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VIA Email Only

Teton County Board of County Commissioners
-and-
Office of the Teton County Attorney

All above c/o Keith Gingery, Chief Deputy County Attorney
kgingery@tetoncountywy.gov

Re: Lot 333, Rafter J Ranch Subdivision;
PUD Amendment / CUP Request

My Client: Rafter J Ranch Homeowners Association

Dear Keith,

This letter is sent in follow-up to our previous written communications to concerning Stage Stop, Inc.'s ("Stage Stop") ongoing efforts to obtain a conditional use permit ("CUP") to permit Stage Stop to convert the Legacy Lodge, located on Lot 333 within Rafter J, into residential apartments and in order to rent the same as "workforce housing."

In advance of the County Commissioners' May 17, 2022 meeting wherein Stage Stop's CUP application will be deliberated and voted on, I am writing to address two specific findings of the CUP application which are relevant for the Commissioners' decision. As the Commission is aware, pursuant to Section 8.4.2 of the Teton County Land Development Regulations, "A conditional use permit shall be approved upon finding the application:

1. Is compatible with the desired future character of the area; and
2. Complies with the use specific standards of Division 6.1: Allowed Uses and the zone; and
3. Minimizes adverse visual impacts, and;
4. Minimizes adverse environmental impacts; and
5. Minimizes adverse impacts from nuisances; and
6. Minimizes adverse impacts on public facilities; and
7. Complies with all other relevant standards of these LDRs and all other County

Resolutions; and

8. Is in substantial conformance with all standards or conditions of any prior applicable permits or approvals.”

During previous meetings on Stage Stop’s applications, several Commissioners expressed difficulty making finding “1” which requires the approval of the CUP be “compatible with the desired future character of the area.” While the balance of the findings also appear to lack support, the Commission’s apparent trepidation concerning finding “1” is well-placed. As the Commission is aware, this application has gained intense public attention and motivated significant debate, particularly amongst members of the Rafter J community and those Teton County residents who live directly in the “area” of the subject property. The response from these area residents has been resoundingly opposed to Stage Stop’s CUP request because the proposed use is *not* compatible with the desired future character of the area.

It has been stated numerous times during this process that the Board of County Commissioners is not responsible for enforcing private covenants and that the CUP application process is separate from any amendment process that will be required with respect to the Declaration of Covenants, Conditions and Restrictions for the Rafter J Ranch Homeowners Association (the “CCRs”). That said, the community’s CCRs are instructive in the Commission’s review of Stage Stop’s CUP application and should in fact be considered during its deliberation. As to the question of “desirability,” the Commission can take note that all property owners within the HOA, 498 of them, have agreed to be bound by the CCRs which, among other things, define the desired use and character of the area. These covenants form a contract amongst the local property owners that shows, in no uncertain terms, the local community’s desired character for all lots, including Lot 333. The CCRs can be updated and amended with a 65% vote of the Association members, so disregarding their terms and conditions as outdated is not appropriate. In line with the foregoing, the Commission can further note that, pursuant to the CCRs, Lot 333 is expressly designated as a commercial area. The CCRs distinguish “commercial” from “residential” and even “multiple dwelling” areas. To be sure, Lot 333 is not within the lots defined as “multiple dwelling” lots within the CCRs.

Despite the foregoing express provisions of the CCRs which form a binding agreement amongst the property owners within the community, no action- by Stage Stop or any other owner within the Association- has been taken to amend the CCRs in this respect. The Commission, while not responsible for enforcing this provision, can consider the CCRs as dispositive evidence of the community’s desire for the future character of the area and may conclude that the CCRs’ requirements and restrictions are valuable evidence in the Commission’s decision with respect to finding “1”. Given the clear direction offered by the CCRs, the Commission can conclude that approving the CUP would be inconsistent with the community’s expression of the desired future character of the area.

Further, and again without conceding that any of the findings required under Section 8.4.2 can be made, the Commission should be aware that, with respect to finding “5,” which requires the Commission to minimize adverse impacts by nuisances against the community, a violation of the CCRs affirmatively creates a “nuisance.” Pursuant to Article

XII, Section 5 of the CCRs, any violation of the CCRs is expressly noted to constitute a nuisance against the Association and the members thereof. Given that approval of Stage Stop's CUP application would approve a use that is violative of CCRs' restrictions concerning Lot 333, such approval would endorse the perpetuation of a nuisance against owners in the area. Again, while the Commission is not required to enforce private covenants in its decisions, it may absolutely take notice that the local community has defined a violation of the CCRs as a nuisance and the Commission may act to prevent the same in its decision.

Thank you for your time and attention to these matters. I am available to speak should you wish to discuss further and would be happy to address any questions or calls for information that the Board of County Commissioners has in response to this information.

Very truly yours,

/s/ Kevin P. Gregory

Kevin P. Gregory