

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**TETON COUNTY, WYOMING**

IN THE MATTER OF: Development Plan (DEV2016-0002)

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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING APPROVAL  
OF A DEVELOPMENT PLAN**

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THIS MATTER came before the Teton County Board of County Commissioners (hereafter "Board" or "Board of Commissioners") for public hearing on August 17, 2021, upon the application of Hal Hutchinson on behalf of AJL Duersch, LLC & PWD Duersch, LLC for a Development Plan, pursuant to Sections 2320 and 5100, Development Plan, of the 4<sup>th</sup> Printing of the 1994 Teton County Land Development Regulations (LDRs), for a 2-unit Subdivision Planned Residential Development. The Board considered a presentation from staff. The Board of Commissioners, being fully advised herein, finds, concludes and orders as follows:

**FINDINGS OF FACT**

1. The property is PIDN 22-44-18-19-1-00-003, owned by AJL Duersch, LLC & PWD Duersch, LLC, which is located at East of N State Line Road in Alta, and consisting of 48.03 acres in size. The property is zoned Rural-County (R-TC) and is not within any overlays.
2. The applicant has requested approval of a Development Plan DEV2016-0002 ("the application") submitted on March 17, 2016 for a 4-unit Subdivision Planned Residential Development.
3. The application was deemed sufficient by Planning Staff on March 29, 2016.
4. The applicant requested an indefinite extension to the public hearing deadlines in the LDRs on February 8, 2017.
5. The applicant submitted an updated application "DEV2016-0002 Re-submittal" on June 19, 2018.

6. The applicant also submitted a request for a Teton County Scenic Preserve Trust Easement, EAS2019-0002, on November 25, 2019, to meet the open space requirements of DEV2016-0002.
7. The application was scheduled for the Planning Commission hearing on April 27, 2020 and the Board of County Commissioners hearing on May 19, 2020.
8. The hearings of the Planning Commission and the Board of County Commissioners were properly noticed pursuant to the provisions of LDR Section 5120.
9. The application was postponed by request of the applicant to a date certain due to the Covid-19 Pandemic. The Planning Commission hearing was postponed to the June 8, 2020 meeting and the Board of County Commissioners hearing was postponed to the July 7, 2020 meeting.
10. This application was brought before the Teton County Planning Commission on June 8, 2020 with a recommendation from the Planning Director for approval of DEV2016-0002 with two recommended conditions.
  - a. Condition 1: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, an affordable housing fee in the amount of \$405,411.02.
  - b. Condition 2: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$18,249.45.
11. On June 8, 2020, the Planning Commission voted 5-0, resulting in a recommendation of approval of DEV2016-0002 with two conditions.
  - a. Condition 1: An affordable housing fee in the amount to be determined by an independent calculation pursuant to Section 49470 shall be due at a time to be determined by an approved Housing Mitigation Plan.
  - b. Condition 2: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$18,249.45.
12. The application, along with EAS2019-0002, was postponed by the request of the applicant to a date certain, so that the applicant could comply with the requirements of the Planning Commission recommendation. The Board of County Commissioners hearing was postponed to July 21, 2020.

13. The application was brought before the Board of Commissioners on July 21, 2020.
14. A staff report dated July 21, 2020, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002) pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 4-unit Subdivision Planned Residential Development.
15. The Board heard a presentation from staff, a presentation from the applicant, Hal Hutchinson, and the Board heard public comment.
16. On July 21, 2020 the Board voted 5-0 to continue the application and EAS2019-0002 to the August 25, 2020 meeting. A motion was also made to direct staff to look into other solutions regarding the access from Targhee Towne at Table Rock West to the actual property. Chair Macker called for the vote. The vote showed all in favor and the motion carried.
17. The application was brought before the Board of Commissioners on August 25, 2020.
18. A staff report dated August 25, 2020, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002) pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 4-unit Subdivision Planned Residential Development.
19. The Board heard a presentation from staff, a presentation from the applicant, Hal Hutchinson, and the Board heard public comment.
20. The applicant requested a continuance to the October 6, 2020 BCC hearing in order to improve the affordable housing independent calculation.
21. On August 25, 2020, the Board voted 5-0 to continue the application and EAS2019-0002 to the October 6, 2020 meeting.
22. The applicant submitted an update to the application on September 24, 2020.
23. The application was brought before the Board of Commissioners on October 6, 2020.
24. A staff report dated October 6, 2020, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002)

pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 4-unit Subdivision Planned Residential Development.

25. On October 6, 2020, the Board heard a presentation from staff, a presentation from the applicant, Hal Hutchinson, and the Board heard public comment.
26. On October 6, 2020, the Board voted 5-0 to continue the application and EAS2019-0002 to the November 10, 2020 meeting. The motion also directed staff to pursue conveyance of West Table Rock Road, a 200-foot spur, to the county, for access for application DEV2016-0002.
27. The application was brought before the Board of Commissioners on November 10, 2020.
28. A staff report dated November 10, 2020, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002) pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 4-unit Subdivision Planned Residential Development.
29. The Board heard a presentation from staff, a presentation from the applicant, Hal Hutchinson, and the Board heard public comment.
30. A motion was made by the Teton County Scenic Preserve Trust for EAS2019-0002. The motion to approve failed 2-3. Therefore, EAS2019-0002 was denied.
31. On November 10, 2020, the Board voted 5-0 to continue the application, DEV2016-0002, to the second meeting in January, which was the January 19, 2021 meeting.
32. The application was brought before the Board of Commissioners on January 19, 2021.
33. A staff report dated January 19, 2021, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002) pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 4-unit Subdivision Planned Residential Development. The Planning Director's recommendation in the staff report was updated to be one of Denial, due to the lack of formal conservation easement concurrent with the application.

34. On January 19, 2021, the Board heard a presentation from staff, a presentation from the applicant, Hal Hutchinson, and the Board heard public comment.
35. On January 19, 2021 the Board voted 5-0 to remand the application to a future date to be determined, to allow the applicant to investigate and propose alternative options to the current site plan, and to work with Planning staff to review and evaluate site plan revisions as discussed by the Board of County Commissioners during previous hearings on the item.
36. The applicant submitted an update to the application on April 30, 2021. The proposal was amended to be a 2-unit Subdivision Planned Residential Development.
37. The applicant also submitted a new Teton County Scenic Preserve Trust easement application, EAS2021-0001, on May 4, 2021.
38. The application was scheduled for the Planning Commission hearing on July 26, 2021, and the Board of County Commissioners hearing on August 17, 2021.
39. The hearings of the Planning Commission and the Board of County Commissioners were properly noticed pursuant to the provisions of LDR Section 5120.
40. This application was brought before the Teton County Planning Commission on July 26, 2021 with a recommendation from the Planning Director for approval of DEV2016-0002 with two recommended conditions.
  - a. Condition 1: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, an affordable housing fee in the amount of \$54,813.
  - b. Condition 2: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$6,083.15.
41. On July 26, 2021, the Planning Commission voted 4-0 (with Commissioner Rockey absent), resulting in a recommendation of approval of DEV2016-0002 with two conditions.
  - a. Condition 1: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, an affordable housing fee in the amount of \$54,813.

- b. **Condition 2: Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$6,083.15.**
  
- 42. **The application was brought before the Board of Commissioners on August 17, 2021.**
  
- 43. **A staff report dated August 17, 2021, was submitted to the Board of County Commissioners for review regarding the Development Plan (DEV2016-0002) pursuant to Section 2320 of the 4<sup>th</sup> Printing of the 1994 the LDRs, to review the 2-unit Subdivision Planned Residential Development.**
  
- 44. **The Board heard a presentation from staff and a presentation from the applicant, Hal Hutchinson.**
  
- 45. **The Chair closed public comment with no public comment given, and the Board discussed the application. The Board of County Commissioners reviewed the five findings for a Development Plan pursuant to Section 5100. of the LDRs which are:**
  - a. **The proposed Development Plan shall be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.**
  - b. **The proposed Development Plan shall not have a significant adverse impact on public facilities and services, including transportation, potable water and wastewater facilities, parks, schools, police, fire, and EMT facilities.**
  - c. **The proposed Development Plan shall achieve the standards and objectives of both the NRO, pursuant to Division 3200, Natural Resources Overlay (NRO), and the SRO, pursuant to Division 3300, Scenic Resources Overlay (SRO) District.**
  - d. **The proposed Development Plan shall comply with all standards imposed on it by all other applicable provisions of these Land Development Regulations for use, layout, and general development characteristics.**
  - e. **The proposed Development Plan shall comply with the conditional or special use standards, as applicable, pursuant to Section 5140.B, Conditional Use Standards, if the proposed use is specified as a Conditional or Special use in Table 2200, Use Schedule.**

46. On August 17, 2021, the Board voted on the matter, which vote was 5 to 0 with all Commissioners in favor, resulting in the motion passing and the Board's approval of the Development Plan application (DEV2016-0002) with the following conditions of approval:
  - a. Prior to recording of the subdivision plat, the applicant shall pay to Teton County, an affordable housing fee in the amount of \$54,813.
  - b. Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$6,083.15.
  
47. On August 17, 2021, the Board of the Teton County Scenic Preserve Trust also voted 5-0 to approve EAS2021-0001 with the following conditions of approval:
  - a. Prior to release of the signed easement document from Planning Staff to the applicant for recordation, the applicant shall pay an easement stewardship fee of \$13,200 to the Teton County Scenic Preserve Trust.
  - b. A Transfer Agreement is required to be recorded by the applicant in the Office of the Teton County Clerk concurrent with recordation of the easement as a separate document and shall travel with the title of the easement-encumbered property. The Transfer Agreement shall be composed of the sample agreement provided in the Open Space Resources Resolution of Teton County, Wyoming, adopted December 22, 2015.
  - c. Prior to release of the signed easement document from Planning Staff to the applicant for recordation, the applicant shall provide a final legal description of the open space, prepared by a Wyoming Licensed Land Surveyor.

### **CONCLUSIONS OF LAW**

- I. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, the application from Hal Hutchinson on behalf of AJL Duersch, LLC & PWD Duersch, LLC, for a Development Plan, does comply with all applicable provisions of the Teton County Comprehensive Plan.
  
- II. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, the application from Hal Hutchinson on behalf of AJL Duersch, LLC & PWD Duersch, LLC, for a Development Plan, does comply with all applicable provisions of the 4<sup>th</sup> Printing of the 1994 Teton County Land Development Regulations.

III. The Board concludes and hereby finds that the application dated April 30, 2021 for 2-unit Planned Residential Development Plan (DEV2016-0002) does comply with and meet all five (5) findings required pursuant to Section 5100. of the 4<sup>th</sup> Printing of the 1994 LDRs, as recommended by the Planning Commission and Planning Director, and specifically finds as follows:

1. *The proposed Development Plan shall be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use;*

**Can be made.** See Relationship to Character District and Subarea Policy Objectives in the Staff Report.

2. *The proposed Development Plan shall not have a significant adverse impact on public facilities and services, including transportation, potable water and wastewater facilities, parks, schools, police, fire, and EMT facilities;*

**Can be made.** Per consultation with the County Sanitarian, Road & Levee Director, and Fire Marshal, the development is not anticipated to have any significant adverse impacts to public facilities and services.

3. *The proposed Development Plan shall achieve the standards and objectives of both the NRO, pursuant to Division 3200, Natural Resources Overlay (NRO), and the SRO, pursuant to Division 3300, Scenic Resources Overlay (SRO) District;*

**Can be made.** The development site is within neither the NRO nor the SRO. The property has, however, been reviewed for environmental standards through preparation of an Environmental Analysis (EVA2019-0017). The proposed open space protects scenic values pursuant to the Open Space Standards (Div. 4300).

4. *The proposed Development Plan shall comply with all standards imposed on it by all other applicable provisions of these Land Development Regulations for use, layout, and general development characteristics; and*

**Can be made.** See Relationship to Applicable Land Development Regulations in Staff Report.

5. *The proposed Development Plan shall comply with the conditional or special use standards, as applicable, pursuant to Section 5140.B, Conditional Use Standards, if the proposed use is specified as a Conditional or Special use in Table 2200, Use Schedule.*

**Not applicable.** Conditional and Special Uses are not applicable to this proposal.

IV. These conclusions are based upon the analysis of the findings as detailed in the August 17, 2021 staff report, as well as the Board's analysis of the



required findings for the Development Plan, that occurred at the August 17, 2021 public hearing on the matter.

**IT IS HEREBY ORDERED:**

The Board **APPROVES** the application for a Development Plan dated April 30, 2021, DEV2016-0002, for the proposed 2-unit Planned Residential Development, with the two conditions listed below, being able to make all five (5) findings of approval for a Development Plan pursuant to Section 5100 of the 4<sup>th</sup> Printing of the 1994 Teton County Land Development Regulations as recommended by the Planning Director and the Planning Commission:

Conditions:

1. Prior to recording of the subdivision plat, the applicant shall pay to Teton County, an affordable housing fee in the amount of \$54,813.
2. Prior to recording of the subdivision plat, the applicant shall pay to Teton County, a development exaction fee in the amount of \$6,083.15.

DATED this \_\_\_\_ day of September, 2021.

BOARD OF COUNTY COMMISSIONERS  
TETON COUNTY, WYOMING

BY:

\_\_\_\_\_  
Natalia D. Macker, Chairwoman

ATTEST:

\_\_\_\_\_  
Maureen E. Murphy, County Clerk

**CERTIFICATE OF SERVICE**

I, Maureen E. Murphy, Teton County Clerk, do hereby certify that I sent a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING APPROVAL OF DEVELOPMENT PLAN, postage prepaid by U.S. Mail or other delivery as indicated below on this \_\_\_\_ day of September 2021, to the following addresses:

HH Land Strategies  
PO Box 1902  
Wilson, WY 83014

Keith Gingery, Deputy County Attorney  
Teton County Attorney's Office  
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*Via Email Only or Hand Delivery Only*

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Maureen E. Murphy, County Clerk