

**FODOR LAW OFFICE, PC**  
**LL)**

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***Sent Via Email Only***

Teton County Board of County Commissioners

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Re: Legacy Lodge—Update; CUP2021-0005

Dear Commissioners:

This letter is being submitted in advance of the October 4 Board of County Commissioners meeting to update you on the progress made over the last few months on the above-referenced application, and reiterate the owner's continued commitment to providing deed-restricted workforce housing on the Property.

The owner has worked diligently to further refine its application and better understand the concerns of the Rafter J neighborhood. The owner met with representatives from the Rafter J HOA board and was able to garner helpful feedback on neighborhood concerns, potential solutions and additional mitigation measures. We look forward to discussing these items at the October 4 meeting.

**1. Cap on Number of Residents**

The owner previously volunteered a cap of 132 individuals occupying the units. This is the number approved with PUD2021-0001. To further address the neighborhood's concerns about the number of people living on site and traffic generation, the applicant is amenable to a cap of 99 individuals occupying 55 units on the Property.

There has also been some discussion about possibly combining units to create fewer, yet larger, units. The applicant is not amenable to combining units or changing the layout of the units; doing so does not necessarily reduce occupancy and increases costs and time unnecessarily. The units housed people for over 15 years—we are not aware of anyone complaining of the size of the units when they housed assisted living residents. The space of each unit is adequate and the layout is functional. The applicant has already agreed to update the kitchen facilities of each unit as recommended by the Planning Commission (one wing at a time). The units are livable and, even without the agreed-upon kitchen upgrades, are far superior to the housing units many in our workforce currently utilize.

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## **2. Parking and Screening**

The owner will need to construct additional parking to meet the PUD's requirement of 1 parking space per apartment unit, and the similar condition recommended by staff and the Planning Commission on the CUP. The owner will also be seeking to add 5 guest spaces to alleviate concerns about parking and to facilitate the use and enjoyment of the residents on the property. Additionally, the porte cochere will be utilized for deliveries and unloading. The owner is committed to ensuring that any additional parking on the Property does not negatively impact adjacent and nearby properties and is therefore amenable to adding additional vegetative screening to its southern boundary line to further screen its parking area from residents at 3165, 3155, 3150 and 3160 S. Pitch Fork Drive. If acceptable, the owner would be happy to meet with these neighbors to discuss the specific location and type of vegetation—we imagine the ideal vegetation would be some type of native evergreen to provide year-round screening. If the owner is to expand parking, it intends to do so at the northern portion of the existing property near the bike path, which would limit impacts on adjacent residences.

## **3. START potential service**

As noted throughout the application process, the applicant is excited about the possibility of START servicing the Property and greater Rafter J neighborhood. The applicant is interested in discussing potential options for service with START and the HOA.

## **4. Critical Service Providers**

The owner welcomes the opportunity to grant rights of first option to lease within this project to critical service providers and nonprofits. With regard to critical service providers, there may be instances where a critical service provider does not meet the current definition of a "Qualified Household" under the Housing Department's Rules and Regulations, or certain other standards in the current workforce template. The current condition proposed by staff (Condition #1 on the CUP) requires the deed restriction to be in a form acceptable to the Housing Department. We are confident that, if directed by you, we could work with the Housing Department on an additional deed restriction that may better accommodate critical service providers, at least for a certain percentage of the units. We understand this restriction will then have to come back to you for review and approval prior to recordation. While it is understood that your policy guidance favors long term deed restrictions for those critical service providers not owning homes in surrounding communities, we would like to suggest that if a deviation from your policy guidance is acceptable for critical service providers, that it be for a 5 year period and then automatically terminate; deferring back to the "standard" deed restriction approved for this project (we have provided a proposed draft to County staff for review). This would allow the County to evaluate the effectiveness of the critical service provider deed restriction. If it does not meet the County's objectives, the critical service provider restriction would end on its own terms and the project would remain governed by the standard workforce deed restriction. If the County's objectives are being met, the County could unilaterally renew the critical service provider restriction. We are trying to offer flexibility and a trial period as the County's needs and the effectiveness of a critical service provider deed restriction may evolve over time.

## **5. Workforce Deed Restriction**

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The applicant has previously agreed to work force deed-restricted units so long as the deed restriction is tied to the use and automatically terminates once the use/CUP is terminated. The applicant has drafted a proposed deed restriction, utilizing the County's current template, and provided this to the County back in April. We are optimistic we will be able to come to terms on the proposed workforce deed restriction form. To be clear, the applicant is not willing to agree to an affordable deed restriction on these units---the applicant has never suggested or proposed an affordable deed restriction here. The applicant is **voluntarily** deed restricting **100%** of the units in this project for local workforce---but is not amenable to income or rental caps as specified in the affordable deed restriction templates. It is important to remember that this is not an offset for additional development, but utilization of an existing building and a voluntary workforce deed restriction.

#### **6. Meeting with WYDOT**

The owner is amenable to a meeting with WYDOT, the Rafter J neighborhood and the County to discuss the intersection at Highway 89 and Big Trail Drive.

#### **7. Shuttle Service**

We understand at least one of the Commissioners has voiced a desire to see shuttle service provided to on-site residents until such time as public transportation serves Rafter J---a sort of "gap" measure. Given that the project will be fully parked at a 1 space per unit ration, along with the above referenced plan to build 5 additional guest spaces, the owner does not feel an additional shuttle service is necessary. The owner is interested in working with START to include an e bike kiosk at the property to facilitate transport for those residents who do not have a car or do not already have ebikes.

#### **8. CCRs**

There has been much discussion since this application was first submitted about how the owner would handle the CCRs. The owner has discussed the CCRs with representatives from the HOA Board of Directors and understands the HOA's position on this matter. We believe the HOA also understands the owner's position on the CCRs, as this was discussed at the meeting with HOA Board during an August meeting. The applicant is willing to commence the CCR amendment process **if the CUP is approved**. Any application to amend the CCRs would occur only if the CUP is approved.

#### **9. Requested Minor Revision to Condition Recommended by Planning Commission**

The owner does have one proposed modification to Condition #1 recommended by staff and the Planning Commission. Condition #1 recommended by staff and the Planning Commission currently states:

Prior to issuance of this permit, the owner shall restrict the occupancy of all apartment units to members of the Teton County Workforce, in a deed restriction form that is acceptable to the Jackson/Teton County Affordable Housing Department.

We are asking that this condition be revised to state:


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Prior to occupancy issuance of this permit, the owner shall restrict the occupancy of the occupied all-apartment units to members of the Teton County Workforce, in a deed restriction form that is acceptable to the Jackson/Teton County Affordable Housing Department.

In short, the owner is proposing that the deed restriction be recorded prior to *occupancy* rather than prior to issuance of the CUP. This is because renovation required to install kitchens in each unit as requested by the County and leasing may occur in phases—one wing at a time. The Owner does not want to deed restrict the units until all necessary upgrades have been completed. By way of example, if the deed restriction is recorded at the CUP and each and every unit is not filled with a qualified household within 60 days, the Owner would be in default of its obligations under the deed restriction – even if the unit is still under construction during such 60 day time period.

Thank you for your continued efforts on this important application. We appreciate that this has been a long process and has elicited strong responses within the community both for and against the application. We hope you can see the efforts made by the owner to find common ground with the neighborhood and work through most of the concerns and issues raised to date. We look forward to seeing you on October 4.

Regards,

  
Fodor Law Office, PC  
Stefan J. Fodor

cc: Keith Gingery, *via email*  
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