mountain Country Propane ("Grantor"), an Idaho corporation, the address of which is ADDRESS, and the City of Driggs, a municipal corporation of the state of Idaho ("Grantee"), the address of which is 60 S Main St, Driggs, ID, 83422.

RECITALS

- A. Grantor owns certain real property, proposed to be developed for Mountain Country Propane, in Teton County, Idaho ("Grantor's Property"), legally described as Lot 6, Block 1, Flying Saddle Subdivision, as per the recorded plan thereof, Teton County, Idaho.
- B. Grantor's Property lies within the Traffic Pattern Area of the Driggs-Reed Memorial Airport, as defined by the 2012 Driggs Airport Master Plan.
- C. Grantor's Property is subject to regulations of the Zoning Chapter of the Driggs City Code ("Zoning Regulations"), and to 14 C.F.R. § 77 (the "Federal Regulations").
- D. The Driggs Airport Master Plan recommends acquisition of avigation easements as a condition of approval on industrial development within the airport traffic pattern area.
- E. As of the date hereof, Grantee has conditionally approved the Conditional Use Permit for a bulk propane storage facility, with one condition being the recordation of an avigation easement over the Grantor's Property.
- F. Grantor is willing to grant Grantee an avigation easement over Grantor's Property in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby covenant and agree as follows:

1. Avigation Easement. Subject to the provisions of this Agreement, Grantor hereby grants to Grantee a non-exclusive, easement and right of way, appurtenant to the property on which Driggs-Reed Memorial Airport is located (the "Airport Property"), for the unobstructed passage of all aircraft, ("aircraft" being defined for the purposes of this Agreement as any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air) in the air space above Grantor's Property to an infinite height (the "Avigation Easement").
2. Scope of Easement. The Avigation Easement shall apply only to those portions of the airspace above the land surface of the Grantor's Property which are above the "imaginary surfaces" defined in the Federal Regulations and depicted on the Driggs-Reed Memorial Airport Layout Plan (the "Airspace"), as the same may apply to Grantor's Property as of the date hereof. The Airspace shall not be invaded or used by Grantor, nor shall Grantor authorize the use of the Airspace by others, without Grantee's prior written approval; provided however that this restriction shall apply only to physical obstructions and not

to telecommunication, electrical or similar waves or transmissions to and from areas below the Airspace. Grantor will not construct, install, erect, or grow upon the applicable portions of Grantor's Property any structure, building, tree, or other object which extends into the Airspace, without the prior written approval of Grantee, which approval shall not be unreasonably withheld. Grantee shall have a continuing right to keep clear from the Airspace buildings, structures, or improvements of any kind, trees, or other objects, including the right to remove or demolish any portions of such obstructions which extend into the Airspace which Grantee has not previously approved.

3. Waiver of Claims. Grantor hereby waives, remises and releases any right or cause of action it may now have or which it may have in the future against the City of Driggs, as the initial grantee under this Agreement, pertaining to or resulting from the passage of aircraft in the airspace above Grantor's Property. However, nothing stated in the foregoing waiver, grant and release shall release any other person, including, without limitation, any assignee, transferee, apportionee or successor of Grantee, from (i) any cause of action pertaining to or resulting from the operation of aircraft outside the scope of this Avigation Easement, or (ii) liability for damages to any person or property resulting from the unlawful or negligent operation of any aircraft above Grantor's Property.

4. Term. The term of this Agreement shall commence as of the date hereof and continue to and including the date upon which airport operations are no longer conducted at the Airport Property. Upon such date that airport operations are no longer conducted at the Airport Property, this Agreement shall become void. Following any apportionment and/or transfer of the Avigation Easement by Grantee, Grantor, or Grantor's successors or assigns, may terminate this Agreement as to such transferee by delivering written notice to such transferee, if such transferee permits, or fails to take all reasonable actions to prohibit, the operation of aircraft above the Grantor's Property, which operation violates the scope of the Avigation Easement. Upon such termination, the Avigation Easement shall become void as to such transferee only.

5. Severability. The enforceability, invalidity or illegality of any provision of this Agreement shall not render the other provisions of this Agreement unenforceable, invalid or illegal, but rather the unenforceable, invalid or illegal provisions of this Agreement shall be deemed severed from this Agreement and this Agreement shall continue in full force and effect to the greatest extent permitted by applicable law. Notwithstanding the foregoing, in the event of any such severance that would prevent either party hereto from enjoying the benefit of its bargain for which this Agreement was negotiated, the parties hereto shall revise or modify this Agreement so as to exclude any unenforceable, invalid, or illegal provision, yet allow each party to enjoy the benefit of their respective bargains.

6. Attorney's Fees. In the event of any litigation, controversy, claim or dispute between the parties hereto arising out of or relating to this Agreement, or the breach hereof, or the interpretation hereof, the prevailing party, whether by judgment or out of court settlement, shall be entitled to recover from the losing party, reasonable expenses, attorney's fees and costs incurred in connection therewith, for the enforcement of any judgment or award rendered therein.

7. Notices. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below, or at such other addresses as may be specified by written notice:

If to Grantor:

2009 International Fire Code®

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Chapter 38 - Liquefied Petroleum Gases

SECTION 3801 GENERAL

3801.1 Scope. Storage, handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such uses shall comply with this chapter and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

3801.2 Permits. Permits shall be required as set forth in Sections 105.6 and 105.7.

Distributors shall not fill an LP-gas container for which a permit is required unless a permit for installation has been issued for that location by the *fire code official*.

3801.3 Construction documents. Where a single LP-gas container is more than 2,000 gallons (7570 L) in water capacity or the aggregate water capacity of LP-gas containers is more than 4,000 gallons (15 140 L), the installer shall submit *construction documents* for such installation.

SECTION 3802 DEFINITIONS

3802.1 Definitions. The following words and terms shall, for the purposes of this chapter and as used elsewhere in this code, have the meanings shown herein.

LIQUEFIED PETROLEUM GAS (LP-gas). A material which is composed predominantly of the following hydrocarbons or mixtures of them: propane, propylene, butane (normal butane or isobutane) and butylenes.

LP-GAS CONTAINER. Any vessel, including cylinders, tanks, portable tanks and cargo tanks, used for transporting or storing LP-gases.

SECTION 3803 INSTALLATION OF EQUIPMENT

3803.1 General. LP-gas equipment shall be installed in accordance with the *International Fuel Gas Code* and NFPA 58, except as otherwise provided in this chapter.

3803.2 Use of LP-gas containers in buildings. The use of LP-gas containers in buildings shall be in accordance with Sections 3803.2.1 and 3803.2.2.

3803.2.1 Portable containers. Portable LP-gas containers, as defined in NFPA 58, shall not be used in buildings except as specified in NFPA 58 and Sections 3803.2.1.1 through 3803.2.1.7.

3803.2.1.1 Use in basement, pit or similar location. LP-gas containers shall not be used in a basement, pit or similar location where heavier-than-air gas might collect. LP-gas containers shall not be used in an above-grade underfloor space or basement unless such location is provided with an *approved* means of ventilation.

Exception: Use with self-contained torch assemblies in accordance with Section 3803.2.1.6.

3803.2.1.2 Construction and temporary heating. Portable LP-gas containers are allowed to be used in buildings or areas of buildings undergoing construction or for temporary heating as set forth in Sections 6.19.4, 6.19.5 and 6.19.8 of NFPA 58.

3803.2.1.3 Group F occupancies. In Group F occupancies, portable LP-gas containers are allowed to be used to supply quantities necessary for processing, research or experimentation. Where manifolded, the aggregate water capacity of such containers shall not exceed 735 pounds (334 kg) per manifold. Where multiple manifolds of such containers are present in the same room, each manifold shall be separated from other manifolds by a distance of not less than 20 feet (6096 mm).

3803.2.1.4 Group E and I occupancies. In Group E and I occupancies, portable LP-gas containers are allowed to be used for research and experimentation. Such containers shall not be used in classrooms. Such containers shall not exceed a 50-pound (23 kg) water capacity in occupancies used for educational purposes and shall not exceed a 12-pound (5 kg) water capacity in occupancies used for institutional purposes. Where more than one such container is present in the same room, each container shall be separated from other containers by a distance of not less than 20 feet (6096 mm).

3803.2.1.5 Demonstration uses. Portable LP-gas containers are allowed to be used temporarily for demonstrations and public exhibitions. Such containers shall not exceed a water capacity of 12 pounds (5 kg). Where more than one such container is present in the same room, each container shall be separated from other containers by a distance of not less than 20 feet (6096 mm).

3803.2.1.6 Use with self-contained torch assemblies. Portable LP-gas containers are allowed to be used to supply *approved* self-contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of 2¹/₂ pounds (1 kg).

3803.2.1.7 Use for food preparation. Where *approved, listed* LP-gas commercial food service appliances are allowed to be used for food-preparation within restaurants and in attended commercial food-catering operations in accordance with the *International Fuel Gas Code*, the *International Mechanical Code* and NFPA 58.

3803.2.2 Industrial vehicles and floor maintenance machines. LP-gas containers on industrial vehicles and floor maintenance machines shall comply with Sections 11.12 and 11.13 of NFPA 58.

3803.3 Location of equipment and piping. Equipment and piping shall not be installed in locations where such equipment and piping is prohibited by the *International Fuel Gas Code*.

SECTION 3804 LOCATION OF LP-GAS CONTAINERS

3804.1 General. The storage and handling of LP-gas and the installation and maintenance of related equipment shall comply with NFPA 58 and be subject to the approval of the *fire code official*, except as provided in this chapter.

3804.2 Maximum capacity within established limits. Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the aggregate capacity of any one installation shall not exceed a water capacity of 2,000 gallons (7570 L) (see Section 3 of the Sample Ordinance for Adoption of the *International Fire Code* on page xiii).

Exception: In particular installations, this capacity limit shall be determined by the *fire code official*, after consideration of special features such as topographical conditions, nature of occupancy, and proximity to buildings, capacity of proposed LP-gas containers, degree of fire protection to be provided and capabilities of the local fire department.

3804.3 Container location. LP-gas containers shall be located with respect to buildings, *public ways* and *lot lines* of adjoining property that can be built upon, in accordance with Table 3804.3.

TABLE 3804.3 LOCATION OF LP-GAS CONTAINERS

LP-GAS CONTAINER CAPACITY (water gallons)	MINIMUM SEPARATION BETWEEN LP-GAS CONTAINERS AND BUILDINGS, PUBLIC WAYS OR LOT LINES OF ADJOINING PROPERTY THAT CAN BE BUILT UPON		MINIMUM SEPARATION BETWEEN LP-GAS CONTAINERS ^{b, c} (feet)
	Mounded or underground LP-gas containers ^a (feet)	Above-ground LP-gas containers ^b (feet)	
Less than 125 ^{c, d}	10	5 ^e	None
125 to 250	10	10	None
251 to 500	10	10	3
501 to 2,000	10	25 ^{e, f}	3
2,001 to 30,000	50	50	5
30,001 to 70,000	50	75	(0.25 of sum of diameters of adjacent LP-gas containers)
70,001 to 90,000	50	100	
90,001 to 120,000	50	125	

For SI: 1 foot = 304.8 mm, 1 gallon = 3.785 L.

a. Minimum distance for underground LP-gas containers shall be measured from the pressure relief device and the filling or liquid-level gauge vent connection at the container, except that all parts of an underground LP-gas container shall be 10 feet or more from a building or lot line of adjoining property which can be built upon.

b. For other than installations in which the overhanging structure is 50 feet or more above the relief-valve discharge outlet. In applying the distance between buildings and ASME LP-gas containers with a water capacity of 125 gallons or more, a minimum of 50 percent of this horizontal distance shall also apply to all portions of the building which project more than 5 feet from the building wall and which are higher than the relief valve discharge outlet. This horizontal distance shall be measured from a point determined by projecting the outside edge of such overhanging structure vertically downward to grade or other level upon which the LP-gas container is installed. Distances to the building wall shall not be less than those prescribed in this table.

c. When underground multicontainer installations are comprised of individual LP-gas containers having a water capacity of 125 gallons or more, such containers shall be installed so as to provide access at their ends or sides to facilitate working with cranes or hoists.

d. At a consumer site, if the aggregate water capacity of a multicontainer installation, comprised of individual LP-gas containers having a water capacity of less than 125 gallons, is 500 gallons or more, the minimum distance shall comply with the appropriate portion of Table 3804.3, applying the aggregate capacity rather than the capacity per LP-gas container. If more than one such installation is made, each installation shall be separated from other installations by at least 25 feet. Minimum distances between LP-gas containers need not be applied.

e. The following shall apply to above-ground containers installed alongside buildings:

1. LP-gas containers of less than a 125-gallon water capacity are allowed next to the building they serve when in compliance with Items 2, 3 and 4.

2. Department of Transportation (DOTn) specification LP-gas containers shall be located and installed so that the discharge from the container pressure relief device is at least 3 feet horizontally from building openings below the level of such discharge and shall not be beneath buildings unless the space is well ventilated to the outside and is not enclosed for more than 50 percent of its perimeter. The discharge from LP-gas container pressure relief devices shall be located not less than 5 feet from exterior sources of ignition, openings into direct-vent (sealed combustion system) appliances or mechanical ventilation air intakes.

3. ASME LP-gas containers of less than a 125-gallon water capacity shall be located and installed such that the discharge from pressure relief devices shall not terminate in or beneath buildings and shall be located at least 5 feet horizontally from building openings below the level

of such discharge and not less than 5 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances, or mechanical ventilation air intakes.

4. The filling connection and the vent from liquid-level gauges on either DOTn or ASME LP-gas containers filled at the point of installation shall not be less than 10 feet from exterior sources of ignition, openings into direct vent (sealed combustion system) appliances or mechanical ventilation air intakes.

f. This distance is allowed to be reduced to not less than 10 feet for a single LP-gas container of 1,200-gallon water capacity or less, provided such container is at least 25 feet from other LP-gas containers of more than 125-gallon water capacity.

3804.3.1 Special hazards. LP-gas containers shall also be located with respect to special hazards including, but not limited to, above-ground flammable or *combustible liquid* tanks, oxygen or gaseous hydrogen containers, flooding or electric power lines as specified in Section 6.4.5 of NFPA 58.

3804.4 Multiple LP-gas container installations. Multiple LP-gas container installations with a total water storage capacity of more than 180,000 gallons (681 300 L) [150,000-gallon (567 750 L) LP-gas capacity] shall be subdivided into groups containing not more than 180,000 gallons (681 300 L) in each group. Such groups shall be separated by a distance of not less than 50 feet (15 240 mm), unless the containers are protected in accordance with one of the following:

1. Mounded in an *approved* manner.
2. Protected with *approved* insulation on areas that are subject to impingement of ignited gas from pipelines or other leakage.
3. Protected by firewalls of *approved* construction.
4. Protected by an *approved* system for application of water as specified in Table 6.4.2 of NFPA 58.
5. Protected by other *approved* means.

Where one of these forms of protection is provided, the separation shall not be less than 25 feet (7620 mm) between LP-gas container groups.

SECTION 3805 PROHIBITED USE OF LP-GAS

3805.1 Nonapproved equipment. LP-gas shall not be used for the purpose of operating devices or equipment unless such device or equipment is *approved* for use with LP-gas.

3805.2 Release to the atmosphere. LP-gas shall not be released to the atmosphere, except through an *approved* liquid-level gauge or other *approved* device.

SECTION 3806 DISPENSING AND OVERFILLING

3806.1 Attendants. Dispensing of LP-gas shall be performed by a qualified attendant.

3806.2 Overfilling. LP-gas containers shall not be filled or maintained with LP-gas in excess of either the volume determined using the fixed liquid-level gauge installed by the manufacturer or the weight determined by the required percentage of the water capacity marked on the container. Portable LP-gas containers shall not be refilled unless equipped with an overfilling prevention device (OPD) where required by Section 5.7.3 of NFPA 58.

3806.3 Dispensing locations. The point of transfer of LP-gas from one LP-gas container to another shall be separated from exposures as specified in NFPA 58.

SECTION 3807 SAFETY PRECAUTIONS AND DEVICES

3807.1 Safety devices. Safety devices on LP-gas containers, equipment and systems shall not be tampered with or made ineffective.

3807.2 Smoking and other sources of ignition. "No Smoking" signs complying with Section 310 shall be posted when required by the *fire code official*. Smoking within 25 feet (7620 mm) of a point of transfer, while filling operations are in progress at LP-gas containers or vehicles, shall be prohibited.

Control of other sources of ignition shall comply with Chapter 3 of this code and Section 6.22 of NFPA 58.

3807.3 Clearance to combustibles. Weeds, grass, brush, trash and other combustible materials shall be kept a minimum of 10 feet (3048 mm) from LP-gas tanks or containers.

3807.4 Protecting containers from vehicles. Where exposed to vehicular damage due to proximity to alleys, driveways or parking areas, LP-gas containers, regulators and piping shall be protected in accordance with Section 312.

SECTION 3808 FIRE PROTECTION

3808.1 General. Fire protection shall be provided for installations having LP-gas storage containers with a water capacity of more than 4,000 gallons (15 140 L), as required by Section 6.25 of NFPA 58.

3808.2 Portable fire extinguishers. Portable fire extinguishers complying with Section 906 shall be provided as specified in NFPA 58.

SECTION 3809 STORAGE OF PORTABLE LP-GAS CONTAINERS AWAITING USE OR RESALE

3809.1 General. Storage of portable LP-gas containers of 1,000 pounds (454 kg) or less, whether

filled, partially filled or empty, at consumer sites or distribution points, and for resale by dealers or resellers shall comply with Sections 3809.2 through 3809.14.

Exceptions:

1. LP-gas containers that have not previously been in LP-gas service.
2. LP-gas containers at distribution plants.
3. LP-gas containers at consumer sites or distribution points, which are connected for use.

3809.2 Exposure hazards. LP-gas containers in storage shall be located in a manner that minimizes exposure to excessive temperature rise, physical damage or tampering.

3809.3 Position. LP-gas containers in storage having individual water capacity greater than 2^{1/2} pounds (1 kg) [nominal 1-pound (0.454 kg) LP-gas capacity] shall be positioned with the pressure relief valve in direct communication with the vapor space of the container.

3809.4 Separation from means of egress. LP-gas containers stored in buildings in accordance with Sections 3809.9 and 3809.11 shall not be located near *exit access doors, exits, stairways* or in areas normally used, or intended to be used, as a *means of egress*.

3809.5 Quantity. Empty LP-gas containers that have been in LP-gas service shall be considered as full containers for the purpose of determining the maximum quantities of LP-gas allowed in Sections 3809.9 and 3809.11.

3809.6 Storage on roofs. LP-gas containers that are not connected for use shall not be stored on roofs.

3809.7 Storage in basement, pit or similar location. LP-gas containers shall not be stored in a basement, pit or similar location where heavier-than-air gas might collect. LP-gas containers shall not be stored in above-grade underfloor spaces or basements unless such location is provided with an *approved* means of ventilation.

Exception: Department of Transportation (DOTn) specification cylinders with a maximum water capacity of 2^{1/2} pounds (1 kg) for use in completely self-contained hand torches and similar applications. The quantity of LP-gas shall not exceed 20 pounds (9 kg).

3809.8 Protection of valves on LP-gas containers in storage. LP-gas container valves shall be protected by screw-on-type caps or collars which shall be securely in place on all containers stored regardless of whether they are full, partially full or empty. Container outlet valves shall be closed or plugged.

3809.9 Storage within buildings accessible to the public. Department of Transportation (DOTn) specification cylinders with maximum water capacity of 2^{1/2} pounds (1 kg) used in completely self-contained hand torches and similar applications are allowed to be stored or displayed in a building accessible to the public. The quantity of LP-gas shall not exceed 200 pounds (91 kg)

except as provided in Section 3809.11.

3809.10 Storage within buildings not accessible to the public. The maximum quantity allowed in one storage location in buildings not accessible to the public, such as industrial buildings, shall not exceed a water capacity of 735 pounds (334 kg) [nominal 300 pounds (136 kg) of LP-gas]. Where additional storage locations are required on the same floor within the same building, they shall be separated by a minimum of 300 feet (91 440 mm). Storage beyond these limitations shall comply with Section 3809.11.

3809.10.1 Quantities on equipment and vehicles. LP-gas containers carried as part of service equipment on highway mobile vehicles need not be considered in the total storage capacity in Section 3809.10, provided such vehicles are stored in private garages and do not carry more than three LP-gas containers with a total aggregate LP-gas capacity not exceeding 100 pounds (45.4 kg) per vehicle. LP-gas container valves shall be closed.

3809.11 Storage within rooms used for gas manufacturing. Storage within buildings or rooms used for gas manufacturing, gas storage, gas-air mixing and vaporization, and compressors not associated with liquid transfer shall comply with Sections 3809.11.1 and 3809.11.2.

3809.11.1 Quantity limits. The maximum quantity of LP-gas shall be 10,000 pounds (4540 kg).

3809.11.2 Construction. The construction of such buildings and rooms shall comply with requirements for Group H occupancies in the *International Building Code*, Chapter 10 of NFPA 58 and both of the following:

1. Adequate vents shall be provided to the outside at both top and bottom, located at least 5 feet (1524 mm) from building openings.
2. The entire area shall be classified for the purposes of ignition source control in accordance with Section 6.22 of NFPA 58.

3809.12 Location of storage outside of buildings. Storage outside of buildings of LP-gas containers awaiting use, resale or part of a cylinder exchange program shall be located in accordance with Table 3809.12.

TABLE 3809.12 SEPARATION FROM EXPOSURES OF LP-GAS CONTAINERS AWAITING USE, RESALE OR EXCHANGE STORED OUTSIDE OF BUILDINGS

MINIMUM SEPARATION DISTANCE FROM STORED LP-GAS CYLINDERS TO (feet):							
QUANTITY OF LP-GAS STORED (pounds)	Nearest important building or group of buildings	Line of adjoining property occupied by schools, places of religious	LP-gas dispensing station	Doorway or opening to a building with two	Doorway or opening to a building with one	Combustible materials	Motor vehicle fuel dispenser

	or line of adjoining property that may be built upon	worship, hospitals, athletic fields or other points of public gathering; busy thoroughfares ; or sidewalks		or more means of egress	means of egress		
720 or less	0	0	5	5	10	10	20
721 - 2,500	0	10	10	5	10	10	20
2,501 - 6,000	10	10	10	10	10	10	20
6,001 - 10,000	20	20	20	20	20	10	20
Over 10,000	25	25	25	25	25	10	20

For SI: 1 foot = 304.8 mm, 1 pound = 0.454 kg.

3809.13 Protection of containers. LP-gas containers shall be stored within a suitable enclosure or otherwise protected against tampering. Vehicular protection shall be provided as required by the *fire code official*.

3809.14 Alternative location and protection of storage. Where the provisions of Sections 3809.12 and 3809.13 are impractical at construction sites, or at buildings or structures undergoing major renovation or repairs, the storage of containers shall be as required by the *fire code official*.

SECTION 3810 LP-GAS CONTAINERS NOT IN SERVICE

3810.1 Temporarily out of service. LP-gas containers whose use has been temporarily discontinued shall comply with all of the following:

1. Be disconnected from appliance piping.
2. Have LP-gas container outlets, except relief valves, closed or plugged.

3. Be positioned with the relief valve in direct communication with the LP-gas container vapor space.

3810.2 Permanently out of service. LP-gas containers to be placed permanently out of service shall be removed from the site.

SECTION 3811 PARKING AND GARAGING

3811.1 General. Parking of LP-gas tank vehicles shall comply with Sections 3811.2 and 3811.3.

Exception: In cases of accident, breakdown or other emergencies, tank vehicles are allowed to be parked and left unattended at any location while the operator is obtaining assistance.

3811.2 Unattended parking. The unattended parking of LP-gas tank vehicle shall be in accordance with Sections 3811.2.1 and 3811.2.2.

3811.2.1 Near residential, educational and institutional occupancies and other high-risk areas. LP-gas tank vehicles shall not be left unattended at any time on residential streets or within 500 feet (152 m) of a residential area, apartment or hotel complex, educational facility, hospital or care facility. Tank vehicles shall not be left unattended at any other place that would, in the opinion of the *fire code official*, pose an extreme life hazard.

3811.2.2 Durations exceeding 1 hour. LP-gas tank vehicles parked at any one point for longer than 1 hour shall be located as follows:

1. Off public streets, highways, public avenues or public alleys.
2. Inside of a bulk plant.
3. At other *approved* locations not less than 50 feet (15 240 mm) from buildings other than those *approved* for the storage or servicing of such vehicles.

3811.3 Garaging. Garaging of LP-gas tank vehicles shall be as specified in NFPA 58. Vehicles with LP-gas fuel systems are allowed to be stored or serviced in garages as specified in Section 11.15 of NFPA 58.

Chapter 3 - General Requirements

SECTION 312 VEHICLE IMPACT PROTECTION

312.1 General. Vehicle impact protection required by this code shall be provided by posts that comply with Section 312.2 or by other *approved* physical barriers that comply with Section 312.3.

312.2 Posts. Guard posts shall comply with all of the following requirements:

1. Constructed of steel not less than 4 inches (102 mm) in diameter and concrete filled.
2. Spaced not more than 4 feet (1219 mm) between posts on center.
3. Set not less than 3 feet (914 mm) deep in a concrete footing of not less than a 15-inch (381 mm) diameter.
4. Set with the top of the posts not less than 3 feet (914 mm) above ground.
5. Located not less than 3 feet (914 mm) from the protected object.

312.3 Other barriers. Physical barriers shall be a minimum of 36 inches (914 mm) in height and shall resist a force of 12,000 pounds (53 375 N) applied 36 inches (914 mm) above the adjacent ground surface.