

**OFFICIAL SUMMARY PROCEEDINGS OF THE BOARD OF
COUNTY COMMISSIONERS, TETON COUNTY, WYOMING**

The Teton County Board of Commissioners met in a special meeting on **June 27, 2023** in the Commissioners Chambers located at 200 S. Willow in Jackson. The meeting was called to order at 10:02 a.m.

Contested Case Docket 2023-003: A special meeting for Final Agency Action for a petition filed by the below named contestants pursuant to section 8.8.3 of the Teton County, Wyoming Land Development Regulations and the Wyoming Administrative Procedures Act.

Contestants: Case M. Brown; Jan Demarsh-Lovett; Mark Lovett, and Alison F. Merritt.

vs.

Planning Director of Teton County, Wyoming

Commission present: Luther Propst, Chair, Natalia Macker, Vice-Chair, Mark Newcomb, Wes Gardner, and Greg Epstein.

Hearing Officer: Richard Stout

On May 3, 2022 the Board of County Commissioners (Board) voted to approve the application of Stage Stop, LLC to amend "Rafter J PUD" and thereby authorize the conditional use of Lot 333 as an apartment complex. On June 2, 2022, various Petitioners including the above Contestants filed a Petition for Review of Agency Action in the District Court of Teton County, Wyoming, appealing the Board's issuance of PUD2021-0001. On November 15, 2022, following an initial denial, the Board voted to approve Stage Stop's related application for a conditional use permit numbered CUP2021-0005 subject to various conditions. Among the CUP Findings & Conclusions, the Board provided that CUP2021-0005 "shall not be issued until the current legal action regarding the decision of PUD2021-0001 is fully and finally resolved beyond all applicable appeal periods." On January 23, 2023, the PUD Amendment Appeal was argued before the Honorable Judge Melissa Owens, and the Contestants and Rafter J Homeowners Association expressed opposition to the applications. On August 26, 2022 and October 14, 2022 after the filing of the PUD Amendment Appeal and the Board's initial denial of the CUP application, Stage Stop submitted a different set of applications and materials for a series of BUPs (basic use permits). On January 17, 2023, the Planning Director issued a Staff Report and BUP2022-0077. On January 31, 2023, the Planning Director issued a Staff Report and BUP2022-0076 and BUP2022-0085 through 0107 allowing for 24 of the 27 ARUs requested by Stage Stop.

Motion for Summary Judgement and Motion in Limine

Brandon Jensen, Representing Stage Stop, LLC, argued that there were grounds for Collateral Estoppel.

Abigail Moore, Deputy County Attorney representing the Planning Director, gave arguments.

The Hearing Officer's recommendation was to grant the Motion for Summary Judgement based on the District Court's reasoning and the fact that Rafter J was clearly delineated as a PUD in 2014 and 2015, at which time it would have been appropriate to appeal the PUD instead of present day.

A motion was made by Commissioner Propst and seconded by Commissioner Epstein to affirm the Hearing Officer's recommendation and grant the Motion for Summary Judgement. Hearing Officer Stout called for a vote. The vote showed four in favor and the motion carried 4-1 with Commissioner Macker opposed.

A motion was made by Commissioner Propst and seconded by Commissioner Epstein to accept the Hearing Officer's recommendation and grant the Motion in Limine. Hearing Officer Stout called for a vote. The vote showed four in favor and the motion carried 4-1 with Commissioner Macker opposed.

Hearing of Contested Case 2023-003; Final Agency Action

Leah Schwartz, Representing the Contestants, requested that all exhibits be admitted. Mr. Jensen opposed the request. Hearing Officer Stout asked that any new exhibits be admitted as they are needed.

Ms. Schwartz gave opening statements.

Ms. Moore gave opening statements.

Ms. Schwartz objected to Ms. Moore's arguments, asking that if these are opening statements, that they be kept brief.

Mr. Jensen gave opening statements.

The meeting recessed at 11:06 a.m. and reconvened at 11:15 a.m.

Commissioner Macker disclosed that she resides within the Rafter J Neighborhood in question.

Ms. Schwartz presented arguments and called on the Planning Director. Hearing Officer Stout swore-in Chris Neubecker, Teton County Planning Director.

Ms. Schwartz asked questions of Mr. Neubecker and requested that exhibits 16, 16A and 17 be admitted. Contestant's Exhibits 16, 16A and 17 were admitted. Later, Exhibits 6, and 9 were admitted. Exhibit 10 was requested to be admitted, but Ms. Moore objected to the Admission of exhibit 10 because it is incomplete. Instead, Planning Director's Exhibit 14C was admitted. Ms. Schwartz requested that Contestant's exhibits 14 and 15 be admitted. Mr. Jensen objected to the admission of 15. Hearing Officer Stout admitted Exhibits 14 and 15. Ms. Schwartz requested that exhibit 18 be admitted. Mr. Jensen objected due to lack of relevance. Hearing Officer Stout admitted Exhibit 18 after determining its relevance. Ms. Moore objected to Exhibit 18 because it was part of a greater document that is presented in Planning Director's Exhibit P, and Planning Director's Exhibit P was also admitted. Ms. Schwartz asked that Exhibit 24A be admitted. Mr. Jensen objected to the admission of 24A because it seemed insignificant within the proceedings. Contestant's Exhibit 24A was admitted. Exhibit 19 was admitted. Exhibits 1, 2, 3, 3A and 4 were admitted.

The meeting recessed at 12:11 p.m. and reconvened at 1:12 p.m.

Ms. Schwartz proceeded with her argument. Planning Director's Exhibit N and Contestant's Exhibit 38, and Stage Stop's Exhibit 5, Stage Stop's Exhibit 1, and Contestant's Exhibit 21 were admitted. Ms. Schwartz requested Contestant's Exhibit 24B, and Mr. Jensen objected on grounds of relevance. The Hearing Officer allowed the exhibit to be admitted. Exhibit 16 was admitted along with a definition from the Teton County Housing Director of Workforce Rental Units.

Ms. Moore asked questions of Mr. Neubecker.

The meeting recessed at 2:12 p.m. and reconvened at 2:20 p.m.

Mr. Jensen asked questions of Mr. Neubecker.

The Board asked questions of Mr. Neubecker.

Ms. Moore redirected and asked additional questions of Mr. Neubecker.

Ms. Schwartz asked one additional question of Mr. Neubecker.

Case Brown, Contestant, was called by Ms. Schwartz and sworn-in by the Hearing Officer. Ms. Schwartz asked questions of Mr. Brown and Contestant's Exhibits 32 and 20 were admitted to the record.

Mr. Jensen asked questions of Mr. Brown.

Ms. Schwartz requested the admittance of Stage Stop's Exhibit 9. Mr. Jensen and Ms. Moore objected. The Exhibit was not admitted.

The meeting recessed at 3:04 p.m. and reconvened at 3:17 p.m.

Ms. Moore called on Chandler Windom and Ms. Windom was sworn-in by the Hearing Officer. Ms. Moore asked questions of Ms. Windom.

Contestant's Exhibits 5, 5A, 12, 13, and 7, and Planning Director's Exhibits J, K, G were admitted. Ms. Moore asked to admit Exhibit O, and Ms. Schwartz objected. Mr. Jensen supported the admission, and the Hearing Officer allowed Exhibit O to be admitted.

Stage Stop's Exhibit 9 was admitted.

The meeting recessed at 4:12 p.m. and reconvened at 4:18 p.m.

Ms. Windom was dismissed, and Mr. Jensen requested that Stage Stop's exhibits 3, 4 and 6 be admitted to the record and they were.

Bill Schwartz, for the Contestants, presented closing arguments.

Ms. Schwartz presented closing arguments.

Ms. Moore presented closing arguments.

Mr. Jensen presented closing arguments.

Mr. Schwartz responded to Mr. Jensen.

Hearing Officer's Recommendation

The Hearing Officer's Recommendation was to affirm the Final Agency Action since the Contestants did not provide sufficient evidence to overturn the Planning Director's Decision.

A motion was made by Commissioner Propst and seconded by Commissioner Macker to take the matter under advisement and to continue this item to a date uncertain. Hearing Officer Stout called for a vote. The vote showed all in favor and the motion carried.

ADJOURN

A motion was made by Commissioner Propst and seconded by Commissioner Gardner to adjourn. Hearing Officer Stout called for the vote. The vote showed all in favor and the motion carried. The meeting adjourned at 5:05 p.m.

Respectfully submitted,
Chalice Weichman
Deputy County Administrative Clerk

TETON COUNTY BOARD OF COMMISSIONERS

Luther Propst, Chair

ATTEST:

Maureen E. Murphy, County Clerk